

TOWN OF **berwick**

Land Use Bylaw



TOWN OF BERWICK LAND USE BYLAW

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Credits:

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Indigenous Land Acknowledgement

The Town of Berwick is located in Mi'kma'ki. The Town and all the peoples who reside and visit here are the beneficiaries of the living Peace and Friendship Treaties, which were signed between the British, the Mi'kmaq, the Maliseet, and the Passamaquoddy. These treaties hold the ongoing shared responsibility to respect, cooperate, and coexist with each other and the land. The Town extends to the Mi'kmaw people the respect and desire to build a stronger relationship in the spirit and intention of these treaties



1 Title and Purpose

1.1 TITLE

This By-law shall be known and may be cited as the "Land Use By-Law" of the Town of Berwick.

1.2 PURPOSE

The purpose of this By-law is to implement the land use and development control provisions of policies contained in the Town's Municipal Planning Strategy as enabled through the Municipal Government Act ("Act")

2 Administration

2.1 DEVELOPMENT OFFICER

Council shall appoint one (1) or more Development Officer(s) for the Town.

This By-law shall be administered by the Development Officer, who shall be responsible for the issuing of Development Permits.

In the absence or incapacity of the Development Officer, the Acting Development Officer appointed by Council shall act in the Development Officer's stead.

2.2 RIGHT OF ENTRY

The Development Officer is authorized to enter, at all reasonable times, into or upon any property within the Town for the purpose of any inspections necessary to administer this By-law in accordance with the Act, as amended from time to time.

2.3 ENFORCEMENT AND PENALTY

2.3.1 In the event of any contravention of this By-law, the Town may act as provided in the Act.

2.4 COMPLIANCE WITH OTHER LEGISLATION

2.4.1 Nothing in the By-law shall exempt any person from complying with the requirements of another Town by-law, or from obtaining any license, permission, permit, authority, or approval required by any other by-law of the Town or statute or regulation for the Province of Nova Scotia or the Government of Canada. Where provisions in this By-law conflict with those of any other by-law of the Town or regulation of the Province of Nova Scotia or the Government of Canada, the higher or more stringent provision shall prevail.

2.5 EFFECTIVE DATE

2.5.1 This By-law shall come into force and take effect upon the date a notice is published as required by the Act.

2.6 EXISTING STRUCTURES AND USES

- 2.6.1 A structure or use of land shall be deemed to be existing on the effective date of this By-law if:
- a. It has been lawfully constructed;
 - b. It has been lawfully commenced;
 - c. It is lawfully under construction: or
 - d. All required permits for its construction or uses were in force and effect, except that this shall not apply unless the construction or use is commenced within 12 months after the date of the latest issuance of the required permits.

2.7 REPEAL OF BY-LAW

- 2.7.1 As of the effective date of this Land Use By-law, the Land Use By-law for the Town of Berwick, passed and adopted October 9, 2012, as amended, is repealed.

2.8 DEVELOPMENT PERMITS

- 2.8.1 No person shall use any land or erect, alter or use any building or structure or otherwise undertake any development unless a Development Permit has been issued unless an exemption is clearly stated elsewhere in this By-law.
- 2.8.2 No Development Permit shall be issued unless all the provisions of this By-law or terms of a variance, site plan approval, or development agreement relating to a proposed development are satisfied.
- 2.8.3 No Development Permit shall be issued by the Development Officer unless the proposed development is in conformance with:
- a. The requirements of the Land Use By-law; or
 - b. A development agreement that has been executed pursuant to Section 230 of the Act; or
 - c. A variance from the terms of the By-law has been granted by the Development Officer, pursuant to Section 235 of the Act, and the time for appeal has elapsed or the appeal has been disposed of, pursuant to Section 237 of the Act.
 - d. A site plan approval that has been executed pursuant to Section 233 of the Act.
- 2.8.4 A Development Permit shall be valid for a period of twelve (12) months from the date of issuance.
- 2.8.5 A Development Permit may be renewed for an additional twelve (12) months provided that the Permit has not been previously renewed, and the Development Officer is satisfied that the Permit is consistent with the existing Land Use By-law and any proposed amendments.

- 2.8.6 No deviation shall be made from the description of the proposed development without approval from the Development Officer.
- 2.8.7 The Development Officer may revoke any development permit issued under this Land Use By-law or any previous Land Use By-law where:
- a. The requirements of the permit are not met; or
 - b. The issuance of the permit was based on incorrect information; or
 - c. The permit was issued in error.

2.9 APPLICATION FOR DEVELOPMENT PERMIT AND DEVELOPMENT AGREEMENT

All applications for development permits and/or entering into a Development Agreement shall be made using the form prescribed by the Town and shall be signed by the owner of the property or by the owner's agent.

Every application for a Development Permit shall be accompanied by plans, drawn to an appropriate scale and showing:

- a. The true shape and dimensions of the lot to be used, and upon which it is proposed to erect any building or structure;
- b. The proposed location, height, and dimensions of the building, structure, or work with respect for which the permit is applied;
- c. The location of every building or structure already erected on or partly on such lot, and the location of every building upon abutting lots;
- d. The location of all adjacent streets and rights-of-way, existing or proposed driveways and lot access and the proposed location and dimensions of parking spaces, loading spaces, and internal vehicle circulation;
- e. Natural features such as wetlands, watercourses, vegetation and slopes;
- f. Other such information as may be necessary to determine whether every such building, development, reconstruction, or redevelopment conforms with the requirements of this By-law; and
- g. The Development Officer may waive the requirement to supply the above noted information if they deem it is not pertinent to the application.

Where the Development Officer is unable to determine whether the proposed development conforms to this By-law, the Municipal Planning Strategy or other by-laws and regulations in force which affect the proposed development they may require a detailed site plan.

2.10 USES CONSIDERED BY DEVELOPMENT AGREEMENT

The Municipal Planning Strategy provides that the following uses shall be considered, approved, and regulated by Development Agreement:

- a. Expansion and/or alteration of existing commercial and/or industrial uses within the Residential (R) Zone;
- b. Expansion and/or alteration of existing land-lease communities within the Residential (R) Zone;
- c. New multiple-unit residential dwellings containing ten (10) or more units in the in the Residential Growth (RG) zone;
- d. Grouped dwellings with more than ten (10) units in the Residential Growth- (RG) zone;
- e. Commercial Uses (ground floor commercial) in the Residential Growth (RG) zone;
- f. Comprehensively planned residential development within the Residential Comprehensive Development District (RCDD) Zone;
- g. Mixed-use commercial/residential development on lands zoned Commercial General (C1);
- h. Redevelopment or reuse of lands zoned Institutional (I1) for non-institutional purposes.
- i. Redevelopment or reuse of unique site and structures

2.11 SITE PLAN APPROVAL

Some zones in this Land Use By-law permit certain uses only by site plan approval. Unless specifically addressed in a different manner by the applicable criteria of Part 12 of this By-law, all other applicable criteria of this Land Use By-law shall still apply to any development proposed and undertaken through site plan approval.

For greater clarity, the provisions of Part 12 of this By-law shall only apply to uses permitted by site plan approval.

APPLICATION REQUIREMENTS

In addition to the requirements of Section 2.10, Application Requirements, applications for site plan approval shall meet the following requirements:

- a. The plan shall be fully and accurately dimensioned and shall be made under the stamp of a qualified professional.
- b. The application shall be accompanied by a written rationale and any necessary supporting illustrations addressing each of the applicable criteria as outlined in Part 12 of this By-law.
- c. The application shall be accompanied by a fee, of the amount prescribed by Council.

SITE PLAN APPROVAL REVIEW

The Development Officer shall review applications for uses permitted by site plan approval, and amendments to existing site plan approvals, against all applicable criteria of this Land Use By-law with the applicable criteria in Part 12 of this By-law.

NOTIFICATION

Where the Development Officer has granted a site plan approval, notification of the approval shall be served upon all assessed property owners within 100 meters of the property subject to the site plan approval. Notification of a site plan approval shall:

- a. Describe the site plan approval;
- b. Identify the property(s) subject to the site plan approval; and
- c. Set out the right to appeal the decision of the Development Officer to Council.

APPEAL OF SITE PLAN

Appeals of the Development Officer's decision regarding a site plan approval shall be made to Council, as provided for in the Act.

2.12 USES CONSIDERED BY SITE PLAN APPROVAL

The Municipal Planning Strategy provides that the following uses shall be considered, approved, and regulated by Site Plan Approval:

- a. Expansion of a non-conforming use in the Residential (R) zone, Residential Mixed Density (RMD) Zone, and Residential Growth (RG) zone;
- b. Grouped dwellings with four (4) or fewer units located on a single lot in the Residential (R) zone;
- c. Fourplex Dwelling with four (4) or fewer Dwelling Units on a Lot in the Residential (R) zone;
- d. Townhouse Dwelling with four (4) or fewer Dwelling Units on a Lot in the Residential (R) zone;
- e. Grouped dwellings with seven (7) to nine (9) units located on a single lot in the Residential Mixed Density (RMD) Zone;
- f. Multiple unit dwellings from seven (7) to nine (9) units in the Residential Growth (RG) zone;

2.13 CERTAIN WORDS

In this By-law, words used in the present tense include the future; words in the singular number include the plural; words in the plural include the singular number; the word "used" includes "arranged", "designed" or "intended to be used", and the word "shall" is mandatory and not permissive.

2.14 REGISTRY OF DEEDS

Where Council has entered into a Development Agreement, a copy of the agreement shall be registered by the Clerk in the Land Registration Office for the County of Kings and thereupon the obligations thereof shall be binding upon the owner and any subsequent owner until discharged by the Town.

2.15 AMENDMENT OF THE BY-LAW

Any person who wishes to obtain an amendment, revision, or repeal of this By-law shall apply the form prescribed by the Town.

The applicant shall deposit with the Town an amount estimated to be sufficient to pay the cost of advertising required by the Act.

The applicant shall pay all fees as per the Municipal Planning Strategy.

After the notice of advertising required by the Act has been completed, the applicant shall pay to the Town any additional amount necessary to defray the cost of advertising or if there is a surplus the Town shall refund the same to the applicant.

3 Zones and Zoning Map

3.1 ZONES

For the purpose of this By-law, the Town of Berwick is divided into the following zones. Such zones may be referred to by the appropriate symbols. The provisions of this By-law shall apply to all such zones.

Zone	Symbol
Restricted Residential	RR
Residential	R
Residential Mixed Density	RMD
Residential Growth	RG
Residential Comprehensive Development District	RCDD
Commercial General	C1
Commercial/Industry Enterprise	C2
Gateway Mixed Use	GMU1
Institutional	I1
Agriculture	A1
Recreation and Open Space	OS1
Conservation	OS2

3.2 ZONING MAP

Schedule A, attached hereto, is titled the “Zoning Map” and forms part of this By-law.

3.3 ZONING BOUNDARIES

The extent and boundaries of all zones are shown on Schedule A attached.

3.4 INTERPRETATION OF ZONE BOUNDARIES

Boundaries between zones, as shown on Schedule A, shall be determined as follows:

- a. Where a zone boundary is indicated as approximately following lot line, the boundary shall follow such lot lines; and
- b. Where a street, highway, railroad or rail right-of-way, electrical transmission line right-of-way, watercourse or other linear feature is included on Schedule A, it shall, unless otherwise indicated, be included in the zone in which it occurs; and
- c. Where a street, highway, railroad or rail right-of-way, electrical transmission line right-of-way, watercourse or other linear feature is included on Schedule A and serves as a boundary between two or more zones, a line midway on such right-of-way, watercourse or other linear feature, and extending in the general direction of the long division thereof, shall be considered the boundary between zones unless specifically indicated otherwise; and
- d. Where the zone boundary is indicated as following the shoreline of a river or bay, the boundary shall follow the actual shoreline, including wharves and piers; and

- e. Where none of the above provisions apply, and where appropriate, the zone boundary shall be scaled from the attached Schedule A.

3.5 STANDARDS OF MEASUREMENT

The metric system of measurement is used throughout this By-law and in all cases represents the required standard. Any reference to imperial measurements are approximate and for convenience only.

4 General Provisions for all Zones

4.1 PERMITTED USES

For the purpose of this By-law, if a use is not listed as a permitted or conditional use in any zone, it shall be deemed to be a prohibited use in that zone and no person shall use any land, or erect, alter, or use any building or structure for any such use.

4.2 SPECIAL CONDITIONS

For the purpose of this By-law, if a use is listed subject to any special conditions, it shall be permitted subject to fulfilling any special requirements as defined in this By-law.

4.3 ACCESSORY BUILDINGS

4.3.1 Accessory uses, buildings and structures shall be permitted in any zone within the Town of Berwick but shall not:

- a. Be used for human habitation except where all applicable provisions and requirements for an Accessory Dwelling Unit – Detached Suite under the Land Use By-law are met;
- b. Be located within the front yard of a lot;
- c. Where an accessory building is built on a corner lot, it shall be located in the rear yard or in the side yard which is not adjacent to the flanking street;
- d. Be built closer to a street on which the main building fronts than the main building is to that street;
- e. Be built closer than .6 meters (2 ft.) to a lot line except that common semi-detached garages may be centered on the mutual side lot line;
- f. Exceed 6.1 meters (20 ft.) in height, except for accessory buildings in the Commercial/Industrial Enterprise (C2) Zone which shall be a maximum height of 10 meters (32.8 ft.);
- g. Be built within 2 meters (6.5 ft.) of the main building

The maximum number of accessory structures, excluding Accessory Dwelling Unit – Detached Suites, permitted in any Residential Zone shall not exceed three (3).

4.3.2 The maximum building coverage on a lot in any residential zone, inclusive of the main building and all accessory buildings shall not exceed 40%.

4.3.3 Notwithstanding anything else in this By-law, drop awnings, clothesline poles, flag poles, garden trellises, gazebos, fences, and retaining walls shall be exempted from any requirements under Part 4.3.1.

4.3.4 Where this By-law provides that any land may be used, a building or a structure may be erected or used for a purpose that includes any use accessory to that purpose

4.4 ACCESSORY DWELLING UNIT – DETACHED SUITE

Notwithstanding anything else in this By-law, the establishment of one (1) Accessory Dwelling Unit to a Single Unit Dwelling or Semi-Detached Dwelling shall be permitted in all Residential zones subject to the following requirements:

Accessory Dwelling Unit –	
Maximum Number of Bedrooms	1
Minimum Lot Area	929 m2 (10,000 ft2)
Yard Setbacks	Side Yards: 3.65 metres (12 ft.) Rear Yard: 3.05 metres (10 ft.) Accessory Dwelling Unit – Detached Suites must not be closer to the front lot line than the main building.
Maximum accessory dwelling unit floor area	Up to 60% of the gross floor area of the main unit up to 75 m2 (807.3 ft2)
Maximum building height	If not contained in the main building, equal to the height of the main building up to 10.66 meters (35 ft.)
Minimum setback from other buildings	2 metres from non-habitable structures on the same lot 3 metres from all other structures
Lot Coverage	The maximum building coverage on a lot in any residential zone, inclusive of the main building and all accessory buildings shall not exceed 40%.
Design Parameters	
Exterior	Must be similar to, or complementary the main dwelling in building material type, cladding colour, roof type, and roof pitch.
Entrance, Main Windows, and Entry	Must be oriented toward the main dwelling, flankage yard, or front yard

4.4.1 The minimum zone requirements shall be waived for the conversion of an existing accessory structure for residential use.

4.4.2 The ADU may be located within an existing single unit dwelling and shall have its own entrance.

4.5 BUILDING TO BE ERECTED ON A LOT

No person shall erect or use any building unless such building is erected upon a single lot.

4.6 BUILDING TO BE MOVED

No person shall move any building, residential or otherwise, within or into the area covered by this By-law without obtaining a development permit from the Development Officer.

4.7 CALCULATION OF LOT FRONTAGE FOR CORNER LOTS OR IRREGULAR SHAPED LOTS

The following means shall be used for the purposes of determining the lot frontage of corner lots or irregularly shaped lots:

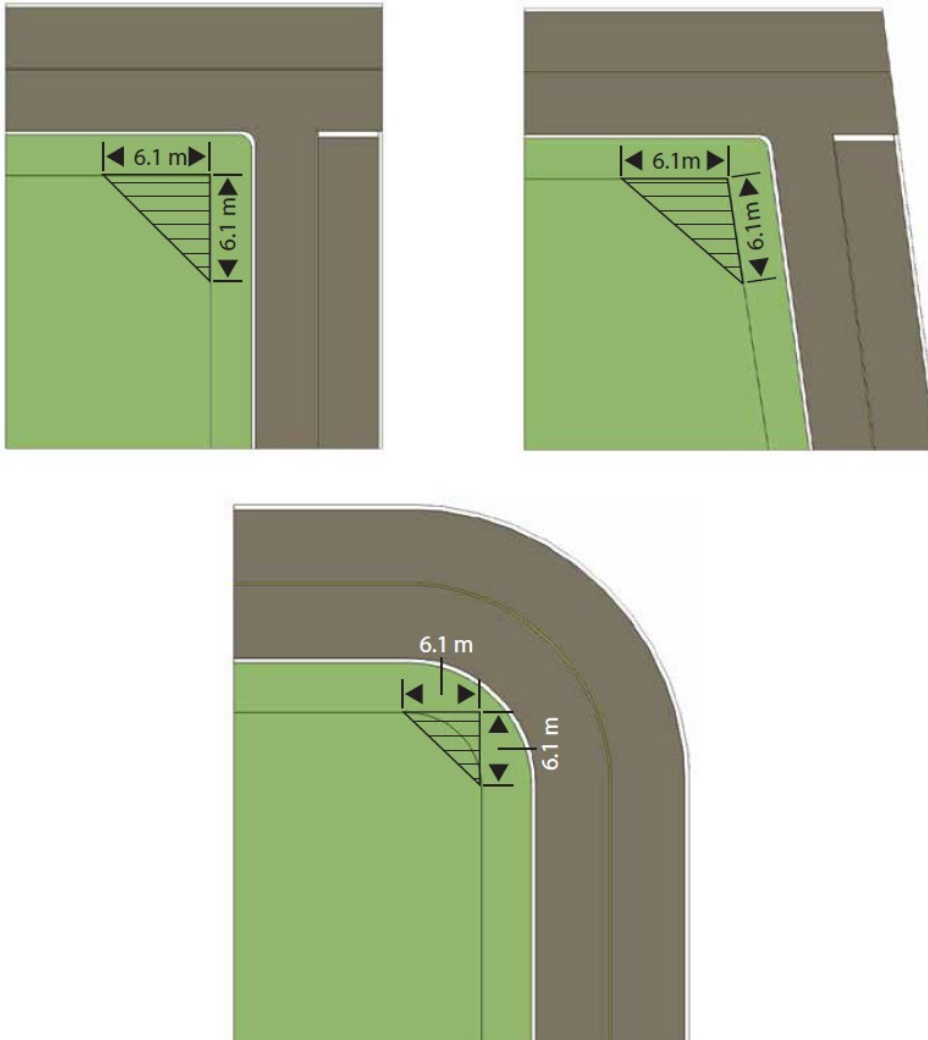
- a. In the case of a corner lot with a corner vision triangle the exterior lot lines (street lines) shall be deemed to extend to their hypothetical point of intersection for the purpose of calculating the frontage;
- b. In the case of other lots, lot frontage shall be deemed to be the horizontal distance between the side lot lines. This distance shall be measured perpendicularly to a line joining the middle of the front lot line with the middle of the rear lot line, at a point along this equal to the minimum applicable front yard.

4.8 CHANGE OF USE ON AN EXISTING LOT

Notwithstanding anything else in this By-law, the use of a building existing on a lot may be changed to a use permitted on the lot by this By-law where the lot frontage, front yard, or area required or any two or all three is less than the requirements and provided that all other requirements in this By-law are satisfied.

4.9 CORNER VISION TRIANGLE

On a corner lot, a fence, sign, hedge, shrub, bush or tree, or any other structure or vegetation shall not be erected or permitted to grow to a height greater than .6 meters (2 ft.) above grade of the streets that abut the lot within the triangular area included within the street lines for a distance of 6.1 meters (20 ft.) from their point of intersection. (example of how to calculate is provided below)



4.10 ELECTRICAL VEHICLE CHARGING

- 4.10.1 Nothing in this By-law shall prevent the installation of a non-commercial electric vehicle charging station where the station is for the exclusive domestic use of a dwelling unit and shall not require a development permit.
- 4.10.2 Non-commercial electric vehicle charging stations that are not for the exclusive use of a dwelling unit shall be permitted as an accessory use in all zones and shall not require a development permit.

- 4.10.3 Commercial electric vehicle charging stations shall be permitted, or not, as indicated in each zone's permitted use tables.

4.11 EXISTING BUILDINGS WITH NON-CONFORMING YARDS

Where a building has been erected on or before the effective date of this By-law on a lot having less than the minimum frontage or area, and/or having less than the minimum setback or side yard or rear yard required by this By-law the building may be enlarged, reconstructed, repaired, or renovated provided that:

- a. The enlargement, reconstruction, repair, or renovation does not further reduce the front yard or side yard or rear yard that does not conform to this By-law; and
- b. All other applicable provisions of this By-law are satisfied.

4.12 EXISTING UNDERSIZED LOTS

4.12.1 Notwithstanding anything else in this By-law, an undersized lot in existence on the effective date of this By-law, having less than the minimum frontage or area required by this By-law, may be used for a purpose permitted in the Zone in which the lot is located, and a building may be erected on the lot provided that all other applicable provisions such as use, side yards, setbacks, and lot coverage in this By-law are satisfied.

4.12.2 Such existing undersized lots may undergo an increase in size and/or frontage and still be considered as an existing undersized lot under this By-law.

4.13 EXISTING USES

4.13.1 Existing uses which are still in existence and which would not be permitted as new uses in the Zone in which they are located shall be regarded as non-conforming uses for the purposes of this By-law, provided that satisfactory documentation can be provided by the property owner to substantiate the existence of the use before the effective date of this By-law.

4.13.2 Existing uses which are still in existence, and which are not included as permitted uses within the zone in which they are located shall be regarded as non-conforming and shall be subject to Parts 238 through 241 of the Act.

4.14 EXTERNAL STAIRCASES AND SHARED BALCONIES

4.14.1 External staircases shall not be permitted in buildings with more than 6 units between the building and any street in any zone unless required as a result of site, life-safety, or structural limitations. Shared Balconies are not permitted.

4.15 FARM, FISH, AND FOREST SALES FROM A STAND OR PARKED MOTOR VEHICLE

Outdoor sales from a stand or parked motor vehicle of fresh flowers, fruit, and vegetables; products from the sea; and forestry products such as, but not limited to, Christmas trees, wreaths, and maple products is allowed in the Commercial General (C1) Zone, Commercial/Industrial Enterprise (C2) Zone, Gateway Mixed Use (GMU1) Zone, without the requirement for a development permit, subject to the Vending By-law.

- 4.15.1 Stands shall not exceed a footprint of 10 square metres (107 square feet).
- 4.15.2 Outdoor sales from a stand or parked motor vehicle shall not be located within the street right-of-way.

4.16 FENCES

- 4.16.1 A Development Permit shall not be required for fences under 2 meters (6.6 ft.) in height.
- 4.16.2 A Development Permit shall be required for fences exceeding 2 meters (6.6 ft.) in height.
- 4.16.3 Fences shall be limited to a maximum height of 2.4 meters (8 ft.) in all Residential Zones and 3.6 meters (12 ft) in all other Zones.
- 4.16.4 No fence shall be located the front yard that exceeds 1.5 meters (5 ft.)
- 4.16.5 All fences, regardless of whether a Development Permit is required, shall conform to the following general requirements:
 - a. Corner vision triangle restrictions shall apply for all corner lots;
 - b. Fences cannot be electrified;
 - c. Fences cannot contain barbed wire unless erected in conjunction with a permitted industrial use and in such cases barbed wire is prohibited from use in any yard which abuts a residential Zone.

4.17 FRONTAGE ON A STREET

No development permit shall be issued unless the lot or parcel or land intended to be used or upon which the building or structure is to be erected, abuts and fronts upon a public street or has deeded access to a public street.

4.18 FRONT YARD FOR A THROUGH LOT

In the case of a through lot, the front yard shall be deemed to be any yard which abuts either of the two opposite public streets.

4.19 HABITATION OF VEHICLES

- 4.19.1 No automobile, truck, bus, coach, streetcar, recreational vehicle, trailer, camper, or other motor vehicle, or part thereof, with or without wheels, shall be used for human habitation of commercial occupancy, except where a permit has been issued for temporary vending under the Vending By-law and for which a development permit shall not be required.
- 4.19.2 Notwithstanding Subsection 4.19.1, recreational vehicles or campers may be used for human habitation provided that:
- a. Such vehicle is not connected to town services;
 - b. Such use is not used or intended to be used for the travelling public;
 - c. Such use is not located in the minimum front or flankage yard setback; and
 - d. Such use occurs only on a property with an established main dwelling.

4.20 HEIGHT REGULATIONS

The height regulations of this By-law shall not apply to church spires, water tanks, elevator enclosures, silos, flagpoles, television or radio antennae, ventilators, skylights, chimneys, clock towers, or wind turbines.

4.21 ILLUMINATION

No person shall erect any sign or illuminate an area outside any building unless such illumination is directed away from adjoining properties and any adjacent streets.

4.22 LOADING SPACES

For every building or structure to be erected or enlarged, or structure for manufacturing, storage, warehouse, department store, retail store, wholesale store, market, freight or passenger terminal, hotel, hospital, mortuary or other uses involving the frequent shipping, loading or unloading of persons, animals, or goods, there shall be located on the same premises with every such building, structure or use, one off street space for standing, loading, and unloading for every 2787 square meters (30,000 sq. ft.) or fraction thereof of building floor area in excess of 278 square meters (3,000 sq. ft.) to a maximum of six (6) loading spaces.

- 4.22.1 Each loading space shall be at least 3.6 meters (12 ft.) by 12.2 meters (40 ft.) with a minimum of 4.3 meters (14 ft.) height clearance.
- 4.22.2 No such loading spaces shall be located within any required front yard or be located with any required yard which abuts a Residential, Recreation and Open Space, or Institutional Zone.
- 4.22.3 Loading space areas, including driveways leading thereto, shall be constructed of and maintained with a stable surface which is treated so as to prevent the raising of dust or loose particles.

4.22.4 Ingress and egress to and from the required loading space areas shall be provided by means of unobstructed driveways of a minimum width of 3.1 meters (10 ft.) for one-way traffic or a minimum of 6.1 meters (20 ft.) for two-way traffic.

4.23 MAXIMUM PERMITTED PROJECTION INTO A REQUIRED YARD

Except for accessory buildings, every part of any yard required by this By-law shall be open and unobstructed by any structure from the ground to the sky provided, however, that those structures listed in the following table shall be permitted to project into a yard for the specified distances indicated as follows:

Structure	Yard	Maximum Projection
Sills, belt course, cornice, eaves, gutters, chimneys, pilasters, or canopies Window Bay	Any yard	.6 meters (24 in.)
Fire Escapes and Exterior Staircases	Front, Rear and Flanking yards only	1 meter (3 ft.) and a maximum width of 3 meters (9.8 ft.)
Open/roofed porches not exceeding one storey, uncovered terraces	Rear and side yards only Flanking yards only for single unit, semi-detached, duplex, and triplex dwellings, any yard for other residential dwellings	2 meters (6.5 ft.) 2.4 meters (8 ft.) including eaves and cornices
Accessibility ramps or lifts	Any yard	1 meter (6.5 ft)

4.24 MULTIPLE USES

Where any land or building is used for more than one purpose, all provisions of this By-law relating to each use shall be satisfied. Where there is conflict, such as in the case of lot size or lot frontage, the higher or more stringent standard shall prevail.

4.25 NON-CONFORMING STRUCTURES

4.25.1 Notwithstanding lot area, lot frontage, and minimum setback requirements of this By-law, the use of a non-conforming structure may be changed by Development Agreement to any other in that zone, provided all other requirements of this By-law are met.

- 4.25.2 Non-conforming structures may be replaced, reconstructed, enlarged, renovated, and/or repaired, by Development Agreement, provided:
- a) Any such construction does not further infringe on the By-law requirement(s) that created the non-conformity, except where Council has approved such encroachment through a Development Agreement for a Unique Site or Structure in accordance with Policy 5.33 of the Municipal Planning Strategy.
 - b) All other requirements of this By-law are met.

4.26 ONE MAIN BUILDING TO A LOT

No person shall erect more than one (1) main building on a lot except for:

- a. Buildings located in a Commercial General or Commercial/Industrial Enterprise Zone;
- b. Buildings located in a land-lease community;
- c. Non-residential buildings located in the Agriculture Zone;
- d. Grouped dwellings considered by Site Plan Agreement;
- e. Accessory structures.

4.27 OUTDOOR WOOD FURNACES

Outdoor wood furnaces shall be prohibited in all zones.

4.28 PARKING REQUIREMENTS

For every building or structure to be erected or enlarged, off street parking located within the same zone as the use and having unobstructed access to a public street or a private road, shall be provided and maintained in conformity with the following Schedule:

Type of Use	Parking Required
Residential uses in the Commercial General (C1) Zone	0.5 spaces per unit
Dwelling containing not more than three (3) dwelling units	One (1.00) space per unit
All other dwellings containing four (4) or more dwelling units	One (1.00) space per unit
Churches, church halls, auditoria, restaurants, private clubs, and other places of assembly	Where there are fixed seats one (1) space for every five (5) seats. Where there are no fixed seats one (1) space for each 9.3 square meters (100 sq. ft.) of floor area devoted to public use
Hospitals and Nursing Homes	One (1) space for each two (2) beds or each 122 square meters (400 sq. ft.) of floor area whichever is greater

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Type of Use	Parking Required
Senior Citizens Apartment Dwelling Units	One (1) space for every two (2) dwelling units
Hotels, Motels and Guest Houses	One (1) space per rental unit or suite plus one (1) space for each 4.6 square meters (50 sq. ft.) of floor area devoted to public use exclusive of lobbies and hallways
Offices	One (1) parking space per 27.8 square meters (300 sq. ft.) of floor area
Funeral Home	One (1) parking space for each five (5) seats capacity of chapel, with a minimum of ten (10) parking spaces
Bowling Alleys and Curling Rinks	One (1) parking space for each two (2) persons in the designed capacity where design capacity means six (6) persons per bowling lane and eight (8) persons per curling sheet. In other parts of the building additional parking spaces shall be provided in accordance with the requirements set out in this By-law for the use to which the other parts of the building may be put
All other Commercial Uses	One (1) parking space for each 27.8 square meters (300 sq. ft.) of floor area
All other Commercial uses in the C1 zone.	The parking requirement shall be reduced by 50% of what is required if it were in any other zone.
Industrial Uses	One (1) parking space for each 93 square meters (1,000 sq. ft.) of floor area plus additional parking spaces shall be provided in accordance with the requirements set out in this By-law for the use to which the other parts of the building may be put

4.29 PARKING AREA STANDARDS

Where parking facilities for more than four (4) vehicles are required or permitted:

- a. The parking area shall be maintained with a stable surface that is treated to prevent the raising of dust or loose particles;
- b. The lights used for illumination of the parking lot or parking station shall be so arranged as to divert the light away from streets, adjacent lots and buildings;

- c. A structure, not more than 4.6 meters (15 ft.) in height and not more than 4.6 square meters (50 sq. ft.) in area may be erected in the parking area for the use of attendants;
- d. The parking area shall be within 91 meters (300 ft.) of the location which it is intended to serve;
- e. When the parking area is of a permanent hard surfacing, each parking space shall be clearly demarcated and maintained as such;
- f. No gasoline pumps or other service station equipment, with the exception of electric vehicle charging stations, shall be located or maintained on the parking lot;
- g. Approaches or driveways to any parking area, other than that required for a single unit dwelling, semi-detached, or a duplex dwelling shall be defined by a curb of concrete or rolled asphalt and the limits of the parking area shall be defined by a fence, curb or other suitable obstruction designed to provide a neat appearance;
- h. In addition the location of approaches or driveways shall be not closer than 15.2 meters (50 ft.) from the limits of the right-of-way at street intersection;
- i. Entrance and exit ramps to parking areas shall not exceed two (2) in number and each such ramp shall be a width of 7.6 meters (25 ft.) at the street line and edge of pavement;
- j. The width of a driveway leading to a parking or loading area, or of a driveway or aisle in a parking area, shall be a minimum of 3.1 (10 ft.) if for one-way traffic, and the maximum width of a driveway shall be 6.1 meters (25 ft.).

4.30 PUBLIC USES

This By-law does not apply to the use of land or the use, construction or reconstruction of any building or structure by the Town of Berwick or by the Town in cooperation with another government body for the purposes of providing public services or facilities.

4.31 PUBLIC UTILITIES

- 4.31.1 Unless otherwise stated, any public utility that is essential for the actual provision of a service, but not including wind turbine generators, solar collector systems, and telecommunication towers, shall be permitted in any zone and shall be exempt from lot requirements, from setbacks, and the requirements of Section 4.17 related to road frontage. These utilities include, but are not limited to, telephone switching centres, electrical substations, sewage treatment facilities, and water supply facilities.
- 4.31.2 For greater clarity, uses not directly related to the provision of service shall not be included in the exemptions of this Section, and shall only be permitted in accordance with zone requirements. Such uses include, but are not limited to, administrative offices and maintenance depots.

4.32 RESTORATION TO A SAFE CONDITION

Nothing in this By-law shall prevent the strengthening or restoring to a safe condition of any building or structure, provided that in the case of a non-conforming use the provision of Section 241 - 242 of the Act of Nova Scotia shall prevail.

4.33 SHORT-TERM RENTALS

- 4.33.1 Only one short-term rental shall be permitted on a lot.
- 4.33.2 Short-term rentals shall not be permitted in accessory dwellings or accessory buildings, except for Accessory Dwelling Units

4.34 SIDE YARD ON CORNER LOTS

Notwithstanding anything else in this By-law, on a corner lot in any zone, no part of any building other than accessory buildings shall be erected closer to the lot line of the flanking street than 1.8 meters (6 ft.).

4.35 SOLAR PANELS – RESIDENTIAL

- 4.35.1 Solar panels attached to a structure shall be permitted in all zones and they shall not be considered as part of the height calculation for the building in which they are attached.
- 4.35.2 Solar panels attached to a structure shall be considered an accessory structure.
- 4.35.3 The capacity of all solar collector panels shall be less than 100kW/residence.

4.36 TEMPORARY USES PERMITTED

TEMPORARY USES INCIDENTAL TO CONSTRUCTION

- 4.36.1 This By-law does not apply to the use of land or the erection of temporary buildings or structures incidental to construction.
- 4.36.2 A development permit is not required for land uses or temporary buildings or structures incidental to construction if a development permit has been issued or is not required by this By-law for the development being constructed.
- 4.36.3 Any land uses or temporary buildings or structures incidental to construction must be terminated or removed: after the completion of the development being constructed; or if construction has not completed within one (1) year of commencement, Council may, by resolution, order the termination or removal of the temporary land use or buildings or structures.

TEMPORARY USES FOR SPECIAL OCCASIONS AND HOLIDAYS

- 4.36.4 This By-law does not apply to the use of land or the erection of temporary buildings or structures for special occasions and holidays.
- 4.36.5 A development permit is not required for the use of land or the erection of

temporary buildings or structures for special occasions and holidays.

- 4.36.6 Any land uses or temporary buildings or structures for special occasions and holidays must be terminated or removed within two (2) days after the end of the special occasion or holiday.

4.37 VARIANCE

- 4.37.1 Notwithstanding anything in this By-law the Development Officer may grant a variance subject to provisions of the Act in relation to:
- a. The percentage of land that may be built upon;
 - b. The size or other requirements relating to setbacks;
 - c. Lot frontage and lot area as per the requirements of the MGA/
 - d. The location and number of parking and loading spaces required;
 - e. Ground area and height of a structure;
 - f. Floor area occupied by a home-based business; and
 - g. Height and area of a sign.

4.38 WIND TURBINES

Wind turbines of any scale are not permitted as a use within the Town.

4.39 SIGNS AND SIGNAGE

4.39.1 Safety and Maintenance of Signs

- a. Every sign and all parts thereof, including framework, supports, backgrounds, anchors, and wiring systems shall be constructed and maintained in compliance with the building, electrical, and fire prevention by-laws.
- b. All signs and all parts thereof shall be kept in a good state of repair and maintenance.

4.39.2 Signs Prohibited in All Zones

The following signs shall not be permitted in any zone:

- a. Signs which by reason of flashing or moving illumination or moving parts may be confused by the motorist with traffic control signs or lights;
- b. Roof signs;
- c. Any sign or sign structure which constitutes hazard to public safety or health;
- d. Signs which by reason of size, location, content, colouring, or manner of illumination obstruct the vision of drivers, either when leaving a roadway or effectiveness of any traffic sign or control device on public streets and roads;
- e. Any sign which obstructs free ingress to or egress from a fire escape door, window or other required exit way;
- f. Signs not erected by a public authority which make use of words such as "STOP", "LOOK", "ONE WAY", "DANGER", "YIELD", or any similar words,

- phrases, symbols, lights, or characters in such manner as to interfere with, mislead, or confuse traffic along a public road;
- g. Any sign which no longer advertises a commercial use, or a product sold;
 - h. Signs on public property or public right-of-way, unless erected by a governmental body, but no sign located on public property or a public right-of-way shall bear any commercial advertising;
 - i. Signs not erected by a public authority which are located at or near sharp curves or below the crest of a steep road grade;
 - j. Signs painted on, attached to, or supported by a tree, stone, cliff or other objects;
 - k. String lights, other than temporary holiday decorations which are unshielded from off the property on which they are located;
 - l. Searchlights, pennants, spinners, banners, and streamers except for occasions such as grand openings, county fairs, public festivals, exhibitions, and similar occasions; and
 - m. Signs not related to any business or use located on the lot or premise.

4.39.3 Signs Permitted in All Zones

The following additional signs are permitted in all zones and do not require a permit pursuant to this Part.

- a. Signs identifying name and address of resident and of not more than 0.5 square metres (5 sq. ft.) in sign area;
- b. "No Trespassing" signs or other such signs regulating the use of a property and of not more than 0.18 square metres (2 sq. ft.) in sign area;
- c. Real estate signs not exceeding 0.5 square metres (5 sq. ft.) in sign area in a Residential Zone and 1 square metres (10 sq. ft.) in other zones;
- d. Signs regulating or denoting on-premises traffic, parking or other signs denoting the direction or function of various parts of a building or premise provided that such signs are less than 0.5 square metres (5 sq. ft.) in sign area;
- e. Signs erected by a public authority or under the direction of such authority and signs located on public streets;
- f. Memorial signs or tablets and signs denoting the date of erection of a structure;
- g. The flag, pennant, or insignia of any public authority, or of any religious, charitable, or fraternal organization;
- h. A sign having a sign area of not more than 5 square metres incidental to construction and located on the construction site;
- i. Electoral signs;
- j. Unless otherwise provide for through a Development Agreement no sign in a residential zone shall exceed .2 square metres (2 sq. ft.) in area or 1.5 metres (5 ft.) height and in the case of a ground sign be erected within 2 metres (6.5 ft.) of a property line.

4.39.4 Signs Permitted in Specific Zones

- a. Within the Commercial General (C1), Commercial/Industrial Enterprise (C2), and Gateway Mixed-Use (GMU1) Zones, two menu signs shall be permitted in conjunction with a drive-through facility and such signs shall not count towards the number of ground signs permitted on the lot.
- b. Within the Commercial General (C1), Commercial/Industrial Enterprise (C2), and Gateway Mixed-Use (GMU1) Zones, ground signs may have an additional signage area of not more than 1.0 square metres (10.7 sq. ft.) to denote the price of fuel.

4.40 WATERCOURSE BUFFERS

- a. No residential, commercial, or industrial development may occur within 30 metres of the riparian edge or within 10 meters of the flood plain of the Cornwallis River.
- b. Notwithstanding (a), development may occur upon receipt of a flood risk assessment report prepared by a qualified professional confirming that the risk of flooding of the area to be developed is low according to industry acceptable flood modeling.
- c. The Development Officer may request a report from a watercourse or riparian specialist to confirm the location of the riparian edge or extent of the flood plain

5 Residential Zone Provisions

Zone	
Residential Restricted Zone	RR
Residential Zone	R
Residential Mixed Density Zone	RMD
Residential Growth Zone	RG
Residential Comprehensive Development District Zone	RCCD
Commercial General Zone	C1
Commercial/Industrial Enterprise Zone	C2
Gateway Mixed Use Zone	GMU1
Institutional Zone	I1
Agriculture Zone	A1
Recreation and Open Space Zone	OS1
Conservation Zone	OS2

5.1 GENERAL PROVISIONS FOR ALL RESIDENTIAL ZONES

5.1.1 Business Uses Permitted in Residential Zones

5.1.1.1 Home Based Businesses

Nothing in this By-law shall prevent the use of a dwelling in a Residential (RR, R, RMD, RG or RCDD) Zone for a home-based business provided that:

- a. The dwelling is occupied as a residence by the user and the external appearance of the dwelling is not changed by the business or professional use;
- b. There shall not be more than two (2) employees (full-time equivalent) who are not residents in the dwelling employed within the residential structure;
- c. the business use shall fall within one of the following types of uses: arts and crafts workshop, catering establishments, online/digital sales, offices, personal service shop, and studios.
- d. Where a business use is not listed above in 5.1.1.1 (c), and the business is similar in nature, the permission of the use shall be at the discretion of the Development Officer, provided all other provisions of this By-law are met;
- e. Not more than a total of thirty-five (35) percent of the total floor area of the dwelling or 37.16 sq. metres (400 sq. ft.) of an accessory building is devoted to the home based business;
- f. One off-street parking space, other than that required for the dwelling, is provided for every 18.6 square metres (200 sq. ft.) of floor space occupied by the business or professional use;
- g. There shall be no advertising other than a business identification plate or sign which has a maximum sign area of .9 square metres (10 sq. ft.);
- h. No mechanical equipment is used on the premises which is capable of generating an amount or type of noise not reasonably consistent with the use of a dwelling; and

- i. No open storage or outdoor display related to the business shall be permitted.

USES PROHIBITED

For the purposes of this By-law no automobile repair or body shop, manufacturing which by its nature creates noise or emissions which are inconsistent with residential uses, or any use which includes the bulk storage of commercial materials or products shall be considered a permitted home occupation.

5.1.2 Conformity with Existing Setbacks

Notwithstanding anything else in this By-law, in the Residential (R) or Residential Mixed Density (RMD) Zones, structures built between existing buildings within 61 meters (200 ft.) apart on the same block may be built with a setback equal to the average setback of the adjacent buildings, but this depth shall not be less than 3.1 meters (10 ft.) from the front lot line and need be no greater than setback regulations prescribed in the zone in which it is situated.

5.1.3 Parking of Commercial Motor Vehicles

No tractor-trailer combinations or cab (tractor unit) shall be kept or parked over night or longer in a Restricted Residential (RR), Residential (R), Residential Mixed Density (RMD) Zone, Residential Mixed Density (RMD) Zone, Residential Growth (RG) or Residential Comprehensive Development District (RCDD) Zone.

No commercial motor vehicle shall be kept or parked on any vacant lot in a Restricted Residential (RR), Residential (R), Residential Mixed Density (RMD) Zone Residential Mixed Density (RMD) Zone, Residential Growth (RG) Zone, or Residential Comprehensive Development District (RCDD) Zone.

5.1.4 Small Option Homes

Small option homes are permitted in all residential zones subject to the requirement of the zone in which it is located.

5.1.5 Yard Sales

Nothing in the By-law shall prevent yard sales within a residential zone, and no development permit shall be required, provided that:

- a. No more than four (4) such sales take place from any lot in any calendar year;
- b. No yard sale operate beyond the hours of 7:00 a.m. and 5:00 6:00 p.m.; and
- c. All signs advertising such yard sale shall be removed within a twenty-four (24) hour period following the sale of goods.

5.2 RESIDENTIAL RESTRICTED (RR) ZONE

5.2.1 Purpose

To recognize existing single unit dwelling areas.

5.2.2 Use Permitted as of Right

- a. Single Unit Detached Dwelling
- b. Short-term Rental
- c. Accessory Dwelling Unit
- d. Small Options Home

5.2.3 General Lot Requirements

In a Residential (R) Zone, no development permit shall be issued except in conformity with the following requirements:

Requirement	All Uses
Minimum Lot Area	929 sq. metres (10,000 sq. ft.)
Maximum Lot Coverage	40%
Minimum Lot Frontage	18.29 metres (60 ft.)
Minimum Front Yard	7.62 metres (25 ft.)
Minimum Rear Yard	7.62 metres (25 ft.)
Minimum Side Yard	One side: 2.43 metres (8 ft.) Other side: 3.65 metres (12 ft.)
Maximum Height of Main Building	10.66 metres (35 ft.)

5.3 RESIDENTIAL (R) ZONE

5.3.1 Purpose

The Residential (R) Zone is intended to permit lower density residential development on serviced and unserviced lots.

5.3.2 Uses Permitted As-of-Right

The following uses shall be permitted in the Residential (R)Zone, subject to all applicable requirements of this By-law:

- a. Single Unit Detached Dwelling
- b. Semi-detached Dwelling
- c. Duplex Dwelling
- d. Day Care Facilities licensed to a maximum of ten (10) children
- e. Short-term Rental
- f. Existing Transportation and Truck Facilities
- g. Existing Land-Lease Communities
- h. Existing Shared Housing with Special Care
- i. Accessory Dwelling Unit
- j. Shared housing use with 10 or fewer bedrooms in conjunction with a permitted dwelling unit
- k. Small Options Home
- l. Shared Housing with Special Care

5.3.3 Uses Permitted by Site Plan Approval

The following uses shall be permitted in the Residential (R) Zone, subject to Part 12 and all applicable requirements of this By-law:

- a. Expansion of a non-conforming use
- b. Grouped Dwellings – 4 or Fewer Dwelling Units on a Lot
- c. Multiple Unit Dwelling – 4 or Fewer Dwelling Units on a Lot
- d. Townhouse Dwelling – 4 or Fewer Dwellings on a Lot

5.3.4 Uses Permitted by Development Agreement

The following uses shall be permitted in the Residential (R) Zone, subject to the applicable policy of the Municipal Planning Strategy:

- a. Expansion and/or alteration of existing commercial and/or industrial uses within the Residential (R) Zone;
- b. Expansion and/or alteration of existing Land-Lease Communities within the Residential (R) Zone

5.3.5 General Lot Requirements

In a Residential (R) Zone, no development permit shall be issued except in conformity with the following requirements:

Requirement	Detached Single Unit Dwelling	Duplex Dwelling	Semi-Detached Dwelling
Minimum Lot Area	929 sq. metres (10,000 sq. ft.)	1,114 sq. metres (12,000 sq. ft.)	557 sq. metres (6,000 sq. ft.) per unit
Maximum Lot Coverage	40%		
Minimum Lot Frontage	18.29 metres (60 ft.)	18.29 metres (60 ft.)	12.19 metres (40 ft.) per unit
Minimum Front Yard	7.62 metres (25 ft.)		
Minimum Rear Yard	7.62 metres (25 ft.)		
Minimum Side Yard	One side: 2.43 metres (8 ft.) Other side: 3.65 metres (12 ft.)	3.65 metres (12 ft.)	3.65 metres (12 ft.) Common Lot Line: 0 metre
Maximum Height of Main Building	10.66 metres (35 ft.)		

Requirement	Townhouse	Multi-unit Dwelling	Grouped Dwelling
Minimum Lot Area	325 sq. metres (3,500 sq. ft.) per unit	325 sq. metres (3,500 sq. ft.) per unit	325 sq. metre (3,500 sq. ft.) per unit
Maximum Lot Coverage	40%		
Minimum Lot Frontage	10 metres (32.81 ft.) per unit	18.29 metres (60 ft.)	18.29 metres (60 ft.)
Minimum Front Yard	7.62 metres (25 ft.)		
Minimum Rear Yard	7.62 metres (25 ft.)		
Minimum Side Yard	3.65 metres (12 ft.) Common Lot Line: 0 metre	3.65 metres (12 ft.)	3.65 metres (12 ft.)
Maximum Height of Main Building	10.66 metres (35 ft.)		

5.3.6 Lot Requirements, Orchard Street

The following standards shall apply to lots located on the south side of Orchard Street between Commercial Street and the Western Kings Memorial Health Centre:

Minimum Lot Area: 589 sq. metres (6,350 sq. ft.)

Minimum Lot Frontage: 19.8 metres (65 feet)

5.3.7 Side Yard, Attached Garage

An attached garage shall share common wall(s) with the main structure and shall not be considered attached by means of a breezeway, overhang or the extension of a roofline. The minimum side yard of the side where an attached garage of a permitted dwelling is located shall be as follows:

1 storey garage: 1.22 metres (4 ft.)

2 or more storeys garage: 1.82 metres (6 ft.)

5.4 RESIDENTIAL MIXED DENSITY (RMD)

5.4.1 Purpose

The Residential Mixed Density (RMD) Zone is intended to permit low to medium density residential development on serviced and unserviced lots.

5.4.2 Uses Permitted As-of-Right

The following uses shall be permitted in the , Residential Mixed Density (RMD) Zone, subject to all applicable requirements of this By-law:

- a. All Uses Permitted As of Right in the Residential Zone (R) subject to the R Zone General Lot Requirements
- b. Townhouse Dwellings to a maximum of six (6) dwelling units
- c. Multi-unit Dwellings to a maximum of six (6) dwelling units

5.4.3 Uses Permitted by Site Plan Approval

The following uses shall be permitted in the , Residential Mixed Density (RMD) Zone, subject to Part 12 and all applicable requirements of this By-law:

- a. Grouped dwellings with five (5) to nine (9) units.

5.4.4 Uses Permitted by Development Agreement

The following uses shall be permitted in the Residential Mixed Density (RMD) Zone, , subject to the applicable policy of the Municipal Planning Strategy:

- a. New two (2) or three (3) unit residential dwellings on lots which do not meet the minimum lot frontage and/or area requirements for the Residential Mixed Density (RMD) Zone

5.4.5 General Lot Requirements

In any Residential Mixed Density (RMD) Zone, no development permit shall be issued except in conformity with the following requirements:

Requirement	Townhouse	Multi-unit Dwelling, Grouped Dwelling
Minimum Lot Area	1,114 sq. metres (12,000 sq. ft.) or 279 sq. metres (3,000 sq.ft.) per unit for the first four units, and 232 sq. metres (2,500 sq.ft.) per additional unit, whichever is greater.	
Maximum Coverage	40%	
Minimum Frontage	10 metres (32.81 ft.) per unit	24.38 metres (80ft.)
Minimum Front Yard	7.62 metres (25 ft.)	
Minimum Rear Yard	7.62 metres (25 ft.)	
Minimum Side Yard	4.57 metres (15 ft.) or ½ the height whichever is greater Common Lot Line: 0 metre	4.57 metres (15 ft.) or ½ the height whichever is greater
Maximum Height of Main Building	10.66 metres (35 ft.)	

5.5 RESIDENTIAL GROWTH (RG) ZONE

5.5.1 Purpose

The Residential Growth (RG) Zone is intended to permit higher density residential development in the town core or on larger undeveloped parcels.

5.5.2 Uses Permitted As-of-Right

The following uses shall be permitted as-of-right in the Residential Growth (RG) Zone, subject to all applicable requirements of this By-law:

- a. All Uses Permitted As of Right in the Residential Zone (R) subject to the R Zone General Lot Requirements
- b. Home-based Business;
- c. Townhouse Dwellings to a maximum of six (6) dwelling units;
- d. Multiple unit dwellings to a maximum of six (6) dwelling units;

5.5.3 Uses Permitted by Site Plan Agreement

The following uses shall be permitted in the Residential Growth (RG) Zone, subject to Part 12 and all applicable requirements of this By-law:

- a. New multiple unit dwellings with from seven (7) to nine (9) units in the Residential Growth (RG) zone

5.5.4 Uses Permitted by Development Agreement

The following uses shall be permitted in the Residential Growth (RG) Zone, subject to the applicable policy of the Municipal Planning Strategy:

- a. New multiple unit dwellings containing more than ten (10) units;
- b. Grouped dwellings with more than ten (10) units;

5.5.5 General Lot Requirements

In any Residential Growth (RG) Zone, no development permit shall be issued except in conformity with the following requirements:

Requirement	Townhouse	Multi-unit Dwelling, Grouped Dwelling
Minimum Lot Area	1,114 sq. metres (12,000 sq.ft.) or 279 sq. metres (3,000 sq.ft.) per unit for the first four units, and 186 sq. metres (2,000 sq.ft.) per additional unit, whichever is greater.	
Maximum Coverage	40%	
Minimum Frontage	10 metres (32.81 ft.) per unit	24.38 metres (80ft.)
Minimum Front Yard	7.62 metres (25 ft.)	
Minimum Rear Yard	7.62 metres (25 ft.)	
Minimum Side Yard	4.57 metres (15 ft.) or ½ the height whichever is greater Common Lot Line: 0 metre	4.57 metres (15 ft.) or ½ the height whichever is greater
Maximum Height of Main Building	10.66 metres (35 ft.)	

5.6 RESIDENTIAL COMPREHENSIVE DEVELOPMENT DISTRICT (RCDD) ZONE

RCDD USES PERMITTED

No development shall be issued in a Residential Comprehensive Development District (RCDD) Zone, except for one or more of the following uses:

Single Unit dwellings on existing lots as per the requirements of the Residential zone.

DEVELOPMENT BY DEVELOPMENT AGREEMENT

No development shall be permitted in the Residential Comprehensive Development District (RCDD) Zone except in conformity with the provisions of a Development Agreement approved pursuant to the Municipal Planning Strategy.

NEW LOTS

No new lots may be created in the RCDD zone except as enabled by the Development Agreement under the RCDD policies established in the Plan.

6 Commercial and Commercial/Industrial Enterprise Zone Provisions

6.1 GENERAL PROVISIONS FOR ALL COMMERCIAL ZONES

6.1.1 Abutting Zone Provisions

Where a Commercial General (C1) or Commercial/Industrial Enterprise (C2) Zone abuts a Residential (RR, R, RMD, RG) Recreation and Open Space (OS1), or an Institutional (I1) Zone the following restrictions shall apply to an abutting yard of a commercial use within the Commercial Zone:

- a. The minimum side yard requirement for the abutting side yard shall be 6.1 metres (20 ft.);
- b. No open storage or outdoor display shall be permitted in an abutting yard in Commercial General Zone;
- c. No parking space shall be permitted in an abutting yard within 6.1 metres (20 ft.) of a side or rear lot line in the Commercial Zone;
- d. In addition to the provisions of Part 4.39, signs located in an abutting yard shall be subject to the following requirements:
 - i. All signs shall be non-illuminated;
 - ii. Only directional or business identification signs shall be permitted;
 - iii. The maximum sign area shall be 1.4 square metres (15 sq. ft.) with the number of signs limited to two (2) per use; and
 - iv. The maximum height of a ground sign from the grade level to the highest part of the sign (including the sign structure) shall be 4 metres (13.1 ft.).

6.1.2 Restrictions on Open Space and Outdoor Display

- a. Within the Commercial General (C1) Zone open storage or outdoor display shall not be permitted as a main use
- b. Within the Commercial/Industrial Enterprise (C2) Zone open storage and outdoor display shall be permitted as a main or accessory use subject to the following:
 - i. No open storage or outdoor display shall be permitted within any required front yard of a lot; and
 - ii. The area devoted to open storage or outdoor display shall not exceed fifty (50) percent of the total lot area.

6.2 COMMERCIAL GENERAL (C1) ZONE

6.2.1 Purpose

The purpose of the Commercial General (C1) is to integrate a range of commercial and residential uses within a single area.

6.2.2 C1 Uses Permitted

No development permit shall be issued in a Commercial General (C1) Zone except for the following uses:

- Auto Sales and Service
- Banks and Financial Institutions
- Building Supply Retail Outlets
- Business and Professional Offices
- Commercial Schools
- Dressmaking and Tailoring Shops
- Existing Gasoline/Service Stations and accessory automobile sales and washing establishments conducted on the same lot
- Funeral Homes
- Hotels and Motels, Tourist Establishments and Inns
- Medical Clinics
- News and Magazine Stands
- Places of Entertainment, Recreation and Assembly which are conducted within wholly enclosed buildings
- Photography Studios
- Printing Establishments
- Repair Shops
- Restaurants
- Retail Stores
- Service and Personal Service Shops
- Animal and Veterinary Clinics
- Taxi and Bus Stations
- Government Offices
- Community Centres
- Institutional Uses
- Existing Residential R, RMD and RG Uses (subject to the applicable zones requirements)
- Expansion of existing residential R Uses up to a maximum of 2 units (subject to the applicable zones requirements)
- Taverns and Lounges
- Dwelling Units located above or behind any commercial use
- Multiple unit Residential dwellings with ground floor commercial with over 10 units by Development Agreement

6.3 GENERAL LOT REQUIREMENTS

In a Commercial General (C1) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	557 sq. metres (6,000 sq. ft.)
Minimum Lot Frontage	18.28 metres (60 ft.)
Minimum Rear Yard	4.57 metres (15 ft.)
Minimum Side Yard for Fireproof Construction	0
Maximum Building Height	16.76 metres (60 ft.) (5 storeys)

6.4 COMMERCIAL/INDUSTRIAL ENTERPRISE (C2) ZONE

6.4.1 C2 Uses Permitted

No development permit shall be issued in a Commercial/Industrial Enterprise (C2) Zone except for the following uses:

- All Commercial General (C1) Uses excepting Residential uses
- Heavy Equipment Sales and Service
- Service Industries
- Any manufacturing, industrial, assembly or warehousing operation conducted and wholly contained within an enclosed building and which is not obnoxious by reason of sound, odour, dust, fumes or smoke, or other obnoxious emission or refuse matter or water carried waste or by reason of unsightly premises
- Machine Shops
- Bulk storage of sand or gravel
- Power and Telephone Utility and Telecommunications Facilities
- Transportation Depots
- Agricultural Related Industry

6.4.2 General Lot Requirements

In the Commercial/Industrial Enterprise (C2) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area:	929 square metres (10,000 sq. ft.)
Minimum Lot Frontage:	24.38 metres (80 ft.)
Minimum Front Yard:	6.1 metres (20 ft.)
Minimum Rear Yard:	7.6 metres (25 ft.)
Minimum Side Yard:	4.6 metres (15 ft.)
Maximum Building Height	16.76 metres (60 ft.) (5 storeys)

7 Gateway Mixed Use (GMU1) Zone

7.1 GMU1 USES PERMITTED

No development permit shall be issued in a Gateway Mixed Use (GM1) Zone except for the following uses:

- All Residential (R) Zone uses subject to R Requirements
- All Residential Mixed Density (RMD) Zone
- All Residential Growth (RG) Zone uses
- General Commercial and Business Offices, Commercial Retail, Commercial Service and Personal Service Uses to a maximum of 609 sq. metres (2000 sq. ft.)
- Restaurants
- Hotels, Motels, Tourist Establishments, Short-term Rentals, and Inns
- Institutional Uses
- Recreation and Open Space Uses
- Shared Housing Use

7.2 GENERAL LOT REQUIREMENTS

In the Gateway Mixed Use (GMU1) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area:	929 square metres (10,000 sq. ft.)
Minimum Lot Frontage:	24.38 metres (80 ft.)
Minimum Front Yard:	6.1 metres (20 ft.)
Minimum Rear Yard:	7.6 metres (25 ft.)
Minimum Side Yard:	4.6 metres (15 ft.)
Maximum Height of Main Building:	10.6 metres (35 ft.)
Maximum Lot Coverage	40%

8 Institutional (I1) Zone

8.1 INSTITUTIONAL (I1) USES PERMITTED

No development permit shall be issued in an Institutional (I1) Zone except for the following uses:

- Cemeteries
- Religious Institutions, places of worship and related facilities
- Church Camp Facilities
- Community centers
- Cultural facilities
- Educational Institutions (public and private)
- Emergency Services Depots
- Fire Stations
- Government Legislative Buildings
- Hospitals
- Institutional Uses
- Libraries
- Medical Clinics
- Museums and Art Galleries
- Nursing Homes
- Police Stations
- Post Offices
- Private non-profit clubs and Fraternal Organizations
- Public Works Building and Facilities
- Rectories, Manses and staff residences associated with uses permitted in this Part

8.2 GENERAL LOT REQUIREMENTS

In an Institutional (I1) Zone, no development permit shall be issued except in conformity with the following requirements:

	Churches, Places of Worship and Religious Institutions, College & Non-Commercial Schools, Fire Stations, Hospitals, Public Works Uses	All other permitted uses
Minimum Lot Area	1858 sq. metres (20,000 sq. ft.)	929 sq. metres (10,000 sq. ft.)
Minimum Lot Frontage	30.48 metres (100 ft.)	24.38 metres (80 ft.)
Minimum Front Yard	7.62 metres (25 ft.)	7.62 metres (25 ft.)
Minimum Rear Yard	7.62 metres (25 ft.)	7.62 metres (25 ft.)
Minimum Side Yard	4.57 metres (15 ft.) or ½ the height of the main building, whichever is greater	4.57 metres (15 ft.) or ½ the height of the main building, whichever is greater
Maximum Height of Main Building	13.7 metres (45 ft.)	13.7 metres (45 ft.)

9 Agriculture (A1) Zone

9.1 A1 USES PERMITTED

No development permit shall be issued in an Agriculture (A1) Zone except for the following uses:

- Agriculture uses and related accessory uses
- Animal and Veterinary Clinics
- Animal kennels and stables
- Apiaries
- Commercial Greenhouses
- Dwelling units accessory to the main permitted use
- Existing Dwellings
- Existing Intensive Livestock Operations
- Livestock Operations
- Agricultural Related Industry
- Aabattoirs
- Agrotourism uses

9.2 GENERAL LOT REQUIREMENTS

In an Agriculture (A1) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area:	4.04 Hectares (10 acres)
Minimum Lot Frontage:	60 metres (196 ft.)
Minimum Front Yard:	7.6 metres (25 ft.)
Minimum Rear Yard:	7.6 metres (25 ft.)
Minimum Side Yard:	7.6 metres (25 ft.)

9.3 CONDITIONAL USE – RESIDENTIAL DWELLINGS

The following condition uses shall be permitted in the A1 zone subject to the requirements in this section:

- Single Unit dwellings
- Accessory dwelling units
- Conformity with the following requirements:

Minimum Lot Area:	0.5 hectares (53,819 square feet)
Minimum Lot Frontage:	30.1 metres (100 ft.)
Minimum Front Yard:	7.6 metres (25 ft.)
Minimum Rear Yard:	7.6 metres (25 ft.)
Minimum Side Yard:	7.6 metres (25 ft.)

a. Prohibited Agricultural Uses

Notwithstanding Part 10.1 the following agricultural uses shall be prohibited:

- i. Fur Farms
- ii. Feed Lots

10 Recreation and Open Space (OS1) Zone

10.1 OS1 PERMITTED USES

No development permit shall be issued in a Recreation and Open Space (OS1) Zone except for the following uses:

- Arenas
- Community Centres
- Community Gardens
- Interpretation Centres
- Parks and playgrounds, including associated facilities
- Pavilions and Band Stands
- Recreation Facilities and uses
- Skating Rinks
- Sports Fields
- Swimming Pools
- Tennis Courts
- Non-permanent uses associated with an approved unique site or structure on an abutting property.

10.2 GENERAL LOT REQUIREMENTS

In a Public Open Space OS Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Setback for any main building from any lot line 7.6 metres (25 ft.)

10.3 FLOOD MITIGATION REPORT

Any permanent buildings permitted in this zone will require a flood mitigation report prepared by a qualified professional to determine the risks to any new structure and appropriate flood mitigation measures.

11 Conservation (OS2) Zone

11.1 OS2 PERMITTED USES

No development permit shall be issued in a Conservation (OS2) Zone except for the following uses:

- Cemeteries
- Agriculture
- Garden Nurseries
- Public Parks, trails, and Passive Recreation Facilities
- Wastewater Treatment facilities
- Flood control facilities
- Market gardens

11.2 PERMITTED STRUCTURES

No permanent building may be erected, added to, or altered in a Conservation (OS2) Zone except for buildings or structures related to sewage treatment or flood control.

11.3 FLOOD MITIGATION REPORT

11.3 Notwithstanding 11.2, permanent buildings permitted in this zone will require a flood mitigation report prepared by a qualified professional to determine the risks to any new structure and appropriate flood mitigation measures

12 Site Plan Approval Criteria

The following Site Plan criteria shall apply to all new development that is permitted through the Site Plan Approval process in the Restricted Residential (RR) Residential (R), Medium Mixed Density (RMD) and the Residential Growth (RG) Zones. No development permit shall be issued for development that is inconsistent with these criteria. All development subject to Site Plan Approval must also meet all applicable zone standards and all other requirements of this By-law.

12.1 SITE PLAN CRITERIA FOR DEVELOPMENT IN RESIDENTIAL ZONES

The following site plan criteria shall apply to all new development that is permitted through the site plan approval process. No development permit shall be issued for development that is inconsistent with these criteria, in addition to all applicable zone standards and other requirements of this By-law:

- a. The location of new structures (or an addition to an existing structure) is located on the lot so as to minimize any adverse impacts on the surrounding neighbourhood, including, but not limited to noise, dust, or lighting;
- b. The location of off-street parking and loading facilities are located and designed as to minimize any adverse impact on the surrounding neighbourhood;
- c. The location, number and width of ingress and egress points are designed to prevent traffic congestion, nuisance and inconvenience in the area and minimize any adverse impact on the surrounding neighbourhood;
- d. The type, location and height of walls, hedges, fences, trees, shrubs, groundcover or other landscaping elements are designed and built so as to protect and minimize any adverse impact on neighbouring properties;
- e. The existing vegetation, where possible and deemed practical, be retained so as to lessen or reduce any adverse impact on abutting properties or the surrounding neighbourhood;
- f. The location of pedestrian walkways, and/or related infrastructure, shall be provided to link public walkways and parking areas to the entrance of the primary building;
- g. The type and location of outdoor lighting is designed to light the structure, driveways and any pedestrian walkways, but shall not directed onto neighbouring properties;
- h. The location of facilities for the storage of solid waste provides for a maximum separation for residential development, public areas, and adjacent properties;
- i. The location of existing easements shall be identified;
- j. The management of storm and surface water is addressed, and associated plans are approved by the Town Engineer;
- k. The Development Officer can vary the lot
- l. The type, location, number and size of signs or sign structures do not negatively alter the appearance of the neighbourhood; and

- m. The above listed items are maintained in a manner suitable and complementary to the surrounding neighbourhood.

12.2 SITE PLAN CRITERIA FOR DEVELOPMENT IN MIXED-USE AND COMMERCIAL ZONES

The following site plan criteria shall apply to all new development that is permitted through the site plan approval process in all applicable Commercial Zones. No development permit shall be issued for development that is inconsistent with these criteria, in addition to all applicable zone standards and other requirements of this By-law:

- a. The location of new structures (or an addition to an existing structure) is located on the lot so as to minimize any adverse impacts on the surrounding neighbourhood, including, but not limited to noise, dust, or lighting;
- b. The location of off-street parking and loading facilities are located and designed as to minimize any adverse impact on the surrounding neighbourhood;
- c. The location, number and width of ingress and egress points are designed to prevent traffic congestion, nuisance and inconvenience in the area and minimize any adverse impact on the surrounding neighbourhood;
- d. The type, location and height of walls, hedges, fences, trees, shrubs, groundcover or other landscaping elements are designed and built so as to protect and minimize any adverse impact on neighbouring properties;
- e. The existing vegetation, where possible and deemed practical, be retained so as to lessen or reduce any adverse impact on abutting properties or the surrounding neighbourhood;
- f. The location of pedestrian walkways, and/or related infrastructure, shall be provided to link public walkways and parking areas to the entrance of the primary building;
- g. The type and location of outdoor lighting is designed to light the structure, driveways and any pedestrian walkways, but shall not directed onto neighbouring properties
- h. The location of facilities for the storage of solid waste provides for a maximum separation for residential development, public areas, and adjacent properties;
- i. The location of existing easements shall be identified;
- j. The management of storm and surface water is addressed, and associated plans are approved by the Town Engineer;
- k. The type, location, number and size of signs or sign structures do not negatively alter the appearance of the neighbourhood; and
- l. The above listed items are maintained in a manner suitable and complementary to the surrounding neighbourhood.

12.3 EXPANSION OF NON-CONFORMING USE

- 12.3.1 Where a zone permits the expansion of non-conforming uses by site plan approval, the Development Officer shall approve a site plan where the requirements of this

Land Use By-law and the following matters have been addressed:

a. Use Requirements

- i. If the use is listed in the zone as a use permitted as-of-right, but is otherwise non-conforming for reasons such as, but not limited to, setbacks or other zone requirements, the conditions that prevents the proposal from being permitted as-of-right in the zone shall be addressed by the site plan. Measures to address these conditions may include, but are not limited to, enhanced buffering and the positioning and design of buildings and structures.
- ii. If the use is not listed in the zone as a use permitted as-of-right, the site plan shall control the expansion in a manner that is compatible with the purpose and permitted uses in the zone. Controls may include, but are not limited to, enhanced buffering and screening; the positioning, bulk, and design of buildings and structures; mitigation measures for noise, dust, and other emissions; the location and design of parking areas; landscaping; lighting design; and controls on outdoor storage and display. Expansion of the use shall occur on the lot where the use currently exists.

13 Definitions

For the purpose of this By-law, all words shall carry their customary meaning except for those defined in the Part.

Abut means where properties, lots, or yards share a common lot line or a common point along a lot line.

Accessory Building or Structure means a subordinate building or structure on the same lot as the main building devoted exclusively to an accessory use but does not include a building, or a building located completely underground.

Accessory Dwelling Unit means one additional dwelling accessory to a single unit dwelling or semi-detached dwelling on the property, intended as an independent and separate unit that contains its own sleeping, living, cooking and sanitary facilities, and its own independent entrance. Accessory dwelling units may be located within the existing main building. The detached suite may be situated in a new or existing detached garage, or a new or detached existing building, and may be located in the back or side yard.

Accessory Use means a use subordinate and naturally, customarily, or normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.

Act shall mean the Municipal Government Act, R.S. 1998, c.18, s.1, as amended.

Agricultural Use means the use of lands for the pasturing and keeping of animals, the cultivation of land, and can also include the raising of crops under artificial conditions. This shall also include necessary storage facilities; however, does not include permanent facilities for the retail sale of these products.

Agricultural Structures means any use or structure necessary for the cultivation of vegetation and the raising of animals or fowl for sale purposes.

Agricultural Related Industry means a use involving the processing of crops and livestock, including sorting, grading, packaging, slaughtering (abattoirs), manufacturing and packaging of food, livestock feed, fertilizer, and similar uses.

Alter means any change in the structural component of a building or any increase in the volume of a building or structure.

Amenity Space means the area situated within the boundaries of a residential development site intended and capable of being used for recreational purposes, and may include landscaped areas, patios, private amenity areas, verandahs, balconies, communal lounges, swimming pools, play areas, and similar uses, but does not include any area occupied at grade by a building's service area, parking lots, aisles or access driveways.

Animal and Veterinary Clinic means the premises where animals are treated or treated and kept on a temporary basis for monetary gain and shall not include an Animal Shelter which is intended for the care of lost, abandoned, or neglected animals.

Apartment Building means a building containing three or more dwelling units that have a common entrance from the street level and the occupants of which have the right to use in common certain areas of the building and its property.

Automobile Repair Shop means the use of a building or property for the repair of automobile body and/or engine components and shall include detailing and painting of automobile bodies.

Automobile Service Station or Service Station means a building or part of a building or a clearly defined space on a lot used for the retail sale of gasoline and lubricating oils and may include the sale of automobile accessories and the servicing and minor repairing essential to the actual operation of motor vehicles other than an automobile washing establishment or an automobile sales establishment.

Automobile Washing Establishment means a building or part thereof used for the operation of automobile washing equipment, which is automatic, or semi-automatic.

Bank means the portion of a watercourse between the ordinary high-water mark and the boundary of the watercourse in its fullest natural state, but does not include any area of overflow onto a flood plain.

Basement means that portion of a building between two-floor levels that is partly underground, but which has more than one-half of its height from the finished floor to the underside of floor joists of the story next above, above the adjacent average finished grade level adjacent to the exterior walls of the building.

Bed means the portion of a watercourse that is commonly submerged in water.

Blank Wall means an exterior wall of a building containing no windows doors or other similar openings.

Building means any structure whether temporary or permanent, used or built for the shelter, accommodation or enclosure of persons, animals, material, or equipment. Any awning, bin, bunker, or platform, vessel or vehicle used for any of the said purposes shall be deemed a building.

Building Area means the maximum horizontal area of a building at grade.

Building Line means any line regulating the position of a building or structure on a lot.

Camp means a land and building complex designed or used for a group sport, recreational or cultural activities which may have facilities for sleeping and the preparation and serving of food, operated under single ownership on a temporary or seasonal basis.

Church means a building dedicated to religious worship and includes a church hall, church auditorium, Sunday School, parish hall, and day nursery operated by the church.

Commercial Motor Vehicle means any motor vehicle that is used for a business activity, and which has as its main purpose financial gain and includes ambulances, trucks, tractors, tractor trailers, buses, delivery vehicles, and oil delivery trucks.

Commercial Use means any use by which retail or wholesale trade is carried out, and those other uses providing the sale of goods, materials, or services.

Community Centre means any tract of land, or building or buildings, or any part of any buildings used for community activities whether used for commercial purposes or not, the control of which is vested in the Municipality, a local board or agent thereof.

Corner Vision Triangle means that part of a corner lot adjacent to the intersection of the exterior lot lines measured from such intersection, the distance required by this By-law, along each such street line and joining such points with a straight line. The triangular shaped land between the intersecting lines and the straight line joining the points the required distance along the street lines shall be known as the "corner vision triangle".

Council means the Council of the Town of Berwick.

Day Care Facility means a place where three or more people are cared for on a temporary daily basis without overnight accommodation but does not include a school.

Development includes any erection, construction, alteration, replacement, or relocation of or addition to any structure and any change or alteration in the use made of land, buildings, or structures.

Development Agreement means an agreement made pursuant to policies of the Town of Berwick Municipal Planning Strategy and provisions of the Municipal Government Act.

Development Officer means the officer of the Town of Berwick from time to time charged by the Town with the duty of administering the provisions of the Land Use By-law.

Dwelling means a building, occupied or capable of being occupied as a home, residence or sleeping place by one or more persons, containing one or more dwelling units, and shall not include a hotel, a motel, or an apartment hotel.

Dwelling, Duplex means a building that is divided horizontally into two dwelling units each of which have an independent entrance either directly from outside the building or through a common vestibule.

Dwelling, Fourplex means a separate building containing only four dwelling units which are divided vertically or and horizontally into four parts.

Dwelling, Grouped means two or more dwellings, not including Accessory Dwelling Unit -, located on a single lot.

Dwelling, Multiple Unit means a building containing three or more dwelling units.

Dwelling, Semi-Detached means a building that is divided vertically into two dwelling units each of which has an independent entrance.



Dwelling, Single Detached means a completely detached dwelling unit and includes mobile and tiny homes.

Dwelling, Stacked Townhouse means a building that is divided vertically and/or horizontally into three or more dwelling units, each of which has an independent entrance at grade.

Dwelling, Townhouse, or Rowhouse means a building that is divided vertically into three or more dwelling units, each of which has an independent entrance, to a front and rear yard immediately abutting the front and rear walls of each dwelling unit.

Dwelling Triplex means a building that is divided horizontally into three dwelling units, each of which has an independent entrance either directly or through a common vestibule.

Dwelling Unit means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals, with a private entrance from outside the building or from a common hallway or stairway inside the building. A Dwelling Unit shall include a small options home.

Duplex - see "Dwelling".

Electric Vehicle Charging Station means a piece of infrastructure that supplies electric energy for the recharging of plug-in electric vehicles, including electric cars, neighbourhood electric vehicles and plug-hybrids.

Erect means to build, construct, reconstruct, alter, or relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, structurally altering any existing building or structure by an addition, deletion, enlargement or extension.

Established Building Line means the average distance of the existing building from the street line of existing buildings in any block where more than half the frontage has been built upon at the effective date of this By-law.

Established Grade means, with reference to a building, the elevation of the finished grade of the ground where it meets the exterior of such building and when used with reference to a structure shall mean the average elevation of the finished grade of the ground immediately surrounding such structures, exclusive in both cases of any artificial embankment; and when used with reference to a street, road, or highway means the elevation of the street, road, or highway established by the Town or other designated authority.

Existing means existing as of the effective date of this By-law.

Floor Area

With reference to a **Dwelling** means the maximum area contained within the outside walls excluding any private garage, porch, verandah, sunroom, unfinished attic or basement and cellar or other room not habitable at all seasons of the year.

Commercial Floor Area means the total usable floor area within a building used for commercial purposes but excludes washrooms, furnace and utility rooms, and common malls between stores.

Gross Floor Area means the aggregate of the floor areas of building above or below grade, measured between the exterior faces of the exterior walls of the building at

each floor level but excluding car parking areas within the building, and for the purpose of this clause, the walls of an inner court shall be deemed to be exterior walls.

With references to a **Dwelling Unit** where more than one unit is contained within a building, means the maximum floor area contained within the finished wall surfaces of an individual dwelling unit, excluding closets, built-in cabinets and storage areas, and balconies.

Flanking Yard – see “Yard”.

Front Yard – see “Yard”.

Golf Course means a public or private area operated for the purpose of playing golf or a related activity.

Grade means the average elevation of the finished level of the ground at the exterior walls of the building.

Height means the vertical distance on a building between the established grade and the highest point of the roof surface of the parapet, or a flat roof, whichever is the greater; the decline of a mansard roof; or the mean level between eaves and ridges of a gabled, hip, gambrel or other type of pitched roof; but shall not include any construction used as ornament or for the mechanical operation of the building, a mechanical penthouse, chimney, tower, cupola or steeple.

Home Occupation means use of a dwelling for employment involving the provision or sale of goods or services or both goods and services.

Hospital means an institution for the treatment of persons afflicted with or suffering from sickness, disease or injury.

Hotel means a building or buildings or part thereof on the same site used to accommodate the travelling public for gain or profit, by supplying them with sleeping accommodation with or without meals but without private cooking facilities.

Industrial Use means the use of any building or land for the purpose of fabricating manufacturing, altering, repairing, processing, breaking up, demolishing, or treating of any article, commodity, or substance whatsoever.

Intensive Livestock Operation means the commercial production of swine, cattle or other livestock or rearing of animals for the production of fur including the accessory the storage of animal wastes at levels in excess of limits established in this By-law for Livestock Operations.

Institutional Use means any or all of the following uses or other similar uses.

- Churches, Places of Worship and Religious Institutions
- Colleges, Universities and Non-commercial Schools
- Fire Stations
- Public Building - municipal, provincial, federal
- Hospitals
- Libraries, Museums and Art Galleries
- Municipal Public Works Facilities
- Police Stations
- Public or Private Utility

- Any institutional use which is incorporated under the Societies Act, R.S. 1989, c. 435, s. 1, as amended, or any other private statute of incorporation.
- Public and private utilities
- Wastewater treatment plants.

Kennel means a building or structure where animals, birds or other livestock intended or used as domestic household pets are kept or boarded.

Land-lease Community means any lot, piece, or parcel of land upon which three (3) or more occupied manufactured homes are located, and where the owner of the manufactured home leases the land upon which the manufactured home is placed, and includes any building, structure or enclosure used or intended for use as part of the equipment of such land-lease community.

Landscaping means any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening, or other architectural elements, all of which is designed to enhance the visual amenity of a property or to provide a screen to mitigate any objectionable aspects that may detrimentally affect adjacent land.

Light Warehousing means the long-term storage of goods inside an enclosed building, the goods being neither reactive chemical, nor toxic, nor perishable or odour emitting, including but not necessarily restricted to reusable bottle storage, and the long-term storage of furniture, household goods, crated used goods, or general merchandise, and not including retail sales and service or delivery of retail goods on the premises.

Livestock Operation means the commercial production of swine, cattle, fowl, or other livestock, excluding the production of fur and the accessory storage of animal wastes, at activity levels not exceeding the maximum established in this By-law.

Loading Space means a vacant area of land provided and maintained upon the same lot upon which the principal use is located and which area:

- a. is suitable for the temporary parking of at least one commercial motor vehicle while merchandise or materials are being loaded or unloaded from such vehicle, and such parking is not for the purpose of sale or display;
- b. is not upon or partly upon any street, or highway.

Lot means any parcel of land described in a deed as a lot or as shown as an approved lot on in a registered plan of subdivision.

Corner Lot means a lot situated at the intersection of and abutting on two or more streets. The shorter lot line shall be deemed the front lot line of the said lot.

Infill Lot means a new residential lot created from an existing residential lot where both lots meet the minimum lot area and frontage requirements for the zone as established in this By-law.

Interior Lot means a lot situated between two lots and having access to one street.

Through Lot means a lot bounded on two opposite sides by streets or highway provided, however, if any lot qualifies as being both a Corner Lot and Through Lot as hereinbefore defined, such lot shall be deemed to be a Corner Lot for the purpose of this By-law.

Lot Area means the total horizontal area within the lot lines of a lot.

Lot Coverage means the percentage of the lot covered by the building area but excluding that portion of any building that is constructed entirely below grade.

Lot Depth means the horizontal distance between the front and rear lot lines. Where these lot lines are not parallel, the lot depth shall be the length of a line joining the mid-points of the front and rear lot lines.

Lot Frontage means the length of a line measured at the front lot line joining the side lot lines and parallel to the front lot line.

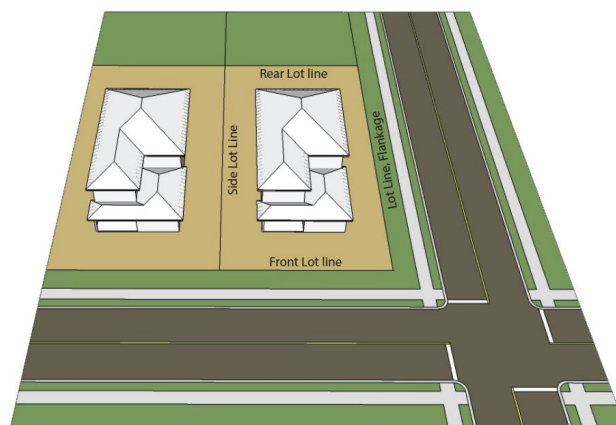
Lot Line means a boundary line of a lot.

Front Lot Line means the line dividing the lot from the street. In the case of a Corner Lot the shorter boundary line abutting the street shall be deemed the front lot line and the longer boundary line abutting the street shall be deemed the side lot line and where such lot lines are of equal length the front lot line shall be either of the lot lines. In the case of a Through Lot, any boundary dividing the lot from a street shall be deemed to be the front lot line.

Rear Lot Line means the lot line furthest from or opposite to the front lot line.

Side Lot Line means a lot line other than a front or rear lot line.

Flanking Lot Line means a side lot line which abuts the street on a corner lot.



Lounge means a premise that sells liquor and wine by the glass and beer by the glass or bottle and is licensed under the Nova Scotia Liquor Control Act as a lounge.

Main Building means the building in which is carried on the principal purpose for which the building lot is used.

Main Wall means the exterior front, side or rear wall of a building, and all structural members essential to the support of a fully or partially enclosed space or roof.

Maximum Lot Coverage means that percentage of the lot area covered by all building above ground level and shall include that portion of such lot area which is occupied by a building or portion thereof which is completely below ground level, and for the purpose of this definition the maximum lot coverage in each zone shall be deemed to apply only to that portion of such lot which is located within said zone.

Manufactured Home means a detached dwelling designed for transportation after fabrication, whether on its own wheels or on a flatbed or other trailer, and which arrives at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembling, and for the purposes of this By-law,

manufactured homes shall include mobile homes, mini-homes, and modular homes that are either completely self-contained dwelling units or are sectional dwelling units that are assembled on the site, but does not include a travel trailer or recreational vehicle.

Medical Clinic means a building used wholly for the medical, dental, surgical, or therapeutic treatment of human beings and includes pharmacies, medical equipment suppliers, health care offices and other professional and commercial uses related to medical care but does not include a hospital.

Mobile Home means a detached dwelling designed for transportation after fabrication, whether on its own wheels or on a flatbed or other trailer, and which arrives at the site where it is to be occupied as a dwelling complete and ready for occupancy (except for minor and incidental unpacking and assembling operations), located on wheels, jacks or permanent foundation, and which may be connected to utilities and sanitary services, and the foregoing shall include mobile homes and modular dwellings having any main walls of less than twenty (20) feet.

Motel means a building or buildings or part thereof on the same site used to accommodate the travelling public for gain or profit, by supplying them with sleeping accommodation, with or without meals.

Municipality means the Municipality of the Town of Berwick.

Non-Conforming Use means any use of land or building or structure constructed, or being constructed, on or before the effective date of this By-law which has a prohibited use when subjected to this By-law.

Nursing Home means a building wherein nursing care, room and board are provided to individuals incapacitated in some manner for medical reasons but does not include a hospital or a senior citizen complex.

Obnoxious Use shall mean a use which, from its nature or operation creates a nuisance or is offensive by the creation of noise or vibration, or by reason of the emission of gas, fumes, dust, oil or objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material.

Office means a room where business may be transacted, a service performed or consultation given but shall not include the manufacturing of any product or the retail selling of goods.

Office and Professional Use means a building or part thereof in which the principal or main use is the provision of professional services to the public.

Outdoor Display means the display of retail goods or materials intended for the immediate sale to the general public which are not enclosed within a structure.

Outdoor Storage means the storage of goods or materials not intended for immediate sale to the general public which are not enclosed within a structure.

Outdoor Wood burning Furnace means an accessory building or structure which operates as a heat source for associated main buildings.

Owner means a part owner, joint owner, tenant in common or joint tenant of the whole or any part of any land or building and includes a trustee, an executor, a guardian, an agent, a

mortgagee in possession, or other person having the care or control of any land or building in the event of the absence or disability of the person having the title thereof.

Parking Lot and Parking Area means an open area containing parking spaces, other than a street, for two or more motor vehicles, available for public use or as an accommodation for clients, customers or residents and which has adjacent access to permit ingress or egress of motor vehicles to a street or highway by means of driveways, aisles or maneuvering areas where no parking or storage of motor vehicles is permitted.

Parking Space means an area of not less than one hundred and sixty (160) square feet, measuring nine (9) feet by eighteen (18) feet exclusive of driveways or aisles, for the temporary parking or storage of motor vehicles.

Personal Service Shop means a building or part of a building in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons, and without limiting the generality of the foregoing may include such establishments as barber shops, beauty parlours, automatic laundry shops, hairdressing shops, shoe repair and shoe shining shops, and depots for collecting dry cleaning and laundry, but excludes any manufacturing or fabrication of goods for sale.

Private Club means a building or part of a building used as a meeting place for members or an organization and may include a lodge, a fraternity, or sorority house, and a labour union hall.

Private Park means a park other than a public park which is privately owned and operated.

Professional Office means a building or structure where business may be transacted, a service performed, or consultation given but shall not include the manufacturing of any product or the retailing or selling of goods.

Public Authority means His Majesty the King in the Right of Canada, the Province of Nova Scotia, the Town of Berwick or any Board, Commission or Committee of the Town of Berwick established by or exercising any power or authority under any general or specific statute of Nova Scotia with respect to any of the affairs or purposes of the municipality or a portion thereof and includes any committee or local authority established by the By-law of the Town.

Public or Private Utility means a system, works, plant, equipment, or service whether owned or operated by or for the Municipality, or by a corporation, or under a federal or provincial statute which furnishes services including but not limited to:

- Communication;
- Public transportation;
- Production, transmission, deliver or furnishing of water, gas or electricity to the public at large;
- Collection and disposal of sewage, excluding septic tank sludge dumping stations; and
- Fire departments.

Public Park means a park owned or controlled by a Public Authority.

Recreational Uses means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, indoor and outdoor skating rinks, athletic fields, golf courses, picnic areas, swimming pools, day camps, community centres and similar uses to the foregoing, together with

necessary and accessory buildings and structures, but not including a track for the racing of animals, or any form of motorized vehicles.

Restaurant means a building or part thereof where food and drink is served to the public for consumption within the building or for takeout but not for consumption in parking areas appurtenant to the building.

Restaurant, Drive In means a building or part thereof where food and drink is served to the public for consumption in parking areas appurtenant to the building whether or not facilities are provided for consumption within the building.

Retail Store means a building or part thereof in which goods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public.

Road - see "Street".

Roofed Accommodation means

- i. Every building, part of a building, group of buildings or place of accommodation that provides one or more residential units used mainly for the reception of the travelling or vacationing public,
- ii. Cottages or cabins, or
- iii. Any building or part of a building designated as a roofed accommodation by the regulations;

Rowhouse Dwelling - see "Dwelling".

Scrap Yard and Salvage Yard means a lot or premises for the storage or handling of scrap material and without limiting the generality of the foregoing, shall include waste paper, rags, bones, bottles, used bicycles, vehicles, tires, metal or other scrap material or salvage.

School

Commercial School means a school of seven or more pupils gathered at one time conducted for gain, and may include instruction in trades, skills, or services such as a secretarial, language, driving, art, modeling, beauty, dancing and music school and does not include day-care, day nursery or nursery schools.

Non-Commercial School means a public or private academic, religious or philanthropic school not operated for monetary gain.

Semi-Detached Dwelling - see "Dwelling"

Service Industries includes the processing of milk and dairy products, a bakery, a public garage including engine and body repair shop, a printing establishment, a laundry or cleaning establishment, a paint shop, a plumbing shop, sheet metal shop and similar uses.

Service Shop means a building or part thereof used for the sale or repair of household articles and shall include radio, television and appliance repair shops but shall not include industrial or manufacturing or motor vehicle repair shops.

Service Station - see Automobile Service Station

Setback means the distance between the street line and the nearest main wall of any building or structure and extending the full width or length of the lot. Required Setback means the minimum setback as prescribed by the Land Use By-law.

Shared Housing Use means a residential use that contains 4 or more bedrooms, that meets one or more of the following:

- a. Where bedrooms rooms are rented for remuneration as residential accommodation. Individual bedrooms rooms shall not include a kitchen facility and have shared common space.
- b. That are operated by a non-profit organization or a registered Canadian charitable organization that provides support services to the occupants of the shared housing use and includes Shared Housing with Special Care but does not include short-term rental hotel, motel, or tourist accommodation as defined in the Tourist Accommodation Regulation Act.

Shared Housing with Special Care means a type of Shared Housing Use that is designed to provide a level of care to residents with cognitive, physical or behavioural limitations, and for greater certainty, shared housing with special care may include individual dwelling units for occupants.

Shopping Centre means a separate use of land containing a building or building complex on a lot designed, developed and managed as a unit by a single owner or tenant, or a group of commercial uses, distinguished from a business area comprising unrelated individual uses and characterized by the sharing of common parking areas and driveways.

Shopping Mall - see "Shopping Centre".

Short-Term Rental means the provision of roofed accommodations to a single party or group, for payment or compensation, for a period of 28 days or less.

Sign means any structure, device, light or natural object including the ground itself, or any part thereof, or any device attached thereto, or painted or represented thereon, which shall be used to identify, advertise, or attract attention to any object, product, place, activity, person, institution, organization, form, group, commodity, profession, enterprise, industry or business, or which shall display or include any letter, work, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction, or advertisement, and which is intended to be seen from off the premises or from a parking lot. The word "sign" shall include signs which are affixed to the inside of windows and glass doors and are intended to be seen from roadways or parking lots. No other indoor sign shall be deemed a sign within this By-law.

Canopy / Awning Sign means any sign attached to or forming part of a canopy or awning.

Facial Wall Sign means a sign which is painted upon a building wall or is attached to and supported by a wall of a building.

Ground Sign means a sign supported by one or more up-rights, poles or braces placed in or upon the ground.

Illuminated Sign means a sign that provides artificial light directly, or through any transparent or translucent material, from a source of light connected with such sign, or a sign illuminated by a light focused upon or chiefly directed at the surface of the sign.

Off Premises Sign means a sign that is related to a business premises that is not located on the building or lot on which the sign is placed.

Projecting Wall Sign means a sign which projects from and is supported by a wall of a building.

Reader Board Sign means a sign designed with removable letters, marks, symbols, or pictorials or any combination of these to allow for periodic revisions of the sign message, but does not include signs used by theatres, art galleries, arenas, churches or similar premises, for the purpose of identifying a program or event that will take place at the premise.

Roof Sign means a sign supported by one or more uprights, poles or braces placed upon the roof of a building.

Sandwich Board Sign means a sign which is composed of two hinged or otherwise joined boards which leans on the ground.

Sign Area means the area of the smallest triangle, rectangle or circle or semi-circle which can wholly enclose the surface area of the sign. All visible faces of a multifaced sign shall be counted separately and then totaled in calculating sign area. Three dimensional signs shall be treated as dual-faced signs, such that the smallest triangle, rectangle or circle or semi-circle which can totally circumscribe the sign in the plane of its largest dimension is considered the sign area.

Number of Signs means that for the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship or elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

Single Detached Dwelling - see "Dwelling".

Small Options Home means the use of a building or part thereof for a family home, group care facility, or similar facility for the non-medical care for not more than six persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual but does not include a facility licensed by Corrections Canada or Nova Scotia Corrections or successor bodies.

Small Scale Commercial Uses means small convenience stores, corner shops, or local boutiques that contain less than 18.58 square metres (200 gross square feet).

Solar Collector System means a device or combination of devices, structure or part of a device, or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply. Solar collectors may be attached to or detached from principal structures.

Solar Collector System – Commercial means an energy system consisting of solar photovoltaic panels or solar thermal collectors with a rated capacity between 100 kW and 2MW, designed for the purpose of generating electrical power or thermal energy from sunlight.

Solar Collector System – Residential means an energy system consisting of solar photovoltaic panels or solar thermal collectors with a rated capacity less than 100 kW, designed for the purpose of generating electrical power or thermal energy from sunlight.

Split Level Dwelling - see "Dwelling".

Storey means that portion of a building which is situated between the top of any floor and the top of the floor above it, and if there is no floor above it, that portion between the top of such floor and the ceiling above it.

Street or Road, Public means the whole and entire right-of-way of every highway, road, or road allowance vested in the Province of Nova Scotia or the Town of Berwick.

Street Line means the boundary line of a street.

Structure means anything that is erected, built, or constructed of parts joined together or any such section fixed to or supported by the soil or by any other structure. A structure shall include buildings, walls and signs and also fences exceeding six (6) feet in height.

Telecommunications Tower, Antennas, Buildings and Equipment means any facilities, apparatus or other structure that is used for telecommunication transmissions purposes.

Tiny House means a dwelling unit that is 37 m² or less in building area.

Tourist Establishment means a building or buildings which are used to accommodate the travelling public for gain or profit by supplying them with sleeping accommodation, with or without meals, and shall include a guest home, tourist cabins, a motel, an auto court and a hotel.

Tower means any structure that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers and includes personal wireless service facilities including radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone towers.

Town shall mean the Town of Berwick.

Townhouse Dwelling - see "Dwelling".

Travel Trailer or Recreational Vehicle means any vehicle or similar portable structure not exceeding one-hundred and two (102) inches wide and thirty-two (32) feet long supported by wheels designed for travel, recreational and vacation uses, to provide dwelling accommodation of a temporary nature.

Triplex Dwelling - see "Dwelling".

Use means the purpose for which any land, building, or structure is utilized, and also means the purpose for which any land, building, or structure is designed, arranged, or intended, or the purpose for which and land, building, or structure is occupied or maintained.

Warehouse means a building where wares or goods are stored but shall not include a retail store.

Watercourse means the bed and shore of every river, stream, lake, creek, pond, spring, lagoon, or other natural body of water – whether it contains water or not – and the water therein, within the jurisdiction of the province. It also includes all groundwater.

Wind Turbine means a system of components which converts the kinetic energy of the wind into electrical or mechanical energy, and which includes all necessary components for energy storage, control systems and transmission systems.

Yard means an open, uncovered space on a lot appurtenant to a building (except a court) and unoccupied by buildings or structures except as specifically permitted elsewhere in this By-law. In determining yard measurements, the minimum horizontal distance from the respective lot lines shall be used.

Front Yard means a yard extending across the full width of a lot between the front lot line and the nearest wall of any building or structure on the lot; a "minimum" front yard means the minimum depth allowed by this By-law of a front yard on a lot between the front lot line and the nearest main wall of any main building or structure on the lot.

Rear Yard means a yard extending across the full width of a lot between the rear lot line and the nearest wall of any main building or structure on the lot; and "minimum" rear yard means the minimum depth allowed by this By-law of a rear yard on a lot between the rear lot line and the nearest main wall of any main building or structure on the lot.

Side Yard means a yard extending from the front yard to the rear yard of a lot between a side lot line and the nearest wall of any building or structure on the lot; and "minimum" side yard means the minimum width allowed by this By-law of a side yard on a lot between a side lot line and the nearest main wall of any main building or structure on the lot.

Flanking Yard means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flankage lot line and the nearest main wall of any building or structure.

Yard Sale means the sale of new or used household goods from a residential property, whether from the yard of a lot, an accessory building or from within the main residence. Each ten-hour period shall be considered a separate yard sale.

Zone means a designated area of land shown on the Schedules of this By-law.