



The Village of

HEISLER

• *A Community of Champions* •

Bylaw 452-11



Village of Heisler's **LAND USE BYLAW**

Prepared by: West Central Planning Agency

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THE LAND USE BYLAW OF THE VILLAGE OF HEISLER

Pursuant to Part 17 of the Municipal Government Act, the Council of the Village of Heisler, in the Province of Alberta, duly assembled, hereby enacts as follows:

1. PURPOSE

The purpose of this bylaw is to regulate and control the use and development of land and buildings within the municipality to achieve the orderly and economic development of land, and for that purpose, among other things,

- 1.1. to divide the municipality into districts;
- 1.2. to prescribe and regulate for each district the purposes for which land and buildings may be used;
- 1.3. to establish the office of Development Authority;
- 1.4. to establish a method of making decisions on applications for development permits including the issuing of development permits;
- 1.5. to prescribe a procedure to notify owners of land likely to be affected by the issue of a development permit; and
- 1.6. to establish a procedure for appeals against the decisions of the Development Authority.

2. DEFINITIONS

In this bylaw:

Abut or abutting means immediately contiguous to or physically touching, and when used in respect of a lot, means that the two abutting lots share a property line.

Accessory building means a building separate and subordinate to the main building, the use of which is incidental to that main building and is located on the same lot. A garage attached to a main building it is deemed to be part of the main building.

Accessory use means a use customarily incidental and subordinate to the main use or building and located on the same lot with such main use or building.

Act means the Municipal Government Act and the regulations pursuant thereto.

Apartment building means a building containing at least three separate dwellings which share a common entrance from outside the building.

Applicant means an owner, agent or any person, firm, or company required to obtain or having obtained a development permit.

Bed and breakfast establishment means a business operated in a private house in which up to three rooms are made available for rent to short-term paying guests.

Church means a place of worship of any faith.

Council means the Council of the Village of Heisler.

Detached house means a building which contains one dwelling unit and which may also contain one “granny” or “nanny” or basement suite of conventional construction.

Discretionary use means the use of land or a building provided for in this bylaw for which a development permit *may* be issued upon an application having been made.

Duplex means a building containing two dwelling units side by side, sharing a common wall, with separate outside entrances for each dwelling unit. It does *not* mean one dwelling unit above another.

Dwelling means self-contained living premises with cooking, eating, living, sleeping, and sanitary facilities for domestic use of one or more individuals.

Family day home means a day care business operated by an individual in her own home.

Front means, in the case of a corner lot, the shorter side.

Front yard means that portion of the site extending across the full width of the lot from the front property boundary of the lot to the nearest portion of the exterior wall of the building, and shall be measured at right angles to the front property boundary. Where a lot fronts on two or more streets, the Development Authority may designate one or more streets as the front of the lot.

Grade means the average elevation of the corners of a lot.

Granny or nanny suite means a self contained suite within a detached residence, intended for use by a dependent or servant of the owner or occupier of the detached residence, and not rented or leased.

Group home means a facility which provides accommodation for people who require assistance in daily living on account of age or disability, or who are undergoing rehabilitation, and where qualified staff are present at all times.

Height (of a building) means the vertical distance from grade level to the highest point on the roof of the building, but excluding chimneys and aerials.

Home business means a business, trade, craft occupation, storage activity, or other commercial operation on a residential lot on a scale greater than a home office.

Home office means an office in a dwelling which:

- a. is not visited by a significant number of clients,
- b. does not change the external appearance or residential character of the dwelling, and
- c. is carried on only by the residents of that dwelling,
- d. and includes child care for up to three children who do not live at that place.

Lot means an individual lot or parcel for which a title has been issued under the Land Titles Act, or, where two or more lots are “tied” for assessment purposes, or are included in a single title, the area encompassed by the two or more lots.

Main building means a building in which is conducted the main or principal use of the lot on which it is erected.

Manufactured home means a new (5 years or newer) residential building containing one dwelling unit, built in a factory and transported in one or more sections to a suitable site. It will be manufactured in full compliance with both the Canadian Standards Association Standard CSA Z240 and the Alberta Building Code (ABC). Each section will incorporate longitudinal steel frame rails under the floor that become part of the permanent surface foundation system on which the home is supported. Manufactured homes typically have a long, narrow rectangular plan, low roof pitch, narrow eaves and meet current. Manufactured homes have replaced mobile homes, which are no longer built in Alberta.

Modular home means a **method of constructing** a home in large sections, away from the home site, and under controlled conditions. The type of home that is constructed is determined by the building code which it complies and design criteria that determine whether the structure type is single detached or multi-family, single level or multi-storey. The term **modular** does not describe a type of home, just as the term site-built does not describe a type of home. They both describe a **construction method**.

Mobile home means a manufactured home which does not meet current Canadian Standards Association Standard CSA Z240 and the Alberta Building Code (ABC). Mobile homes at one time commonly referred to as trailers and are no longer built in Alberta.

Municipality means the Village of Heisler.

Owner means, in addition to the meanings set out in the Act, a purchaser of the fee simple estate in the land under an agreement for sale that is the subject of a caveat registered against the Certificate of Title of the land, and any assignee of the purchaser's interest that is the subject of a caveat registered against the Certificate of Title.

Parking stall means an indoor or outdoor area at least 6 metres in length and 3 metres in width, reserved for the parking of motor vehicles, with a surface of concrete, paving, or gravel.

Permitted use means the use of land or a building provided for in this bylaw, and for which, if it complies in every way with this bylaw, a development permit *shall* be issued with or without conditions as provided for in this bylaw.

Rear yard means that portion of the site extending across the full width of the lot from the rear property boundary of the lot to the nearest portion of the exterior wall of the building, and shall be measured at right angles to the rear property line.

Residence means any building or structure used exclusively or primarily for human habitation and includes multiple dwellings, apartments, lodging, and boarding houses, and (unless more closely defined for the purposes of one section of the bylaw) includes manufactured and modular houses and also residential suites in non-residential buildings.

Road means the entire width of the right-of-way of a road or lane shown on a township plan, road plan, or plan of subdivision, and not only the built travelling surface.

Service station means a business selling motor fuels to the public, and includes freestanding service stations, gas bars, and the fuel sales component of any automobile supply or repair business.

Setback means the distance between the closest part of the foundations of a building and the front, side, or rear property line of the lot, measured at right angles to that property line.

Side yard means that portion of the site extending from the front yard to the rear yard and lying between the side property boundary of the lot and the nearest portion of the exterior wall of the building, and shall be measured at right angles to the side property boundary.

Sign means an object or device primarily intended to advertise or call attention to any person, matter, thing, or event.

Suite means an area within a residence which provides a self contained living area with its own cooking and bathroom facilities.

Use means a use of land or a building as determined by the Development Authority, or on appeal by the Subdivision and Development Appeal Board.

Utility building means a building in which the proprietor of a utility company maintains his office(s) and/or maintains or houses any equipment used in connection with the utility.

Yard means the open space between the outside wall of the main building on a lot and the boundaries of that lot.

3. INTERPRETATION

- 3.1. Any doubt as to the meaning of a word, or the boundaries of a land use district shown on **Schedule D**, shall be settled by a resolution of Council.
- 3.2. In accordance with Alberta Land Titles practice, all areas and distances in this bylaw are in metric measure. Imperial equivalents are given as a convenience but may not be exact. In case of conflict, the metric measure shall govern.
- 3.3. The words *he, him, and his* are to be read as *she, her, and hers*, and the singular is to be read as the plural, as the case requires.
- 3.4. Where the boundary of a lot is also the boundary between two land use districts, and the lot boundary is then changed through subdivision, the land use classification follows the new boundary.
- 3.5. Where a road is closed and added to an adjacent parcel, the added area takes the land use classification of the parcel to which it is added.
- 3.6. Building setbacks are measured from the footings of the building, not from overhangs.
- 3.7. Where this bylaw allows an exercise of discretion or judgement, the discretion or judgement is that of the Development Authority, or on appeal that of the Subdivision and Development Appeal Board.

4. DEVELOPMENT AUTHORITY

- 4.1. The office of Development Authority is hereby established and shall be filled by a person appointed by resolution of Council. In the absence of such a resolution, the Chief Administrative Officer is the Development Authority.
- 4.2. The Development Authority shall:
 - 4.2.1. maintain a copy of this bylaw as amended, and make it available to any person on a cost recovery basis;
 - 4.2.2. maintain a register of all applications, the decisions made on them, and the reasons for those decisions, and make it available to any person at no charge;
 - 4.2.3. review and process all applications for a development permit, and make and issue a decision in accordance with this bylaw;
 - 4.2.4. enforce this bylaw in conformance with the Act; and
 - 4.2.5. carry out the other duties imposed on him by this bylaw and the Act.
- 4.3. For the purposes of Section 542 of the Act, the Development Authority is an authorized person of the municipality.

4.4. The Development Authority may also be referred to as the Development Officer.

5. SUBDIVISION AND DEVELOPMENT APPEAL BOARD

The Subdivision and Development Appeal Board established by bylaw shall hear and decide upon appeals against the decision (or lack of decision) of the Development Authority.

6. DEVELOPMENT PERMIT REQUIRED

No development other than that listed in Section 7 shall be undertaken within the municipality unless an application for it has been approved and a development permit has been issued.

7. DEVELOPMENT NOT REQUIRING A DEVELOPMENT PERMIT

The following development shall not require a development permit:

- 7.1. Those uses of land or a building which are **exempt** under Section 618 or 619 of the Act or under regulations pursuant to those sections;
- 7.2. The **completion and use** of a building which was lawfully under construction at the date of adoption of this bylaw;
- 7.3. The use of a building or property which was authorized under a **previous bylaw**;
- 7.4. The **maintenance** of or repair to any building, provided that such works do not include structural alterations or major works of renovation;
- 7.5. **Internal alterations** to a building, provided these alterations do not result in an increase in the number of dwelling units in the building (but a permit under the Safety Codes Act may still be required);
- 7.6. The construction of **gates, fences, walls**, or other means of enclosure (other than on corner lots or where abutting on a road used by vehicular traffic) less than 1 metre in height in front yards and less than 1.5 metres in side and rear yards, and subject to Section 4 of Schedule A;
- 7.7. **Landscaping and paving**, provided that grades and water flows are not substantially altered;
- 7.8. The construction or maintenance of any utility, work, or improvement undertaken by the municipality or a utility in a **street or utility lot**;
- 7.9. The construction and maintenance of a **railway line**;
- 7.10. A **temporary** building or sign, the sole purpose of which is incidental to the erection or alteration of a building for which a permit has been issued under this bylaw;
- 7.11. A **change of use or ownership** of land or an existing building where the new use is permitted in that land use district and conforms in every way with this bylaw;
- 7.12. New single storey buildings, not on permanent foundation, under 15 square metres (160 sq ft) in size which are **accessory** to a residential use. These buildings are bound by yard and setback rules.

8. NON-CONFORMING BUILDINGS AND USES

If a building or land use is not allowed in this bylaw, but was legally in existence at the date of passage of this bylaw, it may continue legally as a non-conforming use and be maintained, pursuant to Section 643 of the Act, but it may not be enlarged or replaced except pursuant to Section 11.6 of this bylaw.

9. APPLICATION FOR A DEVELOPMENT PERMIT

9.1. An application for a development permit shall be made to the Development Authority in writing on the appropriate form, signed by the owner or his authorized agent, and shall be accompanied by:

- 9.1.1. a statement of the former, present, and proposed use of a lot and any buildings on it;
- 9.1.2. the legal description and municipal address;
- 9.1.3. a site plan drawn to scale and showing the boundaries of the lot, the locations of existing and proposed buildings, any front, rear, and side yards, any provision for off-street loading and vehicle parking, and access and egress points to the site;
- 9.1.4. a sketch of all easements and utilities, and the proposed connections to utilities;
- 9.1.5. the proposed site grading and drainage;
- 9.1.6. the estimated commencement and completion dates of any construction;
- 9.1.7. the estimated cost of the project or contract price; and
- 9.1.8. the appropriate fee.

9.2. The Development Authority may also request:

- 9.2.1. details of the proposed finish of the building and the landscaping of the lot;
- 9.2.2. a real property report drawn by an Alberta Land Surveyor, if there is any doubt as to the boundaries of the lot;
- 9.2.3. engineering and other reports to prove the safety and suitability of the site for the purpose intended, including a declaration that the site is free from contamination; and
- 9.2.4. a copy of the current title to the lot.

9.3. In the case where an application for a development permit has been refused initially or on appeal, the Development Authority may refuse to accept another application for a permit on the same property, and for the same or similar use of the land by the same or any other applicant for six months after the date of previous refusal, unless the circumstances have changed sufficiently to warrant otherwise.

10. PUBLIC CONSULTATION PRIOR TO DECISION

Before deciding on an application for a development permit for a discretionary use, or before relaxing or waiving or interpreting any part of the bylaw, the Development Authority may at his discretion consult the owners of nearby land by mail or by advertising in the local newspaper, and if the neighboring landowners reply within 14 days, the Development Authority shall consider their comments and recommendations before issuing a development permit.

11. DECISION BY THE DEVELOPMENT AUTHORITY

- 11.1.** The Development Authority shall decide on all applications for a development permit.
- 11.2.** The Development Authority shall decide upon an application for a development permit within 40 days of receiving a complete application.
- 11.3.** An applicant for a development permit may authorize the Development Authority, in writing, to take a longer period of time to make a decision.
- 11.4.** An application for a development permit may, at the option of the applicant, be deemed to be refused when a decision is not made on it by the Development Authority within 40 days after receipt of the application by the Development Authority, and the applicant may appeal as if the application had been refused.
- 11.5.** In the case where a proposed specific use of land or a building is not provided for in any district in this bylaw, the Development Authority may determine that such use is similar in character and purpose to a permitted or discretionary use prescribed for that district in Schedule B, and approve it.
- 11.6.** The Development Authority may approve an application for a development permit, notwithstanding that the proposed development does not comply with this bylaw, if, in his opinion:
 - 11.6.1.** the proposed development would not:
 - 11.6.1.1.** unduly interfere with the amenities of the neighbourhood, or
 - 11.6.1.2.** materially interfere with or affect the use, enjoyment, or value of neighboring parcels of land, and
 - 11.6.2.** the proposed development conforms with the use prescribed for the land or building in this bylaw,
 - 11.6.3.** and this power extends to nonconforming buildings pursuant to Section 643(5)(c) of the Act.
- 11.7.** In making a decision, the Development Authority may approve the application unconditionally, or impose conditions considered appropriate, permanently, or for a limited period of time, or refuse the application.
- 11.8.** When the Development Authority refuses an application for a development permit, the decision shall contain reasons for the refusal.
- 11.9.** The Development Authority may issue a development permit subject to the condition that the applicant:
 - 11.9.1.** amends the proposal to conform with this or other bylaws;
 - 11.9.2.** pays an off-site levy or redevelopment levy imposed by bylaw;
 - 11.9.3.** enters into an agreement pursuant to Section 650 of the Act concerning servicing of the site;
 - 11.9.4.** registers an easement to protect a utility line;
 - 11.9.5.** repairs any municipal improvements that may be damaged as a result of the development;

- 11.9.6. finishes a building, or landscapes or paves a lot within a stated time;
- 11.9.7. grades a lot to the satisfaction of the municipality;
- 11.9.8. supplies parking to meet the requirements of the bylaw; or
- 11.9.9. deposits cash, a letter of credit, or a performance bond guaranteeing that any of the above conditions are met.

12. DEVELOPMENT PERMITS

- 12.1. A development permit does not come into effect until 14 days after the date of issue, and if a person starts construction prior to that, he does so at his own risk because the permit may be overturned on appeal.
- 12.2. If a valid appeal is made pursuant to this bylaw, a development permit which has been granted is suspended.
- 12.3. A decision of the Development Authority on an application for a development permit shall be given in writing and a copy of it sent to the applicant and to any person who has expressed an interest in the matter.

13. SUSPENSION OR CANCELLATION OF A DEVELOPMENT PERMIT

- 13.1. If the development authorized by a permit is not commenced within 12 months from the date of issuance, or carried out with reasonable diligence, the permit is void, unless an extension has previously been granted by the Development Authority.
- 13.2. If a Development Permit was issued in error or was obtained through misrepresentation, the Development Authority may revoke it by sending a notice to the applicant by registered mail.

14. NOTICE OF DECISION

When a permit has been granted for a discretionary use, or pursuant to Subsections 11.5 or 11.6 of this bylaw, the Development Authority:

- 14.1. shall immediately mail a notice in writing to the registered owners of all land within 50 metres (165 feet) and to any other person who may, in his opinion, be affected; and
- 14.2. may immediately publish in a newspaper circulating in the municipality a notice stating the location of the property for which the application has been made and the use approved; and
- 14.3. may post a notice of the decision conspicuously on the property for which the application has been made,
- 14.4. and the notice shall set out the rights of persons to appeal against the issuance of the Development Permit.

15. APPEAL PROCEDURE

- 15.1. An appeal against a decision of the Development Authority shall be launched by filing notice, with the appropriate fee, with the Secretary of the Subdivision and Development Appeal Board.
- 15.2. The procedure for hearing and determining appeals against a decision of the Development Authority shall be as set out in Sections 684 to 687 of the Act.

15.3. No appeal lies against a development permit for a permitted use unless the bylaw was relaxed, varied, or misinterpreted.

15.4. In making its decision, the Board **is bound** by the uses of land set out in this bylaw, and **shall have regard for** all other parts of this bylaw and all statutory plans, as required by section 680(2) of the Act.

16. JUDICIAL REVIEW

A decision of the Subdivision and Development Appeal Board is final and binding on all persons subject only to an appeal upon a question of jurisdiction or law pursuant to Section 688 of the Act.

17. CONTRAVENTION

17.1. If the Development Authority finds that a development or use of land or buildings is not in accordance with:

17.1.1. the Act or Regulations, or

17.1.2. a development permit or subdivision approval, or

17.1.3. this bylaw,

17.1.4. he may proceed in accordance with Sections 541 to 556 and/or Sections 645 and 646 of the Act.

17.2. Contravention of this bylaw is an offence and is subject to a fine not more than \$500.00 under Section 566 of the Act.

18. AMENDMENT

18.1. A person may apply to have this bylaw amended, by applying in writing, giving reasons in support of the application, and paying the appropriate fee.

18.2. An application to change the district of any land may be initiated only by the owner of that land, or his agent, or by the municipality.

18.3. A proposal to amend the bylaw must be advertised in the same way as a Notice of Decision as set out in Section 14.

19. FORMS AND FEES

19.1. Council may by resolution adopt fees and forms for the administration of this bylaw.

19.2. Fees and forms in force under the previous bylaw continue in effect until amended by resolution of Council.

20. CONTINUATION OF CONTROLS

A condition attached to a development permit issued under a former bylaw continues under this bylaw.

21. REQUIREMENTS OF OTHER AUTHORITIES

- 21.1.** A development authorized under this bylaw is subject to Federal, Provincial or Municipal, other bylaws, statutory plans, inter-municipal agreements, and any easements, caveats, covenants, and other encumbrances on the title to the land in question.
- 21.2.** A development permit issued under this bylaw is void to the extent that it conflicts with any provincial and federal law, other bylaws, statutory plans, inter-municipal agreements, and any easements, caveats, covenants, and other encumbrances on the title to the land in question.
- 21.3.** Nothing in this bylaw removes the obligation of a person to obtain other permits, licenses, or approvals under other legislation.

22. LAND USE DISTRICTS AND REGULATIONS

- 22.1.** In all parts of the municipality, development is regulated as set out in **Schedule A** (General Regulations).
- 22.2.** Within individual districts, development is regulated as set out in **Schedule B** (Regulations for Land Use Districts).
- 22.3.** For the purposes of this bylaw the municipality is divided into the following districts:
- | | |
|------------|--------------------------------------|
| R1 | Single Family Residential |
| R2 | General Family Residential |
| RMH | Residential Manufactured Home |
| C1 | Downtown commercial |
| C2 | Highway commercial |
| IND | Industrial |
| IPU | Institutional and public uses |
- 22.4.** Within individual districts, parking and loading is regulated as set out in **Schedule C** (Parking & Loading).
- 22.5.** The boundaries of these districts are set out on the map forming **Schedule D** (Village of Heisler's Land Use Districts).
- 22.6.** Where a lot boundary is the boundary of a land use district, the boundary of that lot is changed, and the land classification is adjusted to conform to the new lot boundary.
- 22.7.** Roads and other land to which no title has been issued are not included in any land use district.
- 22.8.** Schedules A, B, C, and D contained herein form part of and have full force in this bylaw.

23. REPEAL OF EXISTING BYLAWS

All previous zoning, development control, and land use bylaws, including Bylaw 315/05 and any amendments thereto, are repealed.

24. DATE OF COMMENCEMENT

This bylaw comes into effect upon the date of third reading.

First reading _____

Public hearing _____

Second reading _____

Third reading _____

Mayor (original signed by)

CAO (original signed by)

SCHEDULE A

GENERAL REGULATIONS

1. CONTAMINATED SITES

If it appears to the Development Authority that the site may be contaminated as a result of the former use, or if an application for a development permit indicates that the site was previously used for another purpose, the Development Authority may require the applicant to supply evidence that the site is free of contamination and suitable for the proposed use, and lacking such information, the Development Authority may refuse the application.

2. DESIGN, CONSTRUCTION, AND TREATMENT OF BUILDINGS

The Development Authority may refuse to issue a development permit for a building if the size, design, construction, or treatment is, in his opinion, incompatible with the neighboring buildings.

3. DECKS

For the purpose of establishing yards and setbacks:

- 3.1. a deck which is attached to a main building, and which has a walking surface 60 cm (2 feet) or more above ground, is deemed to be part of the main building; and
- 3.2. a deck which has a walking surface less than 60 cm (2 feet) above ground is not bound by yard and setback requirements.

4. FENCES

- 4.1. In residential districts, no fence shall be higher than 1.75 metres (6 feet) in side and rear yards and no higher than 1 metres (3 feet) in front yards.
- 4.2. The height limits for front yards also apply to any side of a lot facing or flanking a street.
- 4.3. The maximum fence heights allowed in this section do not apply to swimming pools, which are governed by the Alberta Building Code.
- 4.4. Barbed wire may be used only:
 - 4.4.1. for fences surrounding land on which the grazing of livestock is allowed, and
 - 4.4.2. as the top strand of a fence in a commercial or industrial district, and provided the top strand is at least 1.75 metres (6 feet) above ground level.
- 4.5. No electric fence shall be constructed except as an internal cross-fence on land on which grazing of livestock is allowed.
- 4.6. Subject to the foregoing, no development permit is required for fences or gates.

5. GARAGES

In front of the vehicle doors of every garage there shall be a parking area entirely located on the lot, as shown in **Figure 1**.

6. GRADING OF LOTS

- 6.1.** No land shall be filled or raised, and no grading or drainage shall be undertaken, unless a development permit has been issued for the work.
- 6.2.** In no case shall the water from one lot drain on to another lot unless this is explicitly allowed in a development permit AND the person whose lot is being drained has the written permission of the person whose land will receive the water.
- 6.3.** An application for a development permit application for a new building shall include a lot grading and drainage plan showing existing and proposed ground levels on the lot in question and on neighboring lots, roads, and lanes, and shall normally provide for a minimum 4% slope away from buildings.

7. LIVESTOCK

- 7.1.** No livestock other than normal domestic pets in reasonable numbers shall be kept in the municipality.
- 7.2.** This section does not apply to auction marts, veterinary clinics, or other commercial establishments which deal with animals in the ordinary course of their business.

8. MOVED IN BUILDINGS

- 8.1.** Existing buildings, both stick-built and manufactured, may be moved on to a lot in the municipality where this is explicitly allowed in the regulations for the particular land use district.
- 8.2.** A person wishing to move an existing building on to a lot shall make an application for a development permit in the usual way and shall also provide:
 - 8.2.1.** photographs showing all sides of the building;
 - 8.2.2.** a statement of the type of construction, condition, and age of the building; and
 - 8.2.3.** a statement of proposed improvements with an estimate of costs.
- 8.3.** The Development Authority may inspect the building which is proposed to be moved in, or have another qualified person do so, and in either case the expenses of such inspection, including the inspector's time, shall be paid by the applicant before any development permit is issued.
- 8.4.** The Development Authority shall consider whether the building is compatible with the character of the neighbourhood in which it is proposed to be set, and may refuse a development permit if, in his opinion, the building is unsuitable.
- 8.5.** The Development Authority may issue a development permit subject to such conditions as he believes necessary to bring the building up to a suitable standard within 12 months from the date of issuance of the development permit.

- 8.6. The Development Authority may also require a performance bond under Section 11.9.9 of this Bylaw.
- 8.7. This section does not apply to new storage sheds, or to temporary buildings authorized under Section 7.9 of the bylaw, or to **new** manufactured houses being moved in to a district where they are a permitted or discretionary use.

9. OVERHANGS AND ENCROACHMENTS WITHIN A LOT

- 9.1. Balconies and decks may encroach into yards by the following distances:
- 9.1.1. 1.5 metres (5 feet) into yards of 4 metres (13 feet) or more, and
 - 9.1.2. 60 cm (2 feet) into yards of less than 4 metres (13 feet).
- 9.2. Other features attached to a building such as bay windows, chimneys, eaves, open steps, and sills may encroach into the yards required by **Schedule D** by the following distances:
- 9.2.1. 60 cm (2 feet) into yards of 1.5 metres (5 feet) or more, and
 - 9.2.2. 45 cm (18 inches) into yards of less than 1.5 metres (5 feet).

10. PROHIBITED OBJECTS IN YARDS

- 10.1. In a residential district, no person shall keep a vehicle weighing greater than 4500 kg for longer than is reasonably necessary to unload the vehicle.
- 10.2. Despite Section 10.1 above, a motor home or other recreational vehicle may be stored in the back or side yards of a residential lot.
- 10.3. In a residential district, no person shall keep visible any wrecked or partially dismantled vehicle, or any other object which in the opinion of the Development Authority is unsightly or offensive.
- 10.4. Radio and TV receiving dishes, antennas, and aerials, larger than 1 metre in diameter, shall not be located in a front yard of a residential district.
- 10.5. Garbage shall be contained in weatherproof and animal-proof containers.

11. SIGNS

- 11.1. Except as set out in Section 11.2 below, no sign shall be placed within the municipality unless a development permit has been obtained.
- 11.2. No permit is required for a sign which:
- 11.2.1. identifies the address or function of a building or parcel on which the sign stands, or
 - 11.2.2. advertises a sale or event taking place that day, or
 - 11.2.3. offers for sale or rent the parcel on which it stands, or
 - 11.2.4. advertises a business or activity taking place on that parcel, or
 - 11.2.5. advertises a product, service, or commodity offered for sale or rent on that parcel,
 - 11.2.6. is not visible from a public road or park, or

11.2.7. is erected by a government or school authority, or

11.2.8. concerns an election.

11.3. Signs not listed in Section 11.2 above are deemed to be discretionary uses in all districts.

11.4. The Development Authority may immediately remove any sign, including those listed in Section 11.2 above, if in his opinion

11.4.1. it is a danger to public safety because of its condition or because it obstructs the view of drivers, or

11.4.2. it devalues adjacent properties.

12. UTILITY BUILDINGS AND EQUIPMENT

The Development Authority may waive or relax siting and yard regulations where this is necessary for the efficient operation of a public utility system.

13. YARDS AND SETBACKS

13.1. Where a lot abuts two or more roads, the Development Authority may require that front yard setbacks be observed from more than one road.

13.2. Where land is likely to be re-subdivided in future, the Development Authority may require that any new building be located as if the subdivision was already in effect.

SCHEDULE B

REGULATIONS FOR LAND USE DISTRICTS

1. REGULATIONS FOR THE SINGLE FAMILY RESIDENTIAL DISTRICT (R1)

1.1. *Purpose*

The purpose of the R1 district is to provide land for single family residences and for accessory uses other uses which are compatible with residential use.

1.2. *Permitted Uses*

The following uses are permitted:

New detached houses of conventional construction, but excluding manufactured and mobile houses;
Home offices;
Parks;
Unattended utility installations;
New buildings and uses accessory to the above, but no accessory building shall be constructed before there is a main building on the lot

1.3. *Discretionary Uses*

The following uses may be allowed at the discretion of the Development Authority:

Basement, granny and nanny suites in detached residences;
Bed and breakfast establishments;
Moved-in buildings;
Family day homes;
Home businesses;
Buildings and uses accessory to the above

1.4. *Density of Development*

Only one detached residence and one suite shall be built on each lot.

1.5. *Lot Area*

A lot for a detached residence shall have an area of at least 500 square metres (5,382 sq ft).

All other lots shall have an area sufficient to give the required yards, setbacks, and site coverage.

1.6. *Lot Width*

A lot for a detached residence shall have a width of at least 15 metres (50 feet).

On a pie-shaped lot, the width is measured at the building line.

All other lots shall have a width sufficient to give the required yards and setbacks.

1.7. Site Coverage

No more than 40% of the area of a lot shall be covered by buildings.

1.8. Maximum Height of Buildings

No building height shall exceed 10 metres (33 feet) from grade to roof peak.

1.9. Front Setback

The main building shall be set back at least 6 metres (20 feet) from the front boundary of the lot and no accessory buildings shall be constructed in the front yard.

Where a lot abuts two or more roads, the Development Authority may require that front yard setbacks be observed from more than one road.

1.10. Rear Setback

The main building shall be set back at least 6 metres (20 feet) from the rear boundary of the lot.

Accessory buildings shall be set back at least 1 metre (3 feet) from the rear boundary of the lot.

Garages shall be situated so that there is a parking stall at least 6 metres in length between the vehicle doors and the road or lane used for vehicular access, as shown in **Figure 1**.

1.11. Site Setback

Main buildings shall be set back at least 1.5 metres (5 feet) from the side property line

On a lot which is not served by a lane or flanking street, one side yard shall be at least 3.0m (10 feet) to provide vehicle access to the rear yard.

Accessory buildings shall be set back at least 1 metre (3 feet) from the side property line.

See also Section 1.9 Front Setback above regarding flanking streets.

1.12. Parking

Each detached residence shall have two off-street parking stalls.

A suite within a detached residence shall have one off-street parking stall in addition to the two required above.

Non-residential land uses shall have sufficient parking to the satisfaction of the Development Authority, using the numbers set out in **Schedule C**.

2. REGULATIONS FOR THE GENERAL RESIDENTIAL DISTRICT (R2)

2.1. Purpose

The purpose of the R2 district is to provide land for general family residences and for accessory uses other uses which are compatible with residential use.

2.2. Permitted Uses

New detached houses of conventional construction, but excluding manufactured and mobile homes;
Accessory buildings;
Home offices;
Parks;
Unattended public utility buildings and installations;
New buildings and uses accessory to the above, but no accessory building shall be constructed before there is a main building on the lot.

2.3. Discretionary Uses

New manufactured homes having *at least* 102 square metres (1,098 square feet) of finished floor area
Duplexes, triplexes, fourplexes, row housing, and apartment;
Basement, granny and nanny suites in detached residences
Moved-in buildings, but excluding mobile homes;
Home businesses;
Bed & Breakfast Establishments;
Buildings and uses accessory to the above

2.4. Density of Development

Only one detached residence and one suite shall be built on each lot unless the dwelling is part of a duplex building.

2.5. Lot Areas

A lot for a detached residence or an unsubdivided duplex shall have an area of at least 500 square metres (5,382 sq ft).

A lot for a subdivided duplex shall have an area of at least 250 square metres (2,690 sq ft).

All other lots shall have an area sufficient to give the required yards, setbacks, and site coverage.

2.6. Lot Width

A lot for a detached residence or an unsubdivided duplex shall have a width of at least 15 metres (50 feet).

On a pie-shaped lot, the width is measured at the building line.

A lot for a subdivided duplex shall have a width of at least 7.5 metres (265 ft).

All other lots shall have a width sufficient to give the required yards and setbacks.

2.7. Site Coverage

No more than 40% of the area of a lot shall be covered by buildings.

2.8. Maximum Height of Buildings

No building height shall exceed 10 metres (33 feet) from grade to roof peak.

2.9. Front Setback

The main building shall be set back at least 6 metres (20 feet) from the front boundary of the lot, and no accessory buildings shall be constructed in the front yard.

Where a lot abuts two or more roads, the Development Authority may require that front yard setbacks be observed from more than one road.

2.10. Rear Setback

The main building shall be set back at least 6 metres (20 feet) from the rear boundary of the lot.

Accessory buildings shall be set back at least 1 metre (3 feet) from the rear boundary of the lot.

Garages shall be situated so that there is a parking stall at least 6 metres in length between the vehicle doors and the road or lane used for vehicular access, as shown in **Figure 1**.

2.11. Site Setback

Main building exceeding two storeys shall be set back at least 4.5 metres (15 ft) from the side property line.

Other main buildings shall be set back at least 1.5 metres (5 feet) from the side property line

On a lot which is not served by a lane or flanking street, one side yard shall be at least 3.0m (10 feet) to provide vehicle access to the rear yard.

Accessory buildings shall be set back at least 1 metre (3 feet) from the side property line.

See also Section 2.9 Front Setback above regarding flanking streets.

2.12. Parking

Each detached, duplex, triplex and fourplex residence shall have two off-street parking stalls.

A suite within a detached residence shall have one off-street parking stall in addition to the two required above.

Apartments shall have 1.5 off-street parking stalls for each suite.

Non-residential land uses shall have sufficient parking to the satisfaction of the Development Authority, using the numbers set out in **Schedule C**.

2.13. Special Regulation for Emergency Vehicle Access

On at least two sides of any apartment building exceeding two stories in height (one of which sides shall be the longest face of the building) there shall be firm level areas accessible from the road by fire fighting equipment for at least 75% of the length of these two sides of the building. Such areas shall be not less than 5 metres (17 feet) in width and not more than 3 metres (10 feet) from the building, and no obstruction shall be sited therein.

3. REGULATIONS FOR THE RESIDENTIAL MANUFACTURED HOME DISTRICT (RMH)

3.1. Purpose

The purpose of the Modular Home District is to create a place where new manufactured & mobile homes are the dominant form of land use.

3.2. Permitted Uses

New manufactured homes having *at least* 102 square metres (1,098 square feet) of finished floor area
Home offices

Parks

Unattended public utility buildings and installations

New buildings and uses accessory to the above, but no accessory building shall be constructed before there is a main building on the lot.

3.3. Discretionary Uses

Manufactured or Mobile homes having *less than* 102 square metres (1,098 square feet) of finished floor area

Older Manufacture or Mobile homes (more than 5 years)

Basement, granny and nanny suits in detached residences

Bed and breakfast establishments

Moved-in buildings

Family day homes

Home businesses

Building and uses accessory to the above

3.4. Density of Development

Only one dwelling is permitted on each parcel.

3.5. Parcel Dimensions

Parcels shall have a width no less than 12 metres (40 feet).

Parcels at the intersection of two streets shall have a width of no less than 15 metres (49 feet).

Parcels shall have a depth no less than 30 metres (100 feet).

3.6. Yard Requirements

Front and rear yards: no less than 6 metres (20 feet)

Side yards: no less than 1.5 metres (5 feet), but a parcel with no lane and no flanking street shall have one side yard no less than 3 metres (10 feet).

Side yard on flanking street: 3 metres (10 feet)

3.7. Site Coverage

Buildings shall cover no more than 40% of the area of the parcel.

3.8. *Parking*

Each parcel shall have at least two off-street parking spaces. Parking spaces shall be levelled, adequately drained, and hard-surfaced with gravel, concrete, or asphalt.

None-residential land uses shall have sufficient parking to the satisfaction of the Development Authority, using the numbers set out in **Schedule C**.

4. REGULATIONS FOR THE DOWNTOWN COMMERCIAL DISTRICT (C1)

4.1. Purpose

The purpose of the C1 district is to provide land for high density commercial activities in the downtown area.

4.2. Permitted Uses

The following uses are permitted:

Retail stores except those listed below as discretionary
Professional, financial, and service businesses except those listed below as discretionary
Clubs, associations, churches, and lodges, except those listed below as discretionary
Government buildings
Residences above the main floor
Buildings and uses accessory to the above

4.3. Discretionary Uses

The following uses may be allowed at the discretion of the Development Authority:

Establishments selling or dispensing alcohol for consumption on or off the premises
Establishments providing 'adult' entertainment or selling 'adult' products
Gambling establishments
Amusement arcades
Pawnbrokers
Businesses which sell gasoline or auto parts, or sell or repair motor vehicles. (Rules for these businesses shall be the same as if they were located in the C2 district.)
Businesses selling lumber or other flammable products
Drive-in businesses
Day care and group care facilities
Residences at street level
Hotels and motels
Moved-in buildings
Buildings and uses accessory to the above

Note: auto wreckers are neither a permitted nor a discretionary use in the C1 district.

4.4. Lot Width

A lot for a commercial use shall have a width of at least 5 metres (16 feet)

A lot for residential use shall have a width of at least 10 metres (33 feet)

4.5. Site Coverage

Commercial buildings may cover 100% of the lot.

Allowable site coverage for residential buildings shall be set by the Development Authority in each case.

4.6. Maximum Height of Buildings

The maximum allowable building height shall be determined by the Development Authority bearing in mind the requirements of the Alberta Building Code and the recommendations of the fire department.

4.7. Front Setback

Residences shall be set back at least 6 metres from the front property line.

No front setback is required for other buildings.

4.8. Rear Setback

Residences shall be set back at least 6 metres from the rear property line.

No rear setback is required for other buildings.

4.9. Side Setback

If the walls of a building are constructed of concrete block or other incombustible material, no side setback is required by this bylaw, but the Alberta Building Code shall govern.

If the walls of a building are constructed of combustible material, the building shall be set back at least 1.5 metres (5 feet) from the side property line.

4.10. Parking

No on-site parking is required for non-residential buildings.

Residences shall be provided with one off street parking stall per suite or unit.

4.11. Loading

Where a business or a facility is likely to receive large quantities of goods, or frequent deliveries, the Development Authority may require that an off-street loading dock be provided, adequate to accommodate the expected traffic without disrupting the flow of vehicles on adjacent streets.

5. REGULATIONS FOR THE HIGHWAY COMMERCIAL DISTRICT (C2)

5.1. *Purpose*

The purpose of the C2 district is to provide land for commercial operations where customers normally drive on to the site and close proximity to a provincial highway.

5.2. *Permitted Uses*

The following uses are permitted:

Retail stores except those listed below as discretionary
Professional, financial, and service businesses except those listed below as discretionary
Clubs, associations, churches, and lodges except those listed below as discretionary
Trade workshops
Service stations
Automobile, truck, and farm implement dealerships
Boat and recreational vehicle sales and service
Lumber yards
Government buildings
Residences above the main floor
Buildings and uses accessory to the above

5.3. *Discretionary Uses*

The following uses may be allowed at the discretion of the Development Authority:

Establishments selling or dispensing alcohol for consumption on or off the premises
Establishments providing 'adult' entertainment or selling 'adult' products
Gambling establishments
Amusement arcades
Pawnbrokers
Businesses selling lumber or other flammable products
Car and truck washing establishments
Auto body shops
Drive-in businesses
Veterinary clinics
Day care and group care facilities
Residences at street level
Hotels and motels
Moved-in buildings
Buildings and uses accessory to the above

Note: a development permit for a service station does not allow autobody work or auto wrecking unless this is specifically written in the development permit.

5.4. *Density of Development*

Only one residence may be placed on a lot.

5.5. *Lot Width*

Except as noted below, all lots shall have a width of at least 15 metres (50 feet) (but see section 6.14 regarding flammable materials).

No minimum lot width is required for unattended utility installations.

5.6. Site Coverage

All buildings combined shall not cover more than 75% of the area of the lot.

5.7. Maximum Height of Buildings

The maximum allowable building height shall be determined by the Development Authority bearing in mind the requirements of the Alberta Building Code and the recommendations of the fire department.

5.8. Front Setback

All buildings shall be set back at least 6 metres (20 feet) from the front property line (but see section 5.13 concerning flammable materials).

5.9. Rear Setback

Where a lot backs on to a lot classified as commercial or industrial, no rear yard setback is required (but see 5.13 concerning flammable materials).

In all other cases, all buildings must be set back at least 6 metres from the rear property line.

5.10. Side Setback

Where a lot is adjacent to a lot classified as commercial or industrial, no side yard is required (but see section 5.13 concerning flammable materials).

In all other cases, all buildings must be set back at least 2.5 metres from the side property line.

5.11. Parking

No on-site parking is required for non-residential buildings.

Residences shall be provided with one off street parking stall per suite or unit.

5.12. Loading

Where a business or a facility is likely to receive large quantities of goods, or frequent deliveries, the Development Authority may require that an off-street loading dock be provided, adequate to accommodate the expected traffic without disrupting the flow of vehicles on adjacent streets.

5.13. Flammable Materials

Where flammable or explosive materials are stored on site, the Development Authority shall consult the fire department may increase the required lot size, building setbacks, or other requirements to minimize the danger to the public.

5.14. Drive-in Businesses

Drive in businesses shall be permitted only where passing traffic will not be impeded, and traffic entering the business will not endanger pedestrians, and curb cuts shall be situated at a location approved by the Development Authority.

The lot shall be large that vehicles awaiting service do not back up into the adjacent street.

6. REGULATIONS FOR THE INDUSTRIAL DISTRICT (IND)

6.1. Purpose

The purpose of the Industrial district is to provide land for manufacturing, warehousing, storage, where this will not deleteriously affect nearby residences.

6.2. Permitted Uses

The following uses are permitted (but see note below):

- Manufacturing
- Processing
- Fabrication
- Services to agriculture
- Warehousing and storage
- Automobile, truck, and farm implement sales and service
- Car and truck washing establishments
- Transportation, communications, and utilities industries
- Veterinary clinics
- Auction markets
- Government operations
- Buildings and uses accessory to the above

Note: Any of the above uses which, in the opinion of the Development Authority, will unreasonably disturb nearby residences through excessive noise or traffic, are deemed to be discretionary uses and their approval is thus subject to appeal.

6.3. Discretionary Uses

The following uses may be allowed at the discretion of the Development Authority:

- Auto body and paint shops
- Auto wreckers
- Bulk fuel sales
- Recycling industries
- Other commercial and industrial activities which in the opinion of the Development Authority are compatible with the purpose of the district and the surrounding land uses
- Residences
- Moved-in buildings
- Buildings and uses accessory to the above

6.4. Density of Development

Only one residence or suite may be developed on one lot.

6.5. Lot Sizes

Lot areas and widths shall be at the discretion of the Development Authority.

6.6. Maximum Height of Buildings

The maximum allowable building height shall be determined by the Development Authority bearing in mind the requirements of the Alberta Building Code and the recommendations of the fire department.

6.7. Front Setback

All buildings shall be set back at least 6 metres (20 feet) from the front property line (but see section 6.12 concerning flammable materials).

6.8. Rear Setback

Where a lot backs on to a lot classified as commercial or industrial, no rear yard setback is required (but see 6.12 concerning flammable materials).

In all other cases, all buildings must be set back at least 6 metres from the rear property line.

6.9. Side Setback

Where a lot is adjacent to a lot classified as commercial or industrial, no side yard is required (but see 6.12 concerning flammable materials).

In all other cases, all buildings shall be set back at least 2.5 metres from the side property line.

6.10. Parking

Each establishment shall provide sufficient off street parking to accommodate the maximum number of staff and visitors likely to be on site at any one time.

6.11. Loading

Where a business or a facility is likely to receive large quantities of goods, or frequent deliveries, the Development Authority may require that an off-street loading dock be provided, adequate to accommodate the expected traffic without disrupting the flow of vehicles on adjacent streets.

6.12. Flammable Materials

Where flammable or explosive materials are stored on site, the Development Authority shall consult the fire department may increase the required lot size, building setbacks, or other requirements to minimize the danger to the public.

6.13. Screening

The Development Authority may require a lot to be fenced or landscaped if in his opinion this is needed to protect the values of nearby residences.

7. REGULATIONS FOR THE INSTITUTIONAL AND PUBLIC USES DISTRICT (IPU)

7.1. Purposes

The purpose of the Institutional district is to provide land for parks, schools, hospitals, and other community service facilities, both government and privately owned.

7.2. Permitted Uses

Parks and playgrounds
Athletic, sporting, and cultural facilities
Schools
Churches
Group homes operated by recognized social service agencies
Day care centres
Hospitals, hospices, nursing homes, and long term care facilities
Cemeteries
Buildings and uses accessory to the above

7.3. Discretionary Uses

Campgrounds
Concessions and small scale commercial activities which are compatible with neighbouring land uses
Residences for the staff of a permitted facility
Moved-in buildings
Buildings and uses accessory to the above

7.4. Maximum Height of Buildings

The maximum allowable building height shall be determined by the Development Authority bearing in mind the requirements of the Alberta Building Code and the recommendations of the fire department.

7.5. Front Setback

All buildings shall be set back at least 6 metres (20 feet) from the front property line.

7.6. Rear Setback

All buildings must be set back at least 6 metres from the rear property line.

7.7. Side Setback

All buildings must be set back at least 2.5 metres from the side property line.

7.8. Parking

Each establishment shall provide sufficient off street parking to accommodate the maximum number of staff and adult visitors likely to be on site at any one time.

7.9. Loading

Where a facility is likely to receive large quantities of goods, or frequent deliveries, the Development Authority may require that an off-street loading dock be provided, adequate to accommodate the expected traffic without disrupting the flow of vehicles on adjacent streets.

SCHEDULE C

PARKING

Type of development	Number of stalls
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Residential

Detached residence	2
plus per granny or rental suite	1
Duplex, triplex, fourplex, or row housing	2 per dwelling
Condo with units having individual at-grade entrance	1.5 per unit
Apartment	1.5 per suite
Manufactured house on subdivided lot	2

A stall for residential use may be inside a garage, or outside the building but entirely on the lot, and may include a driveway.

Non-residential

The following shall have sufficient on-site parking for all employees plus client / customer parking at the following rates

Retail stores	1 per 100 m2 gross leasable area (GLA) (but see note)
Offices and financial institutions	1 per 100 m2 GLA (but see note)
Hotels and motels	1 per room, plus stalls required for the entertainment component of the business at the bar rate
Restaurants, bars, and clubs	1 per 10 seats
Churches, halls, and theatres	1 per 10 seats
Industrial plants	1 per employee at maximum shift
Schools	1 per 10 students aged over 16
Other	Sufficient that client parking does not congest nearby streets

Note: Where a business is likely to attract a high volume of traffic with high turnover, the Development Authority may require more parking.

On-site parking requirements for non-residential uses may be relaxed where in the opinion of the Development Authority:

1. sufficient on-street parking is available without causing congestion, or
2. sufficient parking is available in public parking lots, or
3. private parking can be shared because peak use times are different.

LOADING

Every non-residential building shall have an off-street loading space of sufficient size that vehicles loading or unloading need not park on a street or lane.

This requirement may be waived by the Development Authority if in his opinion parking on the street or lane will not unreasonably disrupt traffic flow.

Read a first time this 10th day of May, 2011.
Read a second time this 6th days of June, 2011.
Read a third and final time this 6th days of June, 2011, and finally passed.

X

Sean Maciborski
Mayor - Village of Heisler

X

Brenda Loesch
Chief Administrative Officer - Village of Heisler