

**Village of Harvey**

**BY-LAW 2019-5**

**A BY-LAW TO ADOPT THE VILLAGE OF HARVEY RURAL PLAN**

Under the authority vested in it by Section 33(1) of the *Community Planning Act*, the Municipal Council of the Village of Harvey, duly convened, enacts as follows:

1. The area of land lying within the territorial limits of the Village of Harvey, as described by Subsection 67(2) of Regulation 85-6 under the Municipalities Act and as outlined on the map attached as "Schedule A", entitled Village of Harvey Zoning Map is designated for the purpose of the adoption of the Rural Plan and is the area to which this by-law applies;
2. The rural plan of the Village of Harvey, setting out policies, proposals and zoning provisions designed to guide, control and encourage the orderly economic, social and physical development of the municipality, is hereby adopted;

FIRST READING BY TITLE:	August 7, 2019
SECOND READING IN ITS ENTIRETY:	Sept 11, 2019
THIRD READING BY TITLE AND ENACTMENT:	Sept 11, 2019

In witness whereof Harvey had caused its corporate seal to be hereunto affixed to this By-law the 11<sup>th</sup> day of September 2019.

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Winston Gamblin  
Mayor

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Katherine Henry  
Clerk

I, **Katherine Henry**, of the Village of Harvey, in the County of York and Province of New Brunswick, Village Clerk, DO SOLEMNLY DECLARE:

1. THAT I am the Clerk of the Village of Harvey, a municipal corporation, and have personal knowledge of the facts herein declared.
2. THAT the requirements of Sections 33, 110 and 111 of the *Community Planning Act* have been complied with in respect to Bylaw No. 2019-5, being the Rural Plan Bylaw for the Village of Harvey.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Evidence Act*.

DECLARED before me at the Village of Harvey in the County of York and Province of New Brunswick, this 1st day of October A.D. 2019.

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COMMISSIONER OF OATHS

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Katherine Henry, Clerk

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## **PART A: GENERAL**

### **1.0 Introduction**

#### **1.1 Title**

This by-law may be cited as the Village of Harvey Rural Plan.

#### **1.2 Area Designation**

The area of land lying within the territorial limits of the Village of Harvey, as described by Subsection 67(2) of Regulation 85-6, under the *Municipalities Act* and as outlined on the map attached as Schedule A, entitled “Zoning Map”, is designated for the purposes of the adoption of this Rural Plan and is the area to which this bylaw applies.

#### **1.3 Purpose**

The Rural Plan sets out the Village Council’s long-term policies and proposals to guide future land use development. The Plan is intended for use by Council and residents to guide day-to-day decisions with respect to land use development and capital expenditures. The Plan should be reviewed every five years in accordance with the provisions of the *Community Planning Act*. Periodic amendments to the Plan may be required. These should be undertaken with due process, including public consultation, as outlined in the *Community Planning Act* for plan amendments.

The adoption of a Rural Plan does not commit the Village or Province to undertake any proposal therein stated (as per Section 27 of the *Community Planning Act*), but shall prevent the undertaking of any development that is inconsistent or at variance with:

- (a) In the case of the Village, any proposal or policy so outlined or suggested; or
- (b) in the case of the Province or a person, any policy or proposal so outlined or suggested

For clarification, in this Rural Plan, a Policy is a statement reflecting community objectives and outlining a means to achieve them. Policies are the foundation of the Plan. All other components of the Rural Plan, including the zoning and development standards, as well as any amendments thereto, are to conform to the intent of these policies. Proposals are actions that are desirable, but not essential to meeting the objectives of the Rural Plan. While Council is not required to undertake any stated Proposal, it cannot enact measures that are contrary to a Proposal.

#### **1.4 Organization**

The contents of this plan include:

- (a) Part A, which outlines the title, area designation, contents and purpose of the plan;
- (b) Part B, which outlines the policies and proposals of Council; and
- (c) Part C, which contains the zoning provisions intended to assist with implementation of the policies and proposals. Part C also contains the legal zoning map that accompanies and illustrates the zoning provisions.

#### **1.5 Repeal of Existing By - Laws**

The following by-laws are hereby repealed:

- (a) By-law No. 87-1            Village of Harvey Basic Planning Statement By-law
- (b) By-law No. 87-2            Village of Harvey Zoning By-law
- (c) By-law No. 97-10        a By-law to amend By-law No. 87-2
- (d) By-law No. 2004-1        a By-law to amend By-law No. 87-2
- (e) By-law No. 2012-7        a By-law to amend By-law No. 87-2
- (f) By-law No. 94-2            a By-Law to Amend the Basic Planning Statement By-Law
- (g) By-law No. 97-9            a By-Law to Amend the Basic Planning Statement By-Law

- (h) By-law 2019-3 Village of Harvey Rural Plan By-Law
- (i) By-law 2019-4 a By-Law to Amend the Village of Harvey Rural Plan By-Law

### 1.6 Amendments

- (1) A person who seeks to have this By-law amended shall:
  - (a) address a written and signed application to the Development Officer; and
  - (b) pay a fee of \$400, payable to the Village of Harvey.
- (2) The Council may, if it deems fit, return all or any part of the fee mentioned in Subsection (1).
- (3) An application under this section shall include such information as may be required by the Council or Advisory Committee or Development Officer for the purpose of adequately assessing the desirability of the proposal.
- (4) Where an application for rezoning of a property has been refused within the previous twelve months, Council will not entertain an application to rezone the same property unless the proposed *use* is substantially different from the previous application.

### 1.7 Variances

- (1) The Advisory Committee may permit, subject to such terms and conditions as it considers fit:
  - (a) a proposed *use* of land or a *building* that is otherwise not permitted under the Rural Plan if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the Rural Plan for the zone in which the land or building is situated, or
  - (b) such reasonable variance from the requirements of the zone provisions falling within paragraph 53(2)(a) of the *Community Planning Act* as, in its opinion, is desirable for the development of a parcel of land or a building or *structure* and is in accord with the general intent of the by-law and any plan under the *Community Planning Act* hereunder affecting such development.
- (2) Where requested to permit a proposed *use* or variance under Subsection (1), the Development Officer may give notice to owners of land in the immediate neighbourhood:
  - (a) describing the land;
  - (b) describing the *use* proposed or variance requested; and/or
  - (c) giving the right to make representation to the Advisory Committee within the time limit set out in the notice.

### 1.8 Fees for Planning Services

The following planning services are associated with the applicable fees:

- (a) zoning confirmation letter (stating the current zoning on subject lands), \$100;
- (b) zoning compliance letter (indicating whether the *use* of the subject land, *building* or *structure* is in compliance with the Village of Harvey Rural Plan), \$200;
- (c) processing and considering applications under section 53(2)(h) of the *Community Planning Act* (temporary uses), \$250;
- (d) processing and considering requests under section 53 of the *Community Planning Act* (dimensional variances, similar uses, non-conforming uses, conditional uses), \$200; and
- (e) processing and considering requests for rezoning, \$600.

## **PART B: POLICIES & PROPOSALS**

### **2.0 Background, General Objectives, Policies and Proposals**

#### **2.1 Background**

##### **Physical and Land-Use Characteristics**

The Village of Harvey is situated in York County, approximately 55 km southwest of Fredericton. Most commercial and institutional development in the community is located adjacent to Route #3, a provincial highway which bisects the municipality. A commercial focus is found at the intersection of Route #3 and Route #636. Residential development is found adjacent to Route #3, Route #636, the Hanselacker Road, as well as in the Cherry Mountain Subdivision. A small park leased from the Harvey Improvement Association is situated adjacent to Harvey Lake and Route #636. Remaining land-use activity in Harvey is resource-based. Agricultural land-use activity predominates near the northern and southern boundaries of the Village, while substantial tree cover is found in the western sector and east of Route #3 adjacent to the NB Southern Railway tracks.

##### **Population and Economic Characteristics**

According to the 2016 census compiled by Statistics Canada, Harvey had 358 residents that year. By comparison, the population of the Village was 363 in 2011, and 352 in 2006. This fluctuation in population is relatively insignificant over a ten-year time horizon and is fairly consistent with population changes in rest of the province. In 2016 the median household income was \$58,453 compared to \$65,274 for the rest of the province. Residents are employed in the following industries in decreasing order of prevalence: education services; healthcare and social assistance; other services (except public administration); utilities; construction; agriculture, forestry, fishing and hunting; manufacturing; administrative and support, waste management and remediation services; and public administration.

##### **Community Services and Facilities**

Given its population and tax base, the scope of community services provided for the residents of Harvey is exceptional. Police service within the Village is supplied by the Royal Canadian Mounted Police. The Harvey Volunteer Fire Department, although situated outside municipal boundaries, provides good service to the Village and its surrounding areas. Almost 90% of homes and businesses in Harvey are attached to the municipal sewage system. At present, this system has extra capacity at its treatment plant. Harvey is also fortunate to have a good supply of potable water. A small portion of the Village is serviced by a municipal water system maintained by the Provincial Government, while the rest of the community uses individual wells. Garbage and recycling are collected by a waste contractor deposited outside of the Village at the Hemlock Knoll Landfill.

In addition to those services supported directly by the municipal government, residents of Harvey also enjoy an array of services and facilities supported by the Provincial Government and the private sector. An Elementary School is located within the Village, while Middle School and High School facilities are located just outside the municipal boundary. Health service for area residents is provided in a local community Health Centre. An ambulance bay is also located in the Village.

The recreational needs of Harvey's residents are addressed by several facilities. In addition to the gyms and fields available at local schools, residents are able to use the beach which is owned by the Harvey Improvement Association and leased to the Village of Harvey. The Harvey Memorial Community Centre, which contains a gym, a bowling alley and an arena, is also well used as is the Harvey Curling Club.



## **2.2 General Objectives of this Rural Plan**

- a) To maintain the Village of Harvey's physical character, integrity, and charm;
- b) To promote a healthy socio-economic climate within the community;
- c) To ensure that future physical development within the Village takes place in a rational manner; and
- d) To reduce conflicts between all types of land-use in Harvey.

## **2.3 Development Policies**

The development policies follow and recognize the Village's historical development patterns and seek to use them as a rational basis for future development. These forms of development are described in the remainder of this section of the Rural Plan.

## **2.4 Policy Areas**

### **2.4.1 Residential**

#### *Policy*

- (a) It is a policy that all future residential development shall conform to the standards set out in this Rural Plan and corresponding implementation By-Laws.
- (b) It is a policy that every lot, block, and other parcel of land in a subdivision shall abut a street owned by the Crown or the Municipality, or such access other than a street as may be approved by the Advisory Committee as being advisable for the development of land. Furthermore, a person proposing to subdivide land shall provide within the subdivision or contribute to the cost thereof to the extent required by the Subdivision By-Law, such facilities as streets, curbing, culverts, drainage ditches, and other as may be required by the by-law for that class of subdivision.
- (c) It is a policy that non-residential uses which are complimentary to and serve the needs of residential districts may also be permitted in a Residential Land-use area. These non-residential uses may include schools, parks, day-care centers, and public utilities. They should be located so as to minimize their effect on adjacent residential areas.

#### *Proposal*

- (d) It is proposed that those dwellings serviced by municipal sewage the minimum lot size shall include a frontage of at least 30 m, a depth of at least 30 m, and an area of at least 900 sq. m. For those dwellings not serviced by the municipal sewage the minimum lot size shall include a frontage of 54 m, a depth of at least 38 m, and an area of at least 2052 sq. m. In addition, no building or structure may exceed 8.5 m in height.
- (e) It is proposed that forms of residential development, other than that which is permitted by the zoning provisions of the Rural Plan, may be permitted in Residential Land-use areas subject to the negotiation of an agreement between Council and the developer under the provisions of Section 59 of the *Community Planning Act*.
- (f) It is proposed that mobile homes shall not be permitted in Residential Land-use areas but may be permitted in Rural areas provided a development agreement can be reached between Council and the developer under the provisions of Section 59 of the *Community Planning Act*.

- (g) It is proposed that home businesses, i.e., any occupation conducted for gain or support as an accessory use within a dwelling unit by one or more members of the family residing in such unit, may be permitted in a Residential Land-use area provided that no more than 25% of the unit's total floor area is used for business purposes. Such activity shall only be permitted if:
  - i. the residential character of the unit is maintained;
  - ii. there is no outside storage of material or equipment;
  - iii. the use does not generate excessive truck movements for pick-up and delivery;
  - iv. there is no display of goods or advertising other than a small non-illuminated sign; and
  - v. no excessive on-street parking or noise is generated.

#### **2.4.2 Commercial**

##### *Policy*

- (a) While existing commercial uses outside of the core area have also been designated "Commercial", it shall be the policy of the Council to encourage new commercial development to locate within the core area.
- (b) It is a policy that new development within the Village's commercial core area "Commercial" designation shall be limited to complementary uses.
- (c) It is a policy that mixed commercial-residential buildings may ~~also~~ be developed provided that the commercial use is located on the ground floor of the structure. However, residential units will be permitted over commercial uses only where amenities normally associated with residential areas are provided.
- (d) It shall also be the policy of the Council to encourage the creation of a safe and pleasant pedestrian environment in all commercial areas, and to ensure that sufficient off-street parking is provided as part of all new commercial development projects.

##### *Proposal*

- (e) It is proposed that Council support the improvement and development of a small commercial core area centered at the intersection of Route #3 and Route #636 to encourage the creation of a commercial focus in the Village.

#### **2.4.3 Institutional**

##### *Policy*

- (a) It is a policy to designate "Institutional" areas in recognition of existing public buildings and grounds, churches, cemeteries, and schools.
- (b) It is policy to permit the location of new Institutional uses within Residential, Commercial, and Rural areas, if required, in compliance with the provisions of this Rural Plan.
- (c) It is policy that no institutional building or structure may be placed or erected on a lot whose areas, width, and depth does not conform to requirements established under the N.B. Health Act.

#### **2.4.4 Rural & Resource**

##### *Policy*

- (a) It is policy that the predominant use of land in "Rural" areas shall be for forestry, agricultural, conservation, and/or recreational purposes.
- (b) It is a policy to permit other uses in "Rural" areas, including single-family detached residential dwellings, institutional development, and public utilities.
- (c) Sand and gravel excavation activities may also be permitted a development agreement can be reached between Council and the developer under the provisions of Section 59 of the *Community Planning Act*
- (d) It is policy that all development within "Rural" areas shall conform to any applicable Provincial regulations.

*Proposal*

- (e) It is proposed that mobile homes and mini-homes may be permitted in "Rural" areas subject to the negotiation of a development agreement between Council and the developer under the provisions of Section 59 of the *Community Planning Act*.
- (f) It is proposed that no building or structure (with the exception of churches, barns, and silos) in "Rural" areas may exceed 10 m in height.

**2.4.5 Agricultural**

*Policy*

- (a) It is policy to limit the use of lands designated to "Agricultural" to farm-related activities including the construction of a single-family detached residential dwelling for those actively engaged in farming the property.
- (b) Any residential construction in an "Agricultural" designated area shall conform to the site standards established in section 2.4.1 of this Rural Plan.

*Proposal*

- (c) It is proposed that existing agricultural lands be designated as such on the Zoning Map.

**2.4.6 Recreation**

*Policy*

- (a) It is policy to limit the use of lands designated to "Recreational"-to that which is directly related to recreational or community use.

*Proposal*

- (b) It is proposed that "Recreation" designations be applied to existing community recreation facilities

**2.4.7 Industrial**

*Policy*

- (a) It is policy that any new industrial development shall be of light-industrial, non-polluting nature.

**2.4.8 Disposal**

*Policy*

- (a) It is policy to limit the use of lands designated to "Disposal" to only those activities directly related to the sanitary treatment of waste.

*Proposal*

- (b) It is proposed that "Disposal" designations be applied to the sewage lagoon and its environs.

#### **2.4.9 Protection of Water Supplies**

*Policy*

- (a) It is policy to discourage any development that could negatively impact the Village's potable water resources.

#### **2.4.10 Heritage Buildings and Sites of Historical or Archeological Interest**

*Policy*

- (a) It is policy to encourage the maintenance and preservation of architecturally and historically significant buildings and sites of historical or archeological interest within the Village

#### **2.4.11 Conservation of the Physical Environment**

*Policy*

- (a) It is policy to discourage development that would have a negative impact on watercourses, wetlands, natural resources and other sensitive environmental areas.
- (b) It is a policy of Council to recognize the importance of Harvey Lake, and public access to the Lake, as a natural resource.

### **2.5 Non-Conforming Uses**

The *Community Planning Act* permits existing uses that do not comply with the land-use designations established by this Rural Plan to continue as legal non-conforming uses. However, a legal non-conforming use shall cease when:

- (a) it is discontinued for a period of ten months, or such further period as the Advisory Committee considers fit;
- (b) the building or structure has been damaged to the extent of at least half of the whole (excluding the foundation), unless the Advisory Committee agrees that it should be rebuilt.

### **2.6 Implementation and Amendment**

Upon its registration as a by-law, this Rural Plan constitutes a legal document which shall be implemented through the adoption of (or revision to) various implementation by-laws. These by-laws may include a Zoning by-law, a Subdivision by-law, a Building by-law, a Dangerous or Unightly Premises by-law, and such other by-laws as Council deems appropriate. All implementation by-laws shall conform to this Rural Plan. Moreover, all public works programs undertaken by the municipality shall also conform to this Rural Plan.

The *Community Planning Act* requires that this Rural Plan be reviewed every five years. However, it may be amended at any time within the five-year period, provided that the residents of Harvey are given notice that the Rural Plan is going to be amended, and that Council hear and consider objections to any proposed amendment. An amendment to the Rural Plan is required:

- (a) where any major policy intent is to be changed;
- (b) where a land-use development will violate the Future Land-Use Map; and
- (c) where detailed secondary or functional plans are to be incorporated into the Rural Plan.

Amendments may also become necessary when a proposal, policy, or development standard no longer suit the best interest of the community as a whole. However, those amendments which accommodate only individual preference, and not the best interest of the whole community, undermine the effectiveness of the Rural Plan and should therefore be avoided.

## **PART C: ZONING PROVISIONS**

### **3.0 Zoning Provisions**

The Council of the Village of Harvey, under authority vested in it by Section 53 of the *Community Planning Act*, enacts as follows:

#### **3.1 Interpretation**

In this By-Law,

- a) **“agricultural use”** means any use of land for the purpose of producing crops and livestock;
- b) **“Advisory Committee”** means the planning advisory committee established by the Council or the Regional Service Commission, as the case may be;
- c) **“alter”** means to make any change, structurally or otherwise, in a building or structure which is not for the purposes of maintenance only;
- d) **“building”** means a roofed erection with solid exterior walls which is used or intended as a shelter for persons, animals or chattels;
- e) **“building, accessory”** means a detached subordinate building, not used for human habitation, located on the same lot as the main building, structure, or use to which it is accessory, the use on which is naturally or customarily incidental and complementary to the main use of the land, building or structure;
- f) **“building, main”** means a building in which is conducted the main or principal use of the lot on which the building is located;
- g) **“Council”** means the Village Council of the Village of Harvey;
- h) **“Development Officer”** means the Development Officer of the Village of Harvey;
- i) **“Dwelling”** means a main building or a portion thereof containing one or more dwelling units but does not include a mobile home;
- j) **“Dwelling, single family”** means a dwelling containing only one dwelling unit;
- k) **“Dwelling unit”** means a room or suite of two or more rooms designed or intended for use by an individual or family, in which culinary facilities and sanitary conveniences are provided for the exclusive use of such individual or family;
- l) **“Erect”** means to construct, build, assemble, or relocate a building or structure, and any physical operations preparatory thereto;
- m) **“Family”** means one or more persons, not necessarily related, occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a hotel or boarding or rooming house;
- n) **“Garage, public”** means any building, space, or enclosure in which motor vehicles or power boats are stored for use (as opposed to being stored for sale) or repaired, whether for the public, for business purposes or for hire but does not include an auto body shop;
- o) **“Grade”** means the finished level of the ground at the exterior walls of a building or structure;
- p) **“Height”** means in relation to a building or structure, the vertical distance as measured from mean grade to the highest point on such building or structure;
- q) **“Home, occupation”** means a secondary use conducted in a dwelling and described in Section 3.13.8;
- r) **“House, boarding”** means a dwelling or part thereof in which rooms and meals are provided to lodgers for compensation;
- s) **“House, rooming”** means a dwelling or part thereof in which room are provided to

lodgers for compensation;

- t) **“lot”** means a parcel of land or two or more adjoining parcels held by the same owner and used or intended to be used as the site for a building or structure or an appurtenance thereto;
- u) **“lot, corner”** means a lot having two or more adjacent sided fronting on two or more intersecting or intercepting streets;
- v) **“lot, interior”** means a lot other than a corner lot
- w) **“lot line”** means a common line between a lot and an abutting lot, land or street;
- x) **“lot line, rear”** means the lot line extending along the rear of a lot;
- y) **“lot line, side”** means the lot line extending from the street to the rear of the lot;
- z) **“mini-home”** means a dwelling, other than a manufactured dwelling or mobile home, fabricated in an off-site manufacturing facility for installation or assembly at the building site, is provided with a CSA approved stamp and number and/or meeting the requirements of the National Building Code of Canada and is situated on a permanent concrete foundation.
- aa) **“municipality”** means the Village of Harvey;
- bb) **“Service Station”** means a building or space where gasoline, oil, grease, antifreeze, tires, and accessories for motor vehicles are stored or kept for sale and where minor repairs to motor vehicles are performed but does not include an auto body shop;
- cc) **“Sign”** means any display of advertisement, placard, boarding, bill board or any other form or means or device whatsoever of public notice or announcement, whether erected, pasted or painted, and any such form means or device intended, suitable or adaptable for such purpose whether or not it is used at the time for such purpose;
- dd) **“storey”** means;
  - i. That portion of a building between the surface of any floor and the surface of the floor next above it or, if there is not a floor above it, then the space between such floor and the ceiling next above it, or;
  - ii. A basement or cellar, if the average vertical distance from the grade to the ceiling thereof is over 1.5 metres or such basement or cellar is used for business purposes or for a dwelling purposed by other than a janitor (whether including his family for not);
- ee) **“street line”** means the common line between a street and a lot;
- ff) **“structure”** means an erection other than a building or a power or telephone pole or lines;
- gg) **“Swimming pool”** means a tank or other structure. Artificially created, at least in part, and intended to contain water for purposes of swimming or diving;
- hh) **“use”** means the purpose for which land or a building or structure, or any combination thereof, is designated, arranged, erected, intended, occupied or maintained;
- ii) **“use, accessory”** means a use, other than human habitation, of land or a building or structure which is naturally or customarily incidental and complementary to the main use of the land, building or structure, which is located on the same lot as the main use and which is not secondary use;
- jj) **“use, secondary”** means a use, other than a main use permitted in a dwelling;
- kk) **“width”** means, in relation to a lot;
  - i. Where the side lot lines are parallel, the distance measured across the lot at right angles to such lines, or
  - ii. Where the side lot lines are not parallel, the distance measured across the lot along

a line parallel to a line joining the points at which the side lot lines intersect the street line, such parallel line being drawn through the point at which the line of minimum setback intersects a line from midpoint of perpendicular to the line to which it is parallel

- ll) **“Yard”** means, in relation to any building, structure or use on a lot, that part of the lot between such building, structure or use and a lot line;
- mm) **“Yard, front”** means, in relation to a main building, structure or use on a lot, that part of the lot between such building, structure or use and the street line at the front of the lot;
- nn) **“Yard, rear”** means, in relation to any building, structure or use of a lot, that part of the lot between such building, structure or use and the rear lot line;
- oo) **“Yard, side”** mean, in relation to any building, structure or use of a lot, that part of the lot between such building, structure or use and a side lot line.

### **3.2 Scope**

This By-Law,

- a) Divides the municipality into zones;
- b) Prescribes, subject to powers reserved in the Advisory Committee,
  - i. The purpose for which land, buildings and structures in any zone may be used, and
  - ii. Standards to which land use, and the placement, erection, alteration and use of buildings and structures must conform; and
- c) Prohibits the use, placement, erection or alteration of land, buildings or structure other than in conformity with purposes and standards mention in Clause (b).

### **3.3 Administration**

#### **3.3.1 Powers of the Council**

- (1) No building may be erected in the municipality in respect of which, in the opinion of the Council, satisfactory arrangements have not been made for the supply of electric power, water, sewerage, streets or other services or facilities.
- (2) When, in its opinion, a building or structure is dilapidated, dangerous or unsightly, the Council may
  - a) Require the improvement, removal or demolition of such building or structure at the expense of the owner thereof, or
  - b) Acquire the parcel of land on which such building or structure is located.
- (3) Subject to Subsection (5), within any zone mentioned herein, the council may
  - a) Designate land to be used for the location or erection of any installation for the supply of electricity, water, sanitary and storm sewerage, or the treatment or disposal of sewerage wastes; and
  - b) Use land designated under Clause (a) for a purpose therein mentioned.
- (4) Notwithstanding any other provision of this By-Law, the Council may, in its discretion, allow a developer of a building or structure to pay to the municipality the sum of \$200.00 per parking space in lieu of providing the off-street parking spaces otherwise required hereunder.
- (5) No land may be designated or used for the purposes of Subsection (3) unless, in the opinion of the Council,
  - a) Such land is essential to the operation of the service concerned; and
  - b) Any development therein in an R Zone is adequately screened from public view.

### **3.3.2 Special Powers of the Advisory Committee**

- (1) No building or structure may be erected on any site where it would otherwise be permitted under this By-Law, when in the opinion of the Advisory Committee; the site is marshy, subject to flooding, excessively steep or otherwise unsuitable by virtue of its soil or topography.
- (2) The Advisory Committee may, subject to such terms and conditions as it considers fit,
  - a) Authorize, for a temporary period not exceeding one year, a development otherwise prohibited by this By-Law; and
  - b) Require the termination or removal of a development authorized under Clause (a) at end of the authorized period.

### **3.3.3 Amendments**

- (1) A person who seeks to have this By-Law amended shall;
  - a) Address a written and signed application in duplicate therefore to the Council or the Advisory Committee; and
  - b) Pay a fee of \$400.00 to the Council.
- (2) The Council may, if it deems fit, return all or part of the fee mentioned in Subsection (1).
- (3) An application under this section shall include such information as may be required by the Council or Advisory Committee for the purpose of adequately assessing the desirability of the proposal.
- (4) The Council may refuse to consider an application under this section if such application;
  - a) Seeks to re-zone an area of land from one type of zoning to another; and
  - b) Has not been signed by the owner or owners of each property sought to be re-zoned.
- (5) Before giving its views to the Council with respect to an application under this section, the Advisory Committee may carry out such investigation as it deems necessary.
- (6) Unless, upon the advice of the Advisory Committee, the Council is of the opinion there is valid new evidence or change in conditions, where an application under this section had been refused by the Council, no further application may be considered by the Council for one year is such application;
  - a) In the case of re-zoning, is in respect of the same area of land with which the original application was concerned; or
  - b) Not being in relation to re-zoning is similar to the original application.

## **3.4 ZONES**

### **3.4.1 Classification**

- (1) For the purpose of this By-Law, the municipality is divided into zones as delineated on the plan attached hereto as Schedule "A", entitled "Harvey Zoning Map" and dated November, 1986.
- (2) The Zones referred to in Subsection (1) are classified and referred to as follows:
  - a) Residential, R zones;
  - b) Commercial, C zones;
  - c) Institutional INST zones;
  - d) Industrial, I zones;



- e) Recreation, P zones;
- f) Agricultural, A zones;
- g) Rural, RU zones; and
- h) Disposal, D zones;

### **3.4.2 Conformity**

In any zone, all land shall be used, and all buildings or structures, or parts thereof, shall be placed, erected, altered or used in conformity with the requirement of, except as otherwise provided, the part of this By-Law pertaining to such zone.

## **3.5 R (Residential) ZONE**

### **3.5.1 Permitted Uses**

Any land, building or structure in a Residential Zone may be used for the following purposes and for no other purpose,

- a) One of the following main uses;
  - (i) A dwelling of up to four (4) units,
  - (ii) Schools,
  - (iii) Day care centers,
  - (iv) A park or playground
  - (v) Public Utilities;
  - (vi) Garden Suites; or
  - (vii) Subject to 3.5.6.4, a Mini-home

And

- b) Subject to Section 3.13.8, a secondary use as a home occupation; and
- c) Any accessory building, structure or use incidental to the main use is permitted by this section.

### **3.5.2 Lot Sizes**

- (1) If a lot in a Residential Zone is serviced by municipal sewer, the lot shall have and contain;
  - a) A frontage of at least 30 metres,
  - b) A depth of at least 30 metres, and
  - c) An area of at least 900 square metres.
- (2) If a lot in a Residential Zone is not serviced by municipal sewer, the lot shall have and contain;
  - a) A frontage of at least 54 metres,
  - b) A depth of at least 38 metres, and
  - c) An area of at least 2052 square metres.

### **3.5.3 Size of Dwelling**

No Dwelling may be placed, erected, or altered in a Residential Zone so that it has a ground floor area less than;

- a) 55.75 square metres, for a one-storey dwelling;
- b) 40 square metres, for a one and one-half storey dwelling; or
- c) 44.5 square metres, for a two-storey dwelling.

### **3.5.4 Yards for a Main Building or Structure**

No main building or structure may be placed, erected or altered in a Residential Zone so that it is within less than;

- a) 7.5 metres of a street line;

- b) 1.5 metres of a side lot line;
- c) 7.5 metres of the rear lot line; or
- d) 15 metres of a highway designated as an arterial or collector highway under the Highways Act.

### **3.5.5 Height of a Main Building or Structure**

No main building or structure in a Residential Zone may exceed 8.5 metres in height.

### **3.5.6 Accessory Building and Structure**

- (1) No accessory building or structure in a Residential Zone may;
  - a) Exceed one storey or 4.25 metres in height;
  - b) Be placed, erected or altered so that it
    - i. Is within the front yard of the main building or structure,
    - ii. Is within less than 1.5 metres of a side or rear lot line, or
    - iii. Is so located as to block that which otherwise would be the only vehicular access to the rear of the lot; or
  - c) Be used;
    - i. For agricultural purposes, or
    - ii. For the keeping of animals other than household pets.
- (2) Accessory buildings and structures in a Residential Zone may not occupy more than 7 percent of the area of a lot

#### **3.5.6.1 Garden Suites**

- (1) A garden suite shall in any case be considered an accessory building and not a second main building.
- (2) Where permitted under this By-law, a garden suite is subject to the following requirements:
  - a) notwithstanding the yard requirements for the zone in which it is to be located, it shall be located not less than 1.5 m from any side lot line or 2.5 m from the rear lot line;
  - b) it shall not exceed 4.25 m in height;
  - c) it shall be located on a lot that where the main building is a detached single-family dwelling;
  - d) it shall not exceed 75 square metres of gross floor area;
  - e) the lot shall be fully serviced by municipal sanitary sewer or an on-site sewage disposal system;
  - f) one parking space shall be required in addition to the parking required for the main use of the lot;
  - g) it shall not be placed, erected or altered so that it is closer to the front lot line than the required front yard for the main building;
  - h) only one garden suite is permitted on a lot;
  - i) it shall not be placed, erected or altered so that is closer to the side or rear lot line than the required rear or side yard;
  - j) the driveway access to the street must be common to both the main building and the garden suite;
  - (k) a garden suite is not permitted on a lot with an in-law suite, tourist home, boarding or rooming house or a rental suite.
  - (l) it shall not be rented for monetary purposes to a person(s) who is

- not a member of the family residing in the main building; and
- (m) it shall not be located any closer to the front lot line than the main building.

#### **3.5.6.2 In-law and Rental Suites**

- (1) Where permitted under this By-law, an in-law or rental suite is subject to the following requirements:
  - (a) it shall be located within a single-family dwelling;
  - (b) it shall be contained within the main building;
  - (c) it shall not result in more than two dwelling units contained in any single-family dwelling;
  - (d) it shall contain a maximum of 2 bedrooms with the floor area of each bedroom not exceeding 20 m<sup>2</sup> (215.3 ft<sup>2</sup>);
  - (e) it shall be secondary to the main building and not exceed thirty-five percent (35%) of the main building's overall gross floor area;
  - (f) the lot shall be fully serviced by municipal sanitary sewer or an on-site sewage disposal system;
  - (g) one parking space shall be required in addition to the parking required for the main use of the lot; and
  - (h) the driveway access to the street must be common to both the main building and the in-law or rental suite.

#### **3.5.6.3 Special Requirements for Converted Dwellings**

- (1) A converted dwelling with more than 2 dwelling units shall be considered synonymous with a multiple unit dwelling in terms of permitted uses, lot requirements, parking requirements, landscaping and amenity space.
- (2) In addition to all other regulations, an existing building or structure in certain residential zones may be converted to between two and more dwelling units subject to the requirements of the zone and the following special requirements:
  - a) no alteration may be undertaken which changes the roof line or increases the height of the structure except for the addition of dormers;
  - b) no alteration may be undertaken which will extend into the front or side yard of the lot;
  - c) the total lot coverage shall not exceed 50 %;
  - d) parking for converted dwellings with more than 2 dwelling units shall not be provided between the main building and the front lot line side or rear of the lot;
  - e) no alteration may be undertaken to increase the number of entrances in the front of the building; and
  - f) the minimum floor area requirements established in Section 3.5.3 are met.

#### **3.5.6.4 Standards for Mini-homes**

- (1) No mini-home shall be placed, erected or altered unless it meets the following requirements:
  - (a) the lot must be large enough to maintain the sideline and setback

- requirements of the zone it is located in, taking into account the length of the mini-home;
- (b) the mini-home must be placed on and attached to a permanent concrete slab or concrete basement foundation;
- (c) the lot and mini-home meet the requirements of the zone it is located in, including:
  - i. the minimum frontage;
  - ii. the minimum lot depth; and,
  - iii. the minimum lot area.
- (d) the mini-home must be placed, erected or altered so that longest side of the mini- home is parallel to the front lot line;
- (e) a mini-home shall not exceed 6 m (19.7 ft) in height;
- (f) the mini-home shall have at least been manufactured in the previous two years; and,
- (g) the lot does not access through a private right of way or share an abutting property line with Route 3.

### **3.5.7 Landscaping**

- (1) Subject to this Section, the owner of a lot developed for residential purposes in the Residential Zone shall landscape;
  - a) The front yard of the main building; and
  - b) That part of the lot within 1.5 metres of any building thereon.
- (2) The content of the landscaping required under Subsection (1)
  - a) Is a minimum of lawn and ornamental shrubs; and
  - b) May include paths, patios, walkways, and trees.
- (3) Notwithstanding Subsection (1), the front yard mentioned therein may be used to a reasonable degree for the purposes of walks and driveways for access to the main building or other use on the lot.

## **3.6 C (COMMERCIAL) Zone**

### **3.6.1 Permitted uses**

- (1) Subject to this section, any land, building, or structure in a Commercial Zone may be used for the following purposes and no other purpose:
  - a) One or more of the following main uses:
    - i. Retail and wholesale commercial outlets,
    - ii. A bank or other financial institution,
    - iii. A hotel or motel,
    - iv. An office or office building,
    - v. A restaurant,
    - vi. A service station or public garage;

And

  - b) One or more of the following secondary uses:
    - i. A dwelling,
    - ii. A rooming or boarding house, or
    - iii. Indoor storage of articles for sales in connection with a use permitted by this Section.

And

- c) Any accessory building, structure of use incidental to the main or secondary use of the land, building, or structure if such main or secondary use is permitted by this Subsection.
- (2) Except for gasoline pumps at a service station or public garage, or for a parking lot or automobile sales lot, no use permitted under this section may be established or conducted other than in a completely enclosed building.
- (3) A dwelling mentioned in Subclause (i) of Clause (b) of Subsection (1) shall not;
  - a) contain more than one dwelling unit; or
  - b) be located below the second storey of the building in which it is contained.
- (4) Notwithstanding anything herein before 15(4) the property shown on schedule "A" attached to By-Law 94-2 shall be used only for the purpose of a licensed dining room open to the public from mid-morning until 10:00 p.m. and for no other purpose.
- (5) Notwithstanding anything herein before 15(5) the property shown on schedule "A" attached to By-Law 97-9 shall be used only for the purpose of an antique and import shop, and for no other purpose.

### **3.6.2 Lot Sizes**

- (1) No main building or structure may be placed, erected, or altered on a lot in a Commercial Zone unless the lot has and contains;
  - a) A width of at least 25 metres;
  - b) A depth of at least 38 metres; and,
  - c) An area of at least 950 square metres.

### **3.6.3 Size of Dwelling Units**

- (1) No building in a Commercial Zone may be placed, erected, or altered, and no structure may be altered, to contain a dwelling unit with a floor area less than 55 square metres.

### **3.6.4 Yards for a Main Building or Structure**

- (1) No main building or structure in a Commercial Zone may be placed, erected, or altered so that it is within less than;
  - a) 7.5 metres of a street line;
  - b) 1.5 metres of a side lot line;
  - c) 3 metres of the rear lot line; or
  - d) 15 metres of a highway designated as an arterial or collector highway under the Highways Act.

### **3.6.5 Height of a Main Building or Structure**

- (1) No main building or structure in a Commercial Zone may exceed 10.5 metres in height.

### **3.6.6 Accessory Buildings and Structures**

- (1) No accessory building or structure in a Commercial Zone may;
  - a) Exceed 4.25 metres in height;
  - b) Be placed, erected, or altered so that it is;
    - i. Closer to the street at the front of the lot than at the rear of the main building or structure, or
    - ii. Within 1.5 metres of a side lot or rear lot line, or

- c) Be used for agricultural purposes or for the keeping of animals other than household pets.

### **3.7 INST (Institutional) ZONES**

#### **3.7.1 Permitted Uses**

- (1) Any land, building, or structure in an Institutional Zone may be used for the following purposes and for no other purpose,
  - a) One or more of the following main uses:
    - i. A building intended primarily for public assembly or for social and cultural activities,
    - ii. A community centre,
    - iii. An educational building,
    - iv. A fraternal lodge,
    - v. A hospital or health building, or senior citizen housing,
    - vi. A Government Building,
    - vii. A religious or secular institution, or
    - viii. A cemetery;
- And
- b) Subject to Subsection (2), any accessory building, structure, or use incidental to the main use of the land, building, or structure if such main use is permitted by this section.
- (2) A use permitted under Clause (b) of Subsection (1) is prohibited unless approved by the Advisory Committee and unless it complies with such terms and conditions as may be imposed by the Advisory Committee.

#### **3.7.2 Lot Sizes**

- (1) Subject to the Health Act, the provisions of Section 3.5.2 with respect to lot sizes apply equally to Institutional Zones.

#### **3.7.3 Yards for a Main Building or Structure**

- (1) No main building or structure may be placed, erected, or altered in an Institutional Zone so that it is within less than;
  - a) 7.5 metres of the rear lot line;
  - b) 3 metres of a side lot line; or
  - c) 15 metres of a highway designated as an arterial or collector highway under the Highways Act.

#### **3.7.4 Accessory Buildings and Structures**

- (1) Notwithstanding Subsection (2) of Section 3.7.1, no accessory building or structure in an Institutional Zone may;
  - a) Exceed one storey or 4.25 metres in height;
  - b) Be placed, erected, or altered so that it is within, or extends into, a yard required for the main building or structure; or
  - c) Be used;
    - (i) For agricultural purposes, or
    - (ii) For the keeping of animals other than household pets.

#### **3.7.5 Lot Occupancy**

- (1) Buildings and structures on a lot in an Institutional Zone shall not occupy more

than 50 per cent of the lot.

### **3.7.6 Landscaping**

- (1) The provisions of Section 3.5.7 with respect to landscaping apply equally to an Institutional Zone.

## **3.8 I (Industrial) ZONES**

### **3.8.1 Permitted Uses**

- (1) Any land, building, or structure in an Industrial Zone may be used for the following purposes and for no other purpose,
  - a) One or more of the following main uses;
    - i. Auto body repair shop, heavy truck garage, or mechanical maintenance shop,
    - ii. A railway use,
    - iii. A sawmill,
    - iv. A warehouse or wholesaling establishment, or
    - v. Subject to Subsection (2), a manufacturing or processing establishment.

And

- b) Any accessory building, structure, or incidental to the main use of the land, building, or structure is such main use permitted by this Subsection.
- (2) A use mentioned in Subclause (v) of Clause (a) of Subsection (1) is permitted only if approved by the Advisory Committee and only on compliance with such terms and conditions as may be imposed by such Committee.
- (3) No use permitted under this section may be established or continued unless contained in a completely enclosed building or structure.

### **3.8.2 Lot Sizes**

- (1) No main building or structure in an Industrial Zone may be placed, erected, or altered on a lot unless the lot has and contains;
  - a) a width of at least 36.5 metres;
  - b) a depth of at least 38 metres; and
  - c) an area of at least 1400 square metres.

### **3.8.3 Yards for a Main Building or Structure**

- (1) No main building or structure in an Industrial Zone may be placed, erected, or altered so that it is within less than;
  - a) 7.5 metres of a street line;
  - b) The distance of a side or rear lot line which is the greater of 3 metres or one-half the height thereof; or
  - c) 15 metres of a highway designated as an arterial or collector highway under the Highways Act.

### **3.8.4 Accessory Buildings and Structures**

- (1) Except for a gatekeeper or security office, no accessory building or structure in an Industrial Zone may be placed, erected, or altered so that it is;
  - a) Closer to the street than the front of the main building or structure; or
  - b) Within the distance of a side or rear lot line which is the greater of 3 metres or one-half the height thereof.

### **3.9 P (Recreation) ZONES**

#### **3.9.1 Permitted Uses**

- (1) Any land, building, or structure in a Recreation Zone may be used for the following purposes and for no other purpose;
  - a) One or more of the following main uses:
    - i. Public open space for the aesthetic or other use of the general public, or
    - ii. A park or playground;And
  - b) Subject to Subsection (2), any accessory building, structure or use incidental to the main use of the land, building, or structure if such main use is permitted by this section.
- (2) A use permitted under Clause (b) of Subsection (1) is prohibited unless approved by Advisory Committee and unless such terms and conditions as may be imposed by the Advisory Committee are complied with.

### **3.10 A (Agricultural) ZONES**

#### **3.10.1 Permitted Uses**

- (1) Subject to this section, any land, building, or structure in an Agricultural Zone may be used for the following purposes and for no other purposes;
  - a) One of the following main uses:
    - i. An agricultural use,
    - ii. A single-family dwelling for persons actively engaged in an agricultural use.And
  - b) Any accessory building, structure, or use incidental to the main use of the land, building, or structure if such main use is permitted by this section.
- (2) A dwelling in conjunction with an agricultural use shall not be placed, erected, or altered so that it contains more than one dwelling unit.
- (3) A dwelling mentioned in Subsection (2) shall not be placed, erected, or altered, and a building or structure shall not be altered to become a dwelling, on a lot unless the lot and the plans for installation of the septic tank and disposal field meet the requirements of regulations under the Health Act.

#### **3.10.2 Lot Sizes**

- (1) No main building or structure may be placed, erected, or altered, and no building or structure may be altered to become a dwelling, on a lot in an Agricultural Zone unless the lot has and contains;
  - a) A width of at least 54 metres;
  - b) A depth of at least 73 metres;
  - c) An area of at least 2052 square metres.

#### **3.10.3 Size of Dwellings**

- (1) No dwelling may be placed, erected, or altered, and no building or structure may be altered to become a dwelling in an Agricultural Zone so that it has a ground floor area less than;
  - a) 55.75 square metres, in the case of a one-storey dwelling; and
  - b) 44.5 square metres, in the case of a one and one-half or two-storey dwelling.



#### **3.10.4 Yards for a Building or Structure**

- (1) No building or structure may be placed, erected, or altered in Agricultural Zone so that it is within less than;
  - a) 7.5 metres of a street line or the rear lot line;
  - b) 3 metres of a side lot line; or
  - c) 15 metres of a highway designated as an arterial or collector highway under the Highways Act.

### **3.11 RU (Rural) ZONES**

#### **3.11.1 Permitted Uses**

- (1) Subject to this section, any land, building, or structure in a Rural Zone may be used for the following purposes, and for no other purpose;
  - a) One of the following main uses:
    - i. An agricultural or forestry use;
    - ii. A recreational or community use;
    - iii. Public utilities;
    - iv. Any institutional use set out in Section 3.7, and
    - v. A single-family dwelling.
  - b) Any accessory building, structure, or use incidental to the main use of the land, building, or structure if such use is permitted by this Section.

#### **3.11.2 Development Standards**

- (1) All development in a Rural Zone shall conform to all applicable laws and regulations of the Province of New Brunswick.

#### **3.11.3 Height of Building or Structure**

- (1) No building or structure in a Rural Zone (other than a church, barn, or silo) may exceed 10 metres in height.

### **3.12 D (Disposal) ZONES**

#### **3.12.1 Permitted Uses**

- (1) Any land, building, or structure in a Disposal Zone may be used for the following purposes and for no other purpose;
  - a) The main use of the sanitary treatment and disposal of waste; and
  - b) Any accessory building, structure, or use incidental to the main use.

### **3.13 GENERAL PROVISIONS**

#### **3.13.1 Residential Development Near a Lagoon or Treatment Plant**

- (1) Notwithstanding any other provision of this By-Law, no dwelling or mobile home may be located within 150 metres of a sewage lagoon or treatment plant.

#### **3.13.2 Commercial Industrial and Agricultural Development Abutting a Residential Zone**

- (1) Notwithstanding any other provisions of this By-Law, in the case of a lot in a C, A, or I zone and abutting an R Zone, no main building or structure may be placed or erected thereon unless the yard adjoining the R zone has a depth or width equal to twice the height of the main building or structure.

#### **3.13.3 Number of Main Building or Structures on a Lot**

- (1) Except as a herein provided, no more than one main building or structure may

be placed or erected, and no building or structure may be altered to become a second main building or structure on a lot.

#### **3.13.4 Set Back Requirements**

- (1) Notwithstanding any other provision of this By-Law, no person may place, erect, or alter a building or structure, or any part thereof, or make any excavation preparatory thereto, within less than 30 metres of the boundary of a highway or street unless a certificate of setback is first obtained from the Development Officer.

#### **3.13.5 Building and Structure Projection**

- (1) The requirements of this By-Law with respect to placing, erecting, or altering a building or structure in relation to a lot line or street line apply to all parts of the building or structure except for projections which do not protrude into required yards in excess of;
  - a) 15 centimetres, for sills, leaders, belt courses or similar ornamental features;
  - b) 45 centimetres, for chimneys, smokestacks, or flues;
  - c) 60 centimetres, for cornices or eaves;
  - d) 100 centimetres, for window or door awnings, or open or lattice-enclosed fire balconies or fire escapes; or
  - e) Subject to Subsection (2),
    - i. 1.2 metres for steps or unenclosed porches, or
    - ii. 1.8 metres, for balconies or upper stories of multiple dwellings which are not enclosed above a normal height.
- (2) Projections mentioned in Clause (e) of Subsection (1) may not extend into a required side yard to a greater extent than one-half the required width of the yard.

#### **3.13.6 Vehicular Off-Street Parking**

- (1) Subject to this section, no building or structure may be placed, erected, altered or used unless vehicular off-street parking spaces are provided in accordance with the requirements of this section.
- (2) Off-street vehicular parking spaces mentioned in Subsection (1) shall be provided on the following basis;
  - a) For dwelling units: no less than one space for each dwelling unit;
  - b) For retail stores and service shops or similar establishments: not less than one space for every 18 square metres of retail sales floor space;
  - c) For restaurants and taverns: not less than one space for each 4 patrons for whom accommodation is provided;
  - d) For offices: not less than one space for every 36 square metres of gross floor area;
  - e) For recreational and entertainment buildings, institutional district buildings (including churches), clubs, and places of assembly: not less than one space for every 10 fixed seats, or not less than one space for every 9 square metres of gross floor area, whichever is the greater;
  - f) For hotels and motels: not less than one space for each habitable unit;
  - g) For schools and youth clubs: not less than one space for every classroom or clubroom and, where an auditorium or place of assembly is included

therein, an additional space for every 9 square metres of auditorium or assembly area; and

- h) For industrial buildings, warehouses, storage yards or buildings, and servicing and repairing establishments: not less than one space for every 5 employees, or not less than one space for every 90 square metres of gross floor area, whichever is the greater.
- (3) A parking space shall be;
- a) An area of not less than 6 metres in length and not less than 3 metres in width;
  - b) Readily accessible from the nearest street; and
  - c) Not more than 15 metres from the building which it serves.
- (4) Provided the area is not less than the minimum area required for all buildings which the spaces are to service, collective provision for off-street parking spaces may be made for two or more buildings on the same lot.
- (5) Where collective provision for off-street parking is made under Subsection (4) the parking area shall;
- a) Be screened from public view, if practicable;
  - b) Be surfaced with a durable and dustproof material;
  - c) Have points of ingress and egress located, in the opinion of the Advisory Committee with due regard to topography and general traffic conditions; and
  - d) Not be used for automotive repair work or servicing except in the case of an emergency.

### **3.13.7 Vehicular Off-Street Loading and Unloading**

- (1) The owner of every building, structure, or premises used in whole or part for business or commercial purposes involving the use of vehicles for the receipt or distribution of materials or merchandise shall provide and maintain on lands appurtenant to such building, structure, or premises, off-street spaces for such vehicles to stand and for loading and unloading the same, in accordance with the following requirements:
- a) For retail and wholesale stores, bulk storage plants, warehousing, or similar uses;
    - i. Not less than one space if the gross floor thereof is 465 square metres or less,
    - ii. Not less than two spaces if the gross floor area thereof is in excess of 465 square metres but less than 2325 square metres, and
    - iii. An additional space for each 930 square metres, or fraction thereof, of gross floor area thereof in excess of the first 2325 square metres;
- And
- b) For business or office buildings, places of public assembly, schools, hotels, or other similar buildings or premises;
    - i. Not less than one space, and
    - ii. An additional space for each 3250 square metres, or fraction thereof, of gross floor area in excess of 2785 square metres.
- (2) A loading and unloading space mentioned in Subsection (1) shall;
- a) be not less than 9 metres in length and not less than 3 metres in width, with 4.4 metres overhead clearance;

- b) Be so located that merchandise or materials are loaded or unloaded on the premises being served;
- c) Be provided with adequate facilities for ingress and egress and unobstructed maneuvering aisles; and
- d) Be surfaced with a durable and dustproof material.

### **3.13.8 Home Occupations**

- (1) Subject to Subsection (2), where a home occupation is permitted under the By-Law, one of the following occupations may be conducted as a home occupation in the main dwelling;
  - a) An occupation as a doctor, dentists, architect, artist, designer, accountant, lawyer, or professional engineer in an office or studio therein;
  - b) Insurance sales;
  - c) Garment making;
  - d) A day nursery or kindergarten;
  - e) The teaching of dancing or music to not more than 4 students at a time; or
  - f) A barber shop or beauty salon.
- (2) A home occupation is subject to the requirements that;
  - a) not more than one person is engaged therein in addition to members of the family resident in the dwelling unit in which it is located;
  - b) it is confined to the dwelling unit mentioned in Clause (a), and no part of it is located in an accessory building or structure;
  - c) The floor area of the dwelling unit which is devoted to it does not exceed the 25% of the unit's total floor area;
  - d) no change, except for a sign permitted under Subsection (2) of Section 3.13.10, is made in the outside appearance of the building which would indicate that a home occupation is being conducted therein;
  - e) no goods or services other than those directly pertaining to the home occupation are supplied or sold therein or there from;
  - f) no equipment or material used therein is stored other than in the dwelling unit mentioned in Clause (a);
  - g) no commercial vehicle used in connection therewith, and no vehicle of any kind bearing a sign in connection therewith, is stored on the lot except in a wholly enclosed building; and
  - h) two off-street parking spaces are provided in excess of those required under Section 3.13.6.

### **3.13.9 Stripping of Topsoil**

- (1) Subject to this section, no person may strip, excavate, or otherwise remove topsoil for sale or for use from a lot or other parcel of land.
- (2) Where, in connection with the construction of a building or structure, there is an excess of topsoil other than that required for grading and landscaping on the lot, such excess may be removed for sale or for use.
- (3) Notwithstanding Subsection (1), the farming of sod may be carried on where the owner of the land has entered into an agreement with the Council making arrangements satisfactory to the Council for the rehabilitation of the land.

### **3.13.10 Signs**

- (1) Other than a traffic control device as defined by the Motor Vehicle Act, a legal

notice or a store window sign advertising goods for sale therein, the use of land or a building or structure for the placing, erecting, or displaying of a sign not expressly permitted by this section is permitted only if approved by the Advisory Committee and only on compliance with such terms and conditions as may be imposed by such committee.

- (2) Subject to Subsection (3), in any zone, a non-illuminated sign may be placed, erected, or displayed on any land, building or structure is such sign;
  - a) Advertises the sale, rental or lease of such land, building, or structure;
  - b) Identifies by name the property or the residents thereof;
  - c) Indicates a home occupation permitted hereunder; or
  - d) Warns against trespass,
- (3) Unless otherwise provided by this Section, a sign mentioned in Subsection (2) shall not exceed;
  - a) In number, one for each purpose mentioned therein; or
  - b) In size,
    - i. 0.5 square metres, for a sign mentioned in Clause (a) thereof, or
    - ii. 0.2 square metres, for a sign mentioned in Clause (b), (c), or (d) thereof.
- (4) In a Commercial Zone, the following signs may be placed, erected, or displayed;
  - a) A sign placed flat against the front of a building indicating the ownership or nature of the business carried on therein, provided the gross surface area of such sign does not exceed;
    - i. the product of the lineal frontage of the lot on which the building is located, multiplied by two, in the case of a non-illuminated sign, or
    - ii. one-half the size permitted under Subclause (i), in the case of an illuminated sign; or
  - b) a free-standing sign not exceeding 4 square metres in gross surface area, in the case of a service station.
- (5) In an Agricultural Zone, the following signs may be placed, erected or displayed;
  - a) One sign not exceeding 4 square metres in gross surface area indicating the name of a farm; and
  - b) One sign not exceeding 1.6 square metres in gross surface area indicating the sale or rental of the property on which it is placed.
- (6) No sign may;
  - a) Be an imitation of a traffic control device or contain the words “stop”, “go”, “go slow”, “caution”, “danger”, “warning”, or similar words;
  - b) Have a size, location, movement, content, coloring, or manner of illumination which may be confused with, constructed as, or tend to hide from view any traffic control device; or
  - c) Advertise an activity, business, product or service no longer conducted on the premises on which the sign is located.

### **3.13.11 Fences**

- (1) Notwithstanding any other provision of this By-Law, subject to this Section, a fence may be placed or located in a yard.
- (2) Except for a security fence of a chain link construction, no fence in a required front yard may exceed 0.75 metres in height.
- (3) Subject to Subsection (2), no fence may exceed in height;

- (4) No person may erect a fence;
  - a) Closer to a street than the minimum line of setback approved by the council.
  - b) To a greater height above grade than 1.5 metres in a Rural Zone and architecturally pleasing to the satisfaction of the Development Officer.
  - c) To a greater height above grade than 2.5 metres in a zone other than a Rural Zone
- (5) Architecturally pleasing fences shall be provided to effectively screen from view all outdoor storage areas from adjacent “higher” users, from the passing public, to the satisfaction of the Department Officer, and in interest of protecting the appearance and amenities of the zone.
- (6) Residential fences shall:
  - a) Not exceed 1.5 metres above the ground surface.
  - b) Not be closer to the street than the minimum line of set-back, (see Section 6.4)
  - c) Be built on the Owner’s side of the property line, (unless by mutual agreement of adjacent property owner)
  - d) Be built with posts towards Owner’s property.
  - e) Be on cedar or pressure treated posts placed below frost line.
  - f) Be of wooden or metal construction. Either Painted or stained on both sides by Owner.
  - g) Not to be a solid wall construction (Minimum of 10 mm spacing).
- (7) Storage fences or screening fences shall:
  - a) Not exceed 2.5 metres above ground surface.
  - b) Be built on the Owner’s side of the property line, (unless by mutual agreement of adjacent property owner)
  - c) Be on cedar or pressure treated posts placed below frost.
  - d) Be of vertical wood or metal construction, either painted or stained on both sides by the owner.
  - e) Not to be a solid wall construction (Minimum of 10 mm spacing).

### **3.13.12 Enclosures for Swimming Pools**

- (1) No land may be used for purposes of a swimming pool unless the pool is enclosed by a fence, or by a wall of a building or structure, or by a combination of walls and fences, at least 1.5 metres in height and meeting the requirements of this Section.
- (2) Where a portion of a wall of a building forms part of an enclosure mention in Subsection (1),
  - a) No main service entrance to the building may be located therein; and
  - b) Any door therein, other than a door to a dwelling or rooming unit, shall be self-closing and equipped with a self-latching device at least 1.5 metres above the bottom of the door.
- (3) An enclosure mentioned in Subsection (1) shall not have rails, bracing, or other attachments on the outside thereof that would facilitate climbing.
- (4) A fence mentioned in Subsection (1);
  - a) Shall be made of chain link construction, with galvanized, vinyl or other CSA approved coating or of wood or of other materials, in the manner described in Subsection (5);

- b) Shall not be electrified or incorporate barbed wire or other dangerous material; and
  - c) Shall be located;
    - i. At least 1.2 metres from the edge of the swimming pool, and
    - ii. At least 1.2 metres from any condition that would facilitate its being climbed from the outside.
- (5) The design and construction of a fence under this section shall provide;
- a) In the case of chain link construction,
    - i. No greater than 4 centimetres diamond mesh,
    - ii. Steel wire not less than No. 12 gauge, or a minimum No. 14 gauge proved coating forming a total thickness equivalent to No. 12 gauge wire, and
    - iii. At least 3.5 centimetres diameter steel posts, set below front in an envelope of cement and spaced not more than 3 metres apart, with a top horizontal rail of at least 3 centimetres diameter steel;
  - b) In the case of wood construction;
    - i. Vertical boarding, not less than 2.5 x 10 centimetres nominal dimensions spaced not more than 3.5 centimetres apart, attached to supporting members and arranged in such manner as not to facilitate climbing on the outside, and
    - ii. Supporting cedar posts at least 25 centimetres square or round with 11 centimetres diameters, set below frost and spaced not more than 2.5 metres apart, with the portion below grade treated with a wood preservative, and with a top horizontal rail of at least 5 x 15 centimetres nominal dimensions; and
  - c) In the case of construction with material and in a manner other than described in this Subsection rigidity equal to that provided thereby.
- (6) Gates forming part on an enclosure mentioned in Subsection (1);
- a) Shall be equivalent to the fence in content, manner of construction and height;
  - b) Shall be supported on substantial hinges; and
  - c) Shall be self-closing and equipped with a self-latching device at least 1.5 metres above the bottom of the gate.

**3.13.13 Line of Vision at an Intersection**

- (1) Except in the Commercial Zone, no building, structure, fence, shrub, or tree foliage may obstruct the line of vision at a street intersection between the heights of 1 and 3 metres above the grade of the streets within an area bounded by the centre lines thereof and a line joining a point on each center line 24 metres from their intersection.

**3.13.14 Lighting Facilities and Illuminating Devices**

- (1) No lighting facilities or illuminating device for any purpose may be arranged in such manner as to cause a nuisance.

**3.13.15 Consolidation**

- (1) This By-Law consolidated as of August 6, 2019.

This original By-Law is filed at the Harvey Village Office under By-Laws.

Schedule "A"  
Harvey Zoning Map

2019 Harvey Zoning Map



- Zones
- Orange Agricultural
  - Red Commercial
  - Purple Disposal
  - Brown Industrial
  - Dark Blue Institutional
  - Light Blue Recreation
  - Yellow Residential
  - Green Rural

