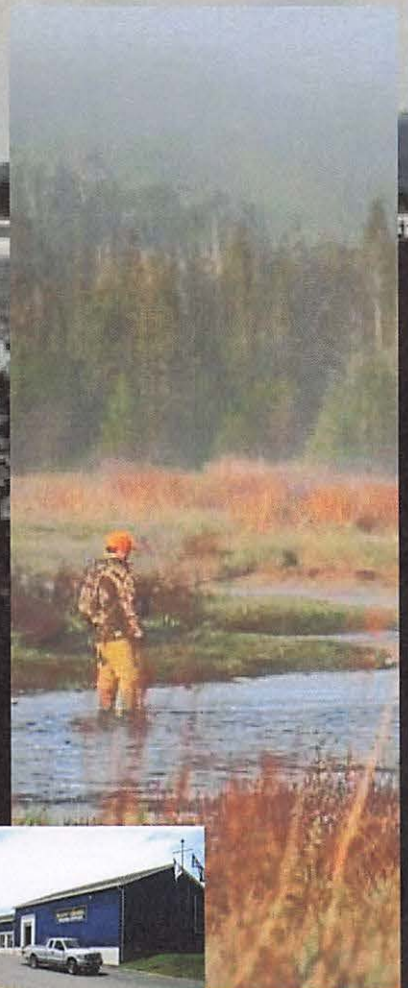
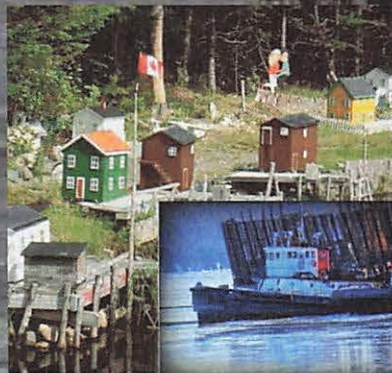


# The Town of Mount Carmel- Mitchell's Brook- St. Catherine's DEVELOPMENT REGULATIONS

2022-2032

Anna Myers, MCIP  
50 Monkstown Road  
St. John's, NL A1C 3T3  
(709) 763-3135



URBAN AND RURAL PLANNING ACT, 2000

RESOLUTION TO APPROVE

THE TOWN OF MOUNT CARMEL-MITCHELL'S BROOK-ST. CATHERINES  
DEVELOPMENT REGULATIONS, 2022-2032

Under the authority of section 16, section 17 and section 18 of the *Urban and Rural Planning Act 2000*, the Town Council of Mount Carmel-Mitchell's Brook-St. Catherine's:

- adopted the Development Regulations for the Town of Mount Carmel-Mitchell's Brook-St. Catherine's on the 12<sup>th</sup> day of December, 2022;
- gave notice of the adoption of the Development Regulations for the Town of Mount Carmel-Mitchell's Brook-St. Catherine's by publication in the newspaper, the Shoreline News on December 10, 2022 and January 6, 2023, publication on the Town Facebook page on January 4, 2023 and placed posters at the local general store, Post office, and Building store;
- set the 11<sup>th</sup> day of January 2023 at the Town Hall, for the public hearing to consider objections and submissions.

Now under the authority of Section 23 of the *Urban and Rural Planning Act 2000*, the Town Council of Mount Carmel-Mitchell's Brook-St. Catherine's approves the Development Regulations for the Town of Mount Carmel-Mitchell's Brook-St. Catherine's, amended as follows:

In section 3.13, remove the following provincial interests:

- ~~a. Agricultural Lease: The Agricultural lease is in the Resource zone where commercial agriculture is a permitted use; any future development in the vicinity of the Agriculture Lease must be referred to the Land Resources Stewardship Division ( Refer to 4.2.1);~~
- ~~b. Former Dump site referral buffer: A referral buffer of 1600 metres shall be shown as an overlay where applications for development shall be sent to the Pollution Prevention Division;~~
- ~~c. Quarry Referral Buffer: Within the 300 metres Quarry Buffer, development applications must be sent to the Mineral Lands Division for approval; in order to prevent conflict between non-compatible land uses~~

In regulation 4.1 (27) of the Development Regulations are amended as follows [deleted text shown in ~~strikeout~~ and new language in **bold font**:

**Scheduled Salmon River**

1. Council shall provide a 50-metre buffer along Salmonier River which is a scheduled salmon river and **shall designated zone** the shoreline as 'Conservation'.



In 4.2 Provincial Interests:

24. Ensure that forestry activities including harvesting, road building and silviculture, are not restricted within the Municipal Planning area and that they are conducted according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town; **Council will:**
- ~~Council shall~~ Ensure forestry activities proposed are compatible with the town plan, and that municipal interests are incorporated into the 5-Year plan as prepared by the Forest Service in consultation with the town. Furthermore, the town requires that annual operating plans be approved by council by permit (with conditions) as defined under the *Urban and Rural Planning Act, 2000*;
  - Ensure that forestry activities including harvesting, road building and silviculture, are guided by the zoning and policies defined in the Municipal Plan. Forestry activities will be guided according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town, and further conditions may be applied for the annual operations and defined by the town in order to issue a permit for development (includes forestry);

In 4.1 add :

**Federal Interest**

30. Council shall provide a 50-metre buffer along Salmonier River which is a scheduled salmon river and zone the shoreline as 'Conservation'.

SIGNED AND SEALED this 31 day of Dec., 2023

Mayor:

Edna Elaine Long Nash

Town Clerk:

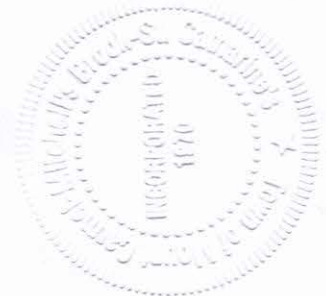
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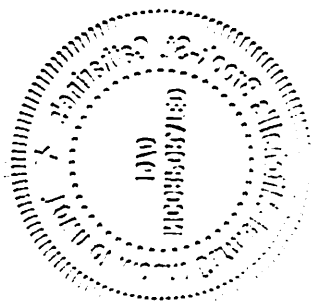
Development Regulations/Amendment

**REGISTERED**

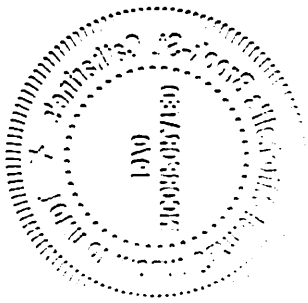
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(Council Seal)





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URBAN AND RURAL PLANNING ACT, 2000

RESOLUTION TO ADOPT

TOWN OF MOUNT CARMEL-MITCHELL'S BROOK-ST. CATHERINES

DEVELOPMENT REGULATIONS, 2022-2032

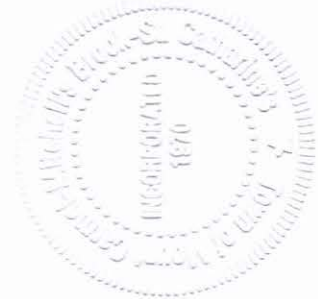
Under the authority of Section 16 of the *Urban and Rural Planning Act, 2000*, the Town Council of Mount Carmel-Mitchell's Brook-St. Catherine's adopts the Mount Carmel-Mitchell's Brook-St. Catherine's Development Regulations (2022-2032).

The Development Regulations (2022-2032) were adopted by the Town Council of Mount Carmel-Mitchell's Brook-St. Catherine's on the 12<sup>th</sup> day of December 2022.

Signed and sealed this 17<sup>th</sup> day of March, 2023.

Mayor: Celaine Nash

Town Clerk: J. Dean



Town seal

CANADIAN INSTITUTE OF PLANNERS (CIP) CERTIFICATION

I certify that the Town of Mount Carmel-Mitchell's Brook-St. Catherine's Development Regulations (2022-2032) have been prepared in accordance with the requirements of the *Urban and Rural Planning Act, 2000* of the Province of Newfoundland and Labrador.

Anna Myers

Anna Myers,

Member of Canadian Institute of Planners (MCIP)



## TABLE OF CONTENTS

1.0	AUTHORITIES AND RESPONSIBILITIES.....	1
1.1	APPLICATION .....	1
1.2	COMPLIANCE WITH FEDERAL AND PROVINCIAL LEGISLATION AND TOWN REGULATIONS.....	1
1.3	AMENDMENT TO DEVELOPMENT REGULATIONS .....	1
1.4	LEGAL EFFECT.....	2
1.5	DELEGATION OF AUTHORITY .....	2
2.0	ADMINISTRATION OF THE REGULATIONS.....	3
2.1	WHEN IS A PERMIT REQUIRED .....	3
2.2	APPLICATION FOR A PERMIT .....	4
2.2.1	Who can apply and how .....	4
2.2.2	Application Requirements for All Applications .....	5
2.2.3	Application Information Requirements for Discretionary Uses.....	5
2.2.4	Application Information Requirements for Planned Unit Developments.....	6
2.3	OPTIONS IF YOUR PROPOSAL DOES NOT FIT THE LAND USE ZONES OR DEVELOPMENT CONDITIONS/STANDARDS .....	7
2.3.1	Variances .....	7
2.3.2	Non-Conforming Uses or Non-Conforming Development.....	8
2.3.3	Amendment to Development Regulations.....	10
2.4	COUNCIL DECISION-MAKING .....	11
2.4.1	Discretionary Decision-making Powers of Council.....	11
2.4.2	Timely Decision-making.....	11
2.4.3	Deferment of Application: .....	11
2.4.4	Public Notice (Refer to Ministerial Development Regulations, Sections 13&15).....	11
2.4.5	Briefing Sessions.....	12
2.4.6	Approval-in-Principle.....	13
2.4.7	Approval of Development Permit.....	14
2.4.8	Permit responsibilities of the applicant.....	14
2.4.9	Temporary Use Permit.....	15
2.4.10	Correction of Errors and Remedial Work.....	15
2.4.11	Revoke Permit .....	15
2.4.12	Fee for Permit .....	15
2.4.13	Written Reasons for Refusing a Permit or Setting Conditions on a Permit.....	16
2.4.14	Refusal: Premature development .....	16
2.4.16	Register .....	16
2.5	SPECIAL CONDITIONS FOR DEVELOPMENT .....	17
2.5.1	Development Agreement .....	17
2.5.2	Planning Impact Analysis.....	17
2.5.3	Financial Guarantees by Developer .....	18
2.5.4	Service Levy .....	18
2.5.5	Require Land Conveyed for Public Work Purpose .....	19
2.5.6	Land for Park/Public Use in Subdivisions .....	19
2.5.7	Restoration of Land .....	19
2.6	ENFORCEMENT AUTHORITY .....	19
2.6.1	Delegation of Authority.....	19

2.6.2	Right of Entry .....	19
2.6.3	Enforcement Authorities .....	20
3.0	LAND USE ZONES AND LAND USE CLASS POLICIES .....	21
3.1	ZONES AND USE ZONE TABLES.....	21
3.1.1	Land Use Zones .....	21
3.1.2	Land Use Zone Tables: Permitted and Discretionary uses.....	22
3.1.2.1	Permitted Uses .....	22
3.1.2.2	Discretionary Uses.....	22
3.1.3	Accessory Uses and Accessory Building .....	22
3.1.4	Uses Not Permitted.....	22
3.1.5	Uses Permitted in All Land Use Zones.....	22
3.1.6	Development Conditions and Standards.....	23
3.2	RESIDENTIAL ZONE.....	24
3.3	MIXED DEVELOPMENT .....	26
3.4	COMMERCIAL ZONE .....	28
3.5	PUBLIC USE ZONE.....	29
3.6	INDUSTRIAL ZONE .....	30
3.7	RECREATION OPEN SPACE ZONE.....	31
3.8	CONSERVATION ZONE.....	32
3.9	RURAL ZONES .....	33
3.9.1	Rural-Mixed zone .....	33
3.9.2	Rural-Traditional use zone .....	34
3.9.3	Rural-Heritage zone.....	34
3.10	COMPREHENSIVE DEVELOPMENT AREA – MIXED DEVELOPMENT.....	35
3.11	COASTAL SHORELINE ZONE .....	36
3.12	CEMETERY ZONE .....	37
3.13	PROVINCIAL AND TOWN INTEREST OVERLAYS.....	38
4.0	LAND USE AND DEVELOPMENT DEFINITIONS AND CONDITIONS.....	39
4.1	PROVINCIAL & FEDERAL INTEREST REQUIREMENTS DEVELOPMENT.....	39
4.2	AGRICULTURE LAND USE CLASS.....	44
4.2.1	Commercial Agriculture: .....	44
4.2.2	Urban Agriculture .....	45
4.2.2.1	General Conditions: .....	45
4.2.2.2	Community Garden .....	45
4.2.2.3	Livestock and Poultry Conditions .....	45
4.2.2.4	Kennel .....	46
4.3	COMMERCIAL LAND USE CLASS.....	46
4.3.1	Amusement Establishment/Use.....	46
4.3.2	Amusement Park/Attraction.....	47
4.3.3	Auto Body Shop.....	47
4.3.4	Automotive Repair Shop.....	48
4.3.5	Automotive Sales and Service Establishment .....	48
4.3.6	Bar/Licensed Liquor Establishment.....	49
4.3.7	Building Supply Store.....	49
4.3.8	Campground, including RV campgrounds .....	50
4.3.9	Child Care-Non-residential (residential child care is under Home Business).....	51
4.3.10	Club and Lodge.....	51



4.3.11	Contractor, Limited (Small).....	51
4.3.12	Convenience Store.....	52
4.3.13	Custom Manufacturing Service and Sales (small/artisan).....	52
4.3.14	General Service/Repair Shop .....	53
4.3.15	Hotel or Inn .....	53
4.3.16	Marina .....	54
4.3.17	Medical or Dental Clinic/Office.....	55
4.3.18	Motel.....	55
4.3.19	Outdoor Market .....	56
4.3.20	Personal Service .....	56
4.3.21	Offices: Professional, Financial and Associated Support Services.....	56
4.3.22	Resort – Tourist Establishment.....	57
4.3.23	Restaurants .....	57
4.3.23.1	Take-Out.....	57
4.3.23.2	Full-Service Restaurant.....	58
4.3.23.3	Mobile Take-Out or Street Vendor .....	58
4.3.24	Retail.....	59
4.3.25	Service Station.....	59
4.3.26	Veterinarian Clinic.....	60
4.4	INDUSTRIAL LAND USE CLASS.....	60
4.4.1	Contractor, General.....	60
4.4.2	Energy Generation Facilities .....	61
4.4.3	Fishery Use .....	62
4.4.4	Forestry Activities .....	63
4.4.5	Industrial - General.....	63
4.4.7	Industrial - Light.....	65
4.4.8	Industrial Mall.....	65
4.4.9	Mineral Exploration.....	65
4.4.10	Mineral Working.....	67
4.4.11	Mining.....	68
4.4.12	Natural Resource-Related Uses .....	69
4.4.13	Salvage/Scrap Yard .....	69
4.5	CONSERVATION LAND USE CLASS .....	71
4.5.1	Environmental Protection .....	71
4.5.2	Open Space, Parks and Trails.....	71
4.6	PUBLIC/INSTITUTIONAL LAND USE CLASS.....	72
4.6.1	Cemetery.....	72
4.6.2	Institutional Use .....	73
4.6.3	Protective and Emergency Services.....	74
4.6.4	Public Gathering Places -Indoor .....	74
4.6.5	Public Gathering Places - Outdoor .....	74
4.6.6	Sports and Recreation Facilities.....	75
4.7	RESIDENTIAL LAND USE CLASS .....	76
4.7.1	Single Detached Dwelling.....	76
4.7.2	Semi-Detached Dwelling (Double dwelling) .....	76
4.7.3	Tiny Homes .....	76
4.7.4	Garden Suite .....	77
4.7.5	Townhouses.....	78
4.7.6	Mini-Home and Mobile Homes.....	79

4.7.7	<i>Apartment Building</i>	80
4.7.8	<i>Cottage</i>	80
4.7.9	<i>Group Home</i>	80
4.7.10	<i>Mobile Accommodation</i>	81
4.8	<b>PUBLIC INFRASTRUCTURE AND UTILITIES</b>	81
4.8.1	<i>Communications</i>	81
4.8.2	<i>Easement</i>	82
4.8.3	<i>Utilities</i>	82
5.0	<b>ACCESSORY USES &amp; ACCESSORY BUILDINGS AND HOME BUSINESSES</b>	84
5.1	<b>ACCESSORY USES</b>	84
5.1.1	<i>General Accessory Uses</i>	84
5.1.2	<i>Subsidiary Apartments</i>	84
5.2	<b>ACCESSORY BUILDINGS</b>	85
5.2.1	<i>Accessory Buildings – General</i>	85
5.2.2	<i>Accessory Buildings - Residential Use Classes (excluding Garden Suites – 4.7.2)</i>	86
5.2.3	<i>Accessory Buildings – Non-Residential</i>	87
5.2.3.1	<i>General</i>	87
5.2.3.2	<i>Trailers</i>	88
5.2.4	<i>Accessory building in any zone</i>	88
5.2.4.1	<i>Wharf/Boathouse/Slipway/Breakwater</i>	88
5.3	<b>HOME BUSINESS IN THE RESIDENTIAL LAND USE CLASS</b>	89
5.3.1	<i>General Home Business</i>	89
5.3.2	<i>Development Conditions for Specific Home Businesses</i>	92
5.3.2.1	<i>Bed and Breakfast</i>	92
5.3.2.2	<i>Boarding House</i>	92
5.3.2.3	<i>Home Care: Residential</i>	92
5.3.2.4	<i>Short-term Residential Rentals</i>	93
6.0	<b>BUILDINGS, LOTS, LANDSCAPING, BUFFERS, NUISANCE &amp; UNSIGHTLY DEVELOPMENT</b>	94
6.1	<b>BUILDINGS</b>	94
6.1.1	<i>National Codes and Regulations</i>	94
6.1.2	<i>Building Orientation and Quality</i>	94
6.1.3	<i>Heritage Building or Structure</i>	94
6.2	<b>LOT SITING</b>	94
6.2.1	<i>Lot Area</i>	94
6.2.2	<i>Unsubdivided Land</i>	95
6.2.3	<i>Lot Fronting on to a Public Street</i>	95
6.2.4	<i>Building Line and Setbacks (Refer to Appendix 1)</i>	95
6.2.5	<i>Flanking or Corner lots (double fronting lots)</i>	95
6.2.6	<i>Side Yards</i>	96
6.2.8	<i>Multiple Uses on One Lot</i>	96
6.2.9	<i>Outdoor Storage</i>	96
6.2.10	<i>Back Lots</i>	96
6.3	<b>LANDSCAPING, BUFFERS &amp; SOIL/QUARRY MATERIAL REMOVAL/DEPOSIT</b>	99
6.3.1	<i>General Requirements – Residential, Commercial and Industrial zones</i>	99
6.3.2	<i>Subdivisions</i>	99
6.3.3	<i>Buffers and Separation Distances Between Land Uses</i>	100
6.3.7	<i>Soil or Quarry Material Removal, Soil Deposit and Site Grading</i>	102
6.4	<b>PROHIBITION: NUISANCE, DANGER &amp; UNSIGHTLY DEVELOPMENT</b>	103

7.0	MUNICIPAL SERVICES, OFF-STREET LOADING, PARKING AND SIGNS .....	105
7.1	MUNICIPAL SERVICES .....	105
7.1.1	Streets and Access to streets .....	105
7.1.2	Municipal Services and Public Utilities .....	106
7.1.3	Storm Water Management.....	106
7.1.4	Effluents:.....	106
7.1.5	On-Site Services (Wells and onsite sanitary sewer systems).....	107
7.2	OFF-STREET LOADING REQUIREMENTS .....	107
7.3	PARKING .....	107
7.3.1	Parking Area Standards.....	107
7.3.2	Parking Development Plans .....	108
7.3.3	Off-Street Parking Requirements.....	108
7.3.4	Designated Mobility Impaired Parking Spaces .....	111
7.3.	SIGNS (ADVERTISEMENTS).....	111
7.3.1	Permit Required.....	111
7.3.1.1	Signs/Advertisements Exempt from Permit Requirement.....	111
7.3.1.2	Provincial Highway Sign Regulations, 1996 (under the Urban and Rural Planning Act, 2000) .....	112
7.3.1.3	Application for Permit.....	112
7.3.1.4	Signs/Advertisements Prohibited in Street Reservation .....	112
7.3.1.5	Permit Valid for Limited Period .....	112
7.3.1.6	Removal of Signs/Advertisements.....	112
7.3.1.7	Non-Conforming Uses.....	112
7.3.2	Sign Standards.....	113
7.3.2.1	Advertisements Relating to Onsite Uses .....	113
7.3.2.2	Advertisements Relating to Offsite Uses on Local Roads .....	113
8.0	SUBDIVISION OF LAND .....	115
8.1	SUBDIVISION STANDARDS.....	115
8.1.1	Subdivision Standards apply .....	115
8.1.2	Subdivisions standards do not apply .....	115
8.1.3	Permit Required.....	115
8.1.4	Public Notice .....	116
8.1.5	Subdivision Subject to Zoning.....	116
8.1.6	Subdivision Permit Subject to Considerations.....	116
8.1.7	Restriction on Sale of Lots.....	117
8.1.8	Building Permits Required.....	117
8.2	SUBDIVISION PERMIT REQUIREMENTS.....	117
8.2.1	Subdivision Development Agreement.....	117
8.2.2	Municipal Services to be Provided.....	117
8.2.3	Private Well water source: Groundwater Supply Assessment and Reporting.....	117
8.2.4	Fees, Service Levies and Land for Open Space .....	118
8.2.4.1	Subdivision Fees .....	118
8.2.4.2	Service Levies .....	119
8.2.4.3	Deposit of Securities .....	119
8.2.4.4	Land for Public Open Space.....	119
8.3	SUBDIVISION DESIGN STANDARDS.....	120
8.3.1	General Subdivision Design Standards.....	120
8.4	SUBDIVISION ENGINEERING STANDARDS.....	122
8.4.1	Engineer to Design Works and Certify Construction Layout .....	122
8.4.2	Developer to Pay Engineer's Fees and Charges .....	122

8.4.3	<i>Street Works May Be Deferred</i> .....	122
8.4.4	<i>Construction of Utilities</i> .....	123
8.4.5	<i>Structures in Street Reservation</i> .....	123
8.4.6	<i>Transfer of Streets and Utilities to Council (if appropriate)</i> .....	123
8.4.7	<i>Mini/mobile home park subdivision</i> .....	124
APPENDICES .....		125
APPENDIX 1: INTERPRETATION OF TECHNICAL PLANNING TERMS .....		127
APPENDIX 2: MINISTER'S DEVELOPMENT REGULATIONS.....		137
APPENDIX 3 – LAND USE ZONING MAP.....		147



## **1.0 AUTHORITIES AND RESPONSIBILITIES**

### **1.1 Application**

These Development Regulations apply to:

- all persons proposing to undertake a land use and/or development within the Municipal Planning Area boundary, whether residents or non-residents; and,
- the Mayor and Councillors and their delegates as they make land use and development decisions.

All development, including the subdivision/severance of land, carried out within the Municipal Planning Area must have a permit issued by Council in accordance with the Town Plan and these Development Regulations.

### **1.2 Compliance with Federal and Provincial legislation and Town regulations**

Even though an applicant may receive a municipal development permit, the applicant is responsible for ensuring compliance with all relevant federal and provincial legislation, regulations, policies and guidelines prior to commencing a land use or development approved under these Development Regulations. Council may require proof of compliance prior to approval. The applicant must undertake any requirements set out by the Town as conditions to approval of the permit. The applicant is also responsible for ensuring compliance with all other Town regulations.

### **1.3 Amendment to Development Regulations**

An amendment to the text of the Development Regulations and/or the Land Use Zoning Map which requires an associated amendment to the Plan must follow the amendment process set out in the *Urban and Rural Planning Act, 2000*.

An amendment may be requested by any person and the associated costs are borne by that person. The request shall be made to the Council.

An amendment to the text of the Development Regulations and/or the Land Use Zoning Map which **does not** requires an associated amendment to the Municipal Plan does not follow the full process set out in Sections 14-25 of the *Urban and Rural Planning Act, 2000*; however, section 14 public consultation is required as part of the Council review process. Council then must adopt the amendment by resolution of Council at a Regular Meeting of Council (open to the public). The Amendment must be submitted in the required form to the Department of Municipal and Provincial Affairs for Registration.

#### **1.4 Legal Effect**

Upon publication of the notice of registration of these Development Regulations in the Newfoundland and Labrador Gazette, the Development Regulations come into legal effect.

These Regulations may be cited as the “Town of Mount Carmel-Mitchell’s Brook-St. Catherine’s Development Regulations 2020”, prepared under the authority of Section 35 of the *Urban and Rural Planning Act, 2000* (hereinafter called ‘the Act’).

As required under Section 36 of the *Urban and Rural Planning Act, 2000*, the Ministerial *Development Regulations 03/01* are included in these regulations.

To assist interpretation of the Municipal Plan and Development Regulations, technical planning terms are found in Appendix 1. Note that the definitions from the *Urban and Rural Planning Act, 2000* and the (Minister’s) *Development Regulations 03/01*, cannot be amended by the Council.

#### **1.5 Delegation of Authority**

Under Section 109 (2) of the *Urban and Rural Planning Act, 2000*, a council may to appoint/designate an employee of Council to approve or reject applications to develop land in accordance with the plan and regulations and that employee may outline the conditions applicable to that development. Council shall make that designation in writing.

## **2.0 ADMINISTRATION OF THE REGULATIONS**

This Chapter deals with the administration of processing applications for proposed land use and developments. It outlines: when a permit is required, the process for making an application for a permit, the decision-making process by Council or its delegate, including the conditions and requirements that may be attached to the permit, the appeal process, and the enforcement responsibilities of the Council.

### **2.1 WHEN IS A PERMIT REQUIRED**

All development including the subdivision (severance) of land carried out within the Municipal Planning Area must have a permit issued by Council in accordance with these Regulations and any other by-law or regulation enacted by Council. These are defined in the *Urban and Rural Planning Act, 2000* as follows:

Development means

“...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use, or the intensity of use of land, buildings or premises and the

- i. making of an access onto a highway, road or way,
- ii. erection of an advertisement or sign,
- iii. construction of a building,
- iv. parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation,

and excludes the

- v. carrying out of works for the maintenance, improvement or other alteration of a building, being works which affect only the interior of the building or which do not materially affect the external appearance or use of the building,
- vi. carrying out by a highway authority of works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road reservation,
- vii. carrying out by a local authority or statutory undertakers of works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including the breaking open of street or other land for that purpose, and
- viii. use of a building or land within the courtyard of a dwelling house for a purpose incidental to the enjoyment of the dwelling house as a dwelling...”; and,

“Subdivision means the dividing of land, whether in single or joint ownership into 2 or more pieces for the purpose of development”. The requirements for subdivision development can be found in Section 8.

For further clarification, no land over which there is an existing structure shall be subdivided for the purpose of creating distinct title to different dwelling units unless;

- a. Each dwelling unit is entirely comprised within the new title and self-contained within the new lot with no common spaces or shared services,
- b. The fire separation for each dwelling unit is confirmed,
- c. A permit for the subdivision is first obtained from the Town.
- d. The subdivision must fully comply with all aspects of the Development Regulations including, but not limited to; definitions and land use zone requirements;
- e. A subsidiary apartment cannot be subdivided from the self-contained dwelling that it is constructed within.

## **2.2 APPLICATION FOR A PERMIT**

### **2.2.1 Who can apply and how**

An application for a *Permit* or for *Approval in Principle* shall be made only by the owner, or by a person authorized by the owner, to Council on such form as may be prescribed by Council.

Where Approval in Principle is granted under these Regulations, it shall be subject to the subsequent approval by Council of the details and conditions as listed in the Approval in Principle, which shall be received not later than one year from the issuance of the Approval in Principle. If the details and conditions are not received, and there is no request for an extension, then the Approval in Principle is void and the application is rejected.

Development is not permitted on un-subdivided land unless sufficient area is reserved to satisfy the yard and other allowances called for in the Use Zone in which it is located and the allowances shall be retained when the adjacent land is developed

Council shall, on request, supply to every applicant a copy of the application forms and a description of the plans, specifications, and drawings required to be provided with the application.

Council shall provide all available information to assist in the preparation of the application.



### **2.2.2 Application Requirements for All Applications**

An application for a Development Permit shall contain the information needed to satisfy the applicable requirements in these Regulations.

Every application shall include:

- a. such plans, specifications and drawings as Council may require;
- b. the permit fee required by Council; and,
- c. all information required to process the application in accordance with these Regulations, such information shall include at least the following:

For the proposed land, such information shall include at least the following:

- a. location of the site on a map;
- b. details of proposed use: type, size and scale of operation, landscaping;
- c. lot area, lot frontage, siting of structures;
- d. contours and significant natural features such as wetlands, watercourses, drainage channels, and slopes that exceed 15 percent, existing vegetation, trees, and any other environmentally sensitive features;
- e. existing streets, buildings, and land uses in the vicinity of the site;
- f. a conceptual layout of proposed streets, trails, and other major components of the development;
- g. proposed access/egress, parking, loading requirements;
- h. a landscaping plan, including buffers and/or separation distances;
- i. proposed water supply, waste disposal and storm water drainage services; and,
- j. a legal survey plan prepared by a registered Newfoundland and Labrador land surveyor.

Where the application involves a building, the following information shall be added to the lot information, as appropriate:

- i. siting of building on the lot, including building line setback and yards;
- ii. bulk and height, in terms of floor area and building height;
- iii. off-street parking, circulation, and loading, in terms of variables specified in Section 7.1;
- iv. proposed access/egress, parking, loading requirements;
- v. a landscaping plan and buffers (see Section 6.3)

### **2.2.3 Application Information Requirements for Discretionary Uses**

Discretionary Uses may only be considered for an application to develop where:

- a. the Discretionary Use is stated in the applicable Use Zone table (Chapter 3); and,
- b. Council has, at the applicant's expense, published a notice in a newspaper circulating in the area of the application and considered any representations or

submissions received in response to that advertisement. Council may notify the neighbouring property owners directly regarding the proposed discretionary use.

In addition to the information requirements for lots and buildings in 2.2.2, an application for a Discretionary Use shall contain the following information relating to Discretionary Uses involving operation of a business/service, if applicable:

- a. floor area to be used for Discretionary Use,
- b. number of employees employed on site, and
- c. hours of operation.

#### **2.2.4 Application Information Requirements for Planned Unit Developments**

**Definition:** Planned unit Development means an integrated planned development which may involve a single use class or mix of use classes of a mix of uses that responds to a unique market opportunity and involves special development standards not otherwise permitted in the zone. The most common example of a Planned unit Development is a vacant land condominium/bare strata development consisting of a contiguous area to be planned, developed, operated, and maintained as a single entity and containing one or more structures with common areas that belong to them, such as a box store complex, resort, multi-unit residential.

In addition to the information in 2.2.2, the following requirements shall apply to all proposed planned unit developments:

- a. Goals, objectives and land use policies for the development area;
- b. Identification of developable area of site, indicating site conditions such as poor drainage, steep slopes, flooding potential and rocky ground;
- c. Proposed siting of new buildings, or additions, including building area size, building height, and setback distances to property lines;
- d. Total number of buildings and building lot area coverage;
- e. Layout drawing of proposed parking area, total number and size of parking spaces and manoeuvring aisles, access and egress locations to parking area, provisions for bicycle parking where applicable, landscape screening for parking areas and storm water drainage management;
- f. Identification of outdoor amenity and open space and recreation areas;
- g. Identification of unenclosed storage areas and area size;
- h. Overview of landscaping treatment and approach for the site development.
- i. Phasing of the development;
- j. Street and servicing layout, including on-site road pattern and traffic and relation to surrounding community in conformance with Town standards;
- k. Indicate any issues related to the long-term maintenance of streets and other services;

- l. if required, an amendment to the Municipal Plan and Development Regulations for adoption by the Council.
- m. A Planned unit Development must front onto a public road and comply with use requirements of the Zone within which it is located.
- n. The provision of on-site services must meet requirement of provincial agencies, in particular, Water Resource Management Division and Digital Government and Service NL;
- o. Roads and services provided in a Planned unit Development whether they are publicly or privately owned, may be treated as if they were public roads, public services and public utilities for the purpose of approvals by the Authority and other agencies.

The Planned unit Development application would be reviewed by the Council according to its regular development approval process.

Within a Planned unit Development, the Council may also, at its discretion, approve the erection of dwellings which are designed to form part of a zero lot line development or other comprehensive layout which does not, with the exception of dwelling unit floor area, meet the requirements of the Use Zone Table, provided that the dwellings are designed to provide both privacy and reasonable access to natural daylight and the overall density within the layout conforms to the regulations and standards set out in the Use Zone Table apply where the layout adjoins other development.

## **2.3 OPTIONS IF YOUR PROPOSAL DOES NOT FIT THE LAND USE ZONES OR DEVELOPMENT CONDITIONS/STANDARDS**

### **2.3.1 Variances**

Where the proposed development does not comply with the development standards set out in the Use Zone Table for the zone in which the site occurs, Council may, in its discretion, vary the any numeric requirement in the applicable Use Zone Table to a maximum of ten percent (10%) if, in Council's opinion, compliance with the development standards would prejudice the proper development of the land, building, or structure in question or would be contrary to public interest. (the 10% is stipulated in the Minister's Regulations in Appendix 2 and cannot be amended by Council). The applicant may request the variance.

Council shall not allow a variance from development standards set out in the zone as set out in these Development Regulations if that variance, when considered together with other variances made or to be made with respect to the same land, building, or structure would have a cumulative effect that is greater than a ten percent (10%) variance even though the individual variances are separately no more than ten percent (10%);

Council shall not permit a variance from the development standards where the proposed use would increase the non-conformity of an existing development or would result in the creation of non-conformity of any existing legal development.

Where Council is to consider a proposed variance, Council shall give written notice of the proposed variance from development standards to all persons whose land is in the immediate vicinity of the land that is the subject of the variance and allow a minimum period of seven (7) days for response.

### **2.3.2 Non-Conforming Uses or Non-Conforming Development**

(Refer to Section 108(2) of the *Urban and Rural Planning Act 2000* and Sections 14, 15, 16 and 17 of the *Ministerial Development Regulations* found in Appendix 2)

The following excerpts set out the requirements for non-conforming uses.

Section 108(2) of the *Urban and Rural Planning Act 2000*:

““non-conforming use” means a legally existing use that is not. listed as a permitted or discretionary use for the use zone in which it is located or which does not meet the development standards for that use zone;” ...

**“108. (1)** Notwithstanding a plan, scheme or regulations made under this Act, the minister, a council or regional authority shall, in accordance with regulations made under this Act, allow a development or use of land to continue in a manner that does not conform with a regulation, scheme, or plan that applies to that land provided that the non-conforming use legally existed before the registration under section 24 of the plan, scheme or regulations made with respect to that kind of development or use.

(2) Notwithstanding subsection (1), a right to resume a discontinued non-conforming use of land shall not exceed 6 months after that discontinuance unless otherwise provided by regulation under this Act.

(3) A building, structure or development that does not conform to a scheme, plan or regulations made under this Act that is allowed to continue under subsection (1)

(a) shall not be internally or externally varied, extended or expanded unless otherwise approved by the minister or appropriate council, regional authority or authorized administrator;

(b) shall not be structurally modified except as required for the safety of the building, structure or development;

(c) shall not be reconstructed or repaired for use in the same non-conforming manner where 50% or more of the value of that building, structure or development has been destroyed;



- (d) may have the existing use for that building, structure or development varied by the appropriate council, regional authority or authorized administrator to a use that is, in their opinion more compatible with a plan and regulations applicable to it;
- (e) may have the existing building extended by the appropriate council, regional authority or authorized administrator where, in its opinion that extension is not more than 50% of the existing building;
- (f) where the non-conformance is with respect to the standards included in development regulations, shall not be expanded if the expansion would increase the non-conformity; and
- (g) where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the appropriate plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed.”

Excerpt - Sections 14, 15, and 16 of the *Ministerial Development Regulations 3/01*:

**“Residential non conformity**

14. A residential building or structure referred to in paragraph 108(3)(g) of the Act must, where being repaired or rebuilt, be repaired or rebuilt in accordance with the plan and development regulations applicable to that building or structure.

**Notice and hearings on change of use**

15. Where considering a non-conforming building, structure or development under paragraph 108(3)(d) of the Act and before making a decision to vary an existing use of that non-conforming building, structure or development, an authority, at the applicants expense, shall publish a notice in a newspaper circulating in the area or by other means give public notice of an application to vary the existing use of a non-conforming building, structure or development and shall consider any representations or submissions received in response to that advertisement.

**Non-conformance with standards**

16. Where a building, structure or development does not meet the development standards included in development regulations, the building, structure or development shall not be expanded if the expansion would increase the non-conformity and an expansion must comply with the development standards applicable to that building, structure or development.

**Discontinuance of non-conforming use**

17. An authority may make development regulations providing for a greater period of time than is provided under subsection 108(2) of the Act with respect to the time by which a discontinued non-conforming use may resume operation.”

If a non-conforming development or land use is discontinued after these Regulations came into legal effect, a right to resume a discontinued non-conforming use of land shall not exceed two years after the discontinuance occurred. For the purpose of this Regulation, discontinuance of a non-conforming use begins when any one of the following conditions is met:

- i. The building or use of land is clearly vacated or the building is demolished,
- ii. The owner or tenant has ceased paying business taxes for that use, and
- iii. The owner or tenant has stated in writing that the use has ceased.

### **2.3.3 Amendment to Development Regulations**

An amendment to these Development Regulations may be requested by any person and shall be submitted to the Council. This might also require an associated amendment to the Municipal Plan.

All costs for the amendment are to be borne by the person requesting the amendment, except when initiated by Council.

The amendment application shall be made by the property owner or a person operating under the owner's written consent. A copy of this written consent must accompany the application for an amendment to the text of the Development Regulations or rezoning of the Land Use Zoning Map.

The process for a Development Regulation Amendment is set out in Section 1.3.

Where a Plan amendment and/or Development Regulation amendment is required, all, or some, of the following criteria may be considered:

- a. all of the criteria listed in the policies of the Plan;
- b. the height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses;
- c. the location of vehicular access points the likely impact of traffic generated by the proposal on streets, pedestrian and vehicular safety, and on surrounding properties;
- d. the exterior design in terms of bulk, scale, and layout of buildings, and the integration of these uses with present and future land uses in the area;
- e. the potential impact of the development on surrounding natural features and heritage resources;
- f. constraints posed by the environment, including but not limited to locations where adverse effects from landfill sites, sewage treatment plants, methane gas, contaminated soils, noise, ground borne vibration, and rail safety may limit development;
- g. compliance of the proposed development with the provisions of the Town's Municipal Plan and Development Regulations; and,
- h. measures planned by the applicant to mitigate any adverse impacts on surrounding land uses and streets which have been identified as part of the Planning Impact Analysis.

An applicant for a proposed change in land use may be required to provide information and details on the development and its likely impacts.

## **2.4 COUNCIL DECISION-MAKING**

### **2.4.1 Discretionary Decision-making Powers of Council**

In considering an application for a permit to carry out development, Council shall take into account the policies expressed in the Municipal Plan and any further scheme, plan or Regulations pursuant thereto, and shall assess the general appearance of the development of the area, the amenity of the surroundings, availability of utilities, public safety and convenience, and any other considerations which are, in its opinion, material, and notwithstanding the conformity of the application with the requirements of these Regulations, Council may, in its discretion, and as a result of its consideration of the matters set out in this Regulation, approve with conditions or refuse the application.

### **2.4.2 Timely Decision-making**

Applications properly submitted in accordance with these Regulations which have not been determined by Council and on which a decision has not been communicated to the applicant within 90 days of the application being received by Council, shall be deemed to be refused.

### **2.4.3 Deferment of Application:**

Council may, with the written agreement of the applicant, defer consideration of an application.

An application properly submitted in accordance with these Regulations shall be determined within 90 days of the receipt thereof by Council or shall be deferred.

Council may defer decisions on an application for a Development Permit and/or an application for an amendment to these Regulations within a specified area where Council has directed that a planning study or other similar study pertaining to the future use and development of the specified area be undertaken.

An application may be withdrawn only on receipt of a written request from the applicant.

### **2.4.4 Public Notice (Refer to Ministerial Development Regulations, Sections 13&15)**

Council must, at the applicant's expense (Section 35 (1) of the *Urban and Rural Planning Act, 2000*), publish a notice in a newspaper circulating in the area of the application and

consider any representations or submissions received in response to that advertisement, for the following:

1. A ***change in a non-conforming use***; notice of an application to change a non-conforming use shall be by advertisement in a newspaper circulating in the area, and a minimum of seven (7) days shall be provided for persons to respond.
2. A proposed development is listed as a ***discretionary use on the Use Zone Table***; notice of an application regarding a proposed discretionary use be by advertisement in a newspaper circulating in the area, and a minimum of seven (7) days shall be provided for persons to respond.
3. A ***Planned unit Development*** is proposed; Council shall publish a notice in a newspaper circulating in the area or by other reliable means give public notice, and shall provide a minimum of fourteen (14) days for persons to respond;
4. ***If Council determines that the public should be notified of an application***; notice of the application shall be by advertisement in a newspaper circulating in the area, and a minimum of seven (7) days shall be provided for persons to respond;
5. A ***Planning Impact Analysis*** is proposed; Council shall publish a notice in a newspaper circulating in the area or by other reliable means give public notice, and shall provide a minimum of fourteen (14) days for persons to respond;
6. Notification regarding a ***variance*** shall be carried out as follows: written notice of a variance application shall be given directly to persons whose land is in the immediate vicinity of the land that is the subject of the variance who are likely to be affected (Minister's Development Regulations-see Appendix) and a minimum of seven (7) days shall be provided for persons to respond;

#### **2.4.5 Briefing Sessions**

Council may require a public meeting to be held in respect of any matter arising under these Regulations.

Council shall advertise or require the applicant to advertise the application by a minimum of one (1) advertisement in a newspaper circulating in the local area at least ten (10) calendar days prior to the holding of a briefing session where the application shall be discussed. If no newspaper is published due to events such as COVID, then alternative social media, posters in the community and mailouts to residents may be undertaken.



The newspaper notice shall: (a) contain a general description of the application; (b) specify the date set for the briefing session at which the application is to be discussed; (c) specify the date set for receipt of written representation on the application by the Town; (d) identify the place and time where the application can be viewed by the public; and (e) specify that Council shall cancel the briefing session if no written response is received by the deadline for the receipt of responses.

Council may make such effort as it deems reasonable to provide that written notices are mailed to the addresses of property owners, as identified on the current Town's assessment role, within a radius of at least 150 m from the application site, a minimum of fourteen (14) calendar days prior to a briefing session where such application is discussed.

Notes of the proceedings of the briefing session shall be recorded and these notes, together with any written representations, shall be considered by Council when it makes its decision on the matter, which is the subject of the briefing session.

An elected member of Council shall act as Chairperson of the briefing session.

#### **2.4.6 Approval-in-Principle**

Council may grant an approval-in-principle if it determines that the proposed development complies generally with the intent and purposes of the Municipal Plan and these Regulations.

Council shall attach to the approval-in-principle such conditions that it deems necessary to ensure the proposed development shall be in accordance with the Plan and these Regulations. It shall also outline such details that the applicant shall be required to address before a final development permit shall be granted.

An approval-in-principle shall be valid for a period of one (1) year and may be extended for one (1) additional year, up to a maximum of two (2) years.

Where approval-in-principle is granted under these regulations, it shall be subject to the subsequent approval by Council of the details and conditions as listed in the Approval in Principle, which shall be received not later than one year from the issuance of the Approval in Principle. *Approval-in-principle shall not constitute permission to commence development.* No form of development shall commence until Council has issued a proper development permit.

Where approval in principle is granted, approval of a final development permit shall be subject to the subsequent approval by Council of any details and conditions that were outlined in the approval in principle. If the details and conditions are not received, and

there is no request for an extension (as per 2.5.5) then the Approval in Principle is void and the application is rejected.

Council may revoke approval in principle if it determines that the applicant has changed the proposed development in a way that significantly alters the original intent of the application or has not adequately addressed conditions or details stipulated in the approval in principle.

A decision by Council on an application for an approval in principle can be appealed in accordance with Section 42 of the *Urban and Rural Planning Act, 2000*.

#### **2.4.7 Approval of Development Permit**

1. A written development permit issued by Council or its designated staff shall constitute permission to develop in accordance with these regulations, but such permission shall not relieve the applicant from full responsibility for obtaining all other permits or approvals prior to commencement of development and complying with all other regulations and statutes during development.
2. Council may attach conditions to a development permit to ensure compliance with the Municipal Plan and these Regulations, and the permit holder shall be responsible for full compliance with these conditions. When approving an application for a discretionary use, Council shall state in writing the basis for its approval.
3. A permit is valid for such period, not in excess of two years, as may be stated therein, and if the development has not commenced, the permit may be renewed for a further period not in excess of one year, but a permit shall not be renewed more than three years; except for Signs (see 7.2).
4. No person shall change the application for which a development permit was issued unless written approval of the change has been issued by Council.
5. A copy of the development permit, along with plans and specifications, shall be kept on the site until the development is completed.
6. A decision by Council on an application to undertake development can be appealed in accordance with Section 42 of the *Urban and Rural Planning Act, 2000*.

#### **2.4.8 Permit responsibilities of the applicant**

The applicant must meet the requirements of the Regulations and conditions attached to the permit to develop. Even though an applicant may receive a municipal development

permit, the applicant is responsible for ensuring compliance with all relevant federal and provincial legislation, regulations, policies and guidelines prior to commencing a land use or development approved under these Development Regulations. Council may require proof of compliance with federal or provincial requirements before issuing municipal approval.

#### **2.4.9 Temporary Use Permit**

**Definition:** A temporary use permit means a permit for a development or the use of land that is limited in scope, duration, and frequency and is allowed to operate on a short-term basis, such as, a temporary outdoor market.

**Conditions:**

1. At its discretion, Council may issue a development permit for a temporary use, which must comply with the Municipal Plan and these Regulations.
2. The permit may be for a period not exceeding 1 year of continuous occupation, and may be extended at the request of the applicant for 1 additional year, up to a maximum of 2 years.
3. The permit may be issued for a shorter period of time on an annual basis

#### **2.4.10 Correction of Errors and Remedial Work**

The approval of any plans or drawings or the issuance of a Development Permit or permit shall not prevent Council or any officer from thereafter requiring the correction of errors or from ordering the cessation of, or remedial work on any development being carried out in the event that the same is in violation of these or any other regulations or statutes.

#### **2.4.11 Revoke Permit**

Council or any designated officer may revoke an approval and any subsequent permits for (1) failure by the holder, to comply with these Regulations or any condition attached to the permit or (2) where the permit was issued contrary to the applicable regulations or (3) was issued on the basis of incorrect information; or was issued in error.

#### **2.4.12 Fee for Permit**

Council may charge a fee for a development permit in accordance with the annual schedule of fees adopted by Council.

#### **2.4.13 Written Reasons for Refusing a Permit or Setting Conditions on a Permit**

1. Council shall, when refusing to issue a permit or attaching conditions in writing to a permit:
  - a. state the reasons for refusal and the setting of conditions; and,
  - b. advise the applicant of their right to appeal in accordance with Section 42 of the *Urban and Rural Planning Act, 2000*;
  - c. provide the decision in writing.
2. Where a Development Permit application for a land or building development or for an amendment to the Development Regulations has been effectively denied by a resolution of Town Council, application for the same development, building or amendment shall not be considered within 12 months of the date of the refusal.

#### **2.4.14 Refusal: Premature development**

No permit shall be issued for development within the Municipal Planning Area when:

1. in the opinion of Council, it is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or being beyond the natural development of the area at the time of application,  
UNLESS
2. the applicant contracts to pay the full cost of construction of the services deemed necessary by Council and such cost shall attach to and upon the property in respect of which it is imposed.

#### **2.4.15 Appeal**

The person to whom a Town's decision applies shall have the right to appeal that decision in accordance with the provisions of Sections 42 to 46 of the *Urban and Rural Planning Act, 2000* and Sections 5 to 11 of the Development Regulations under that Act.

The applicant must be informed of the right to appeal in the letter of refusal.

#### **2.4.16 Register**

Council shall keep a register of all applications for development and shall enter therein Council's decision upon each application and the result of any appeal from that decision.

## **2.5 SPECIAL CONDITIONS FOR DEVELOPMENT**

### **2.5.1 Development Agreement**

**Definition:** A development agreement is a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that shall govern development of the property.

These agreements can specify various elements of the development process ranging from phasing of a larger comprehensively planned community, to tax-sharing for retail development, to critical infrastructure responsibilities. Development agreements are sometimes used in combination with a Planned unit Development (Section 2.5.1), or a Development Scheme, Section 29 of the *Urban and Rural Planning Act, 2000*, in the form of a binding agreement that specifies the negotiated terms of the development, but these tools may also be used independently.

Where a Development Agreement is required as a condition of a Development Permit or approval-in-principle, the Development Agreement set out the terms specific to that agreement and shall be signed by the applicant and Council within one year of the approval granted by Council.

Development cannot proceed until all conditions of the Development Permit are met and the Development Agreement is signed by the applicant and Council.

### **2.5.2 Planning Impact Analysis**

Council may require a Planning Impact Analysis to evaluate any proposed land use, development and/or situation that affects the implementation of policies contained in the Municipal Plan.

A Planning Impact Analysis (PIA) may be required by Council to evaluate applications to determine the appropriateness of a proposed change in land use, and to identify potential issues and provide proposals for mitigation. The PIA shall document the criteria used in the application review process.

The Terms of Reference for a Planning Impact Analysis shall be approved by Council prior to its execution and shall become an integral part of the report itself. The PIA shall be prepared by qualified individuals/consultants. The report and any supporting studies may be prepared at the expense of the applicant, at Council's discretion. The report shall identify significant impacts, evaluate their importance, and recommend a Mitigation Plan indicating measures of control or mitigation, where appropriate.

Prior to the approval of a Planning Impact Analysis, Council shall provide adequate time for a public review of the report, using the procedures for public notification as outlined in Section 2.5.3.

### **2.5.3 Financial Guarantees by Developer**

Council may require a developer, before commencing a development, to make such financial provisions and/or enter into such agreements as may be required to guarantee the payment of service levies, ensure site reinstatement, and to enforce the carrying out of any other condition attached to a permit.

The financial provisions may be made in the form of:

- a. a cash deposit from the developer, to be held by Council;
- b. a security or guarantee by a bank, or other institution acceptable to Council, for expenditures by the developer;
- c. a performance bond provided by an insurance company or a bank, or;
- d. an annual contribution to a sinking fund held by Council.

The financial guarantee shall be returned when the site has been restored and any conditions attached to the development permit have been carried out to Council's satisfaction.

### **2.5.4 Service Levy**

Council may require a developer to pay a service levy where development is made possible or where the density of potential development is increased, or where the value of real property is enhanced by the carrying out of public works either on or off the site of the development (Section 149 (2) *Municipalities Act, 1999*).

A service levy shall not exceed the cost, or estimated cost, including finance charges to Council of constructing or improving the public works referred to above that are necessary for the real property to be developed in accordance with these Regulations.

A service levy may be assessed on the real property based on: (a) the amount of real property benefited by the public works related to all the real property so benefited, and (b) the density of development made capable or increased by the public work.

Council may require a service levy to be paid by the owner of the real property; (a) at the time the levy is imposed, (b) at the time development of the real property commences, (c) at the time development of the real property is completed, or (d) at such other time as Council may decide.

#### **2.5.5 Require Land Conveyed for Public Work Purpose**

A Council may, for a development that is not involving a subdivision, require a portion of the land to be developed to be conveyed to the Town for a public purpose where public works are required to accommodate the proposed for development.

#### **2.5.6 Land for Park/Public Use in Subdivisions**

Council may require the dedication of a percentage of the land area of any subdivision or other development not more than 10% to be developed as park land or other public use, and such land shall be conveyed to Council in accordance with Section 37 of the *Urban and Rural Planning Act, 2000*. The Town may consider cash in lieu as well.

#### **2.5.7 Restoration of Land**

Where the use of a site is discontinued, the intensity of its use is decreased, a development permit has been revoked or has expired, or a temporary development permit has expired, Council may order the developer, the occupier of the site, the owner, or all of them to restore the site, remove all or any buildings or erections, cover or fill all wells or excavations, and close all or any accesses, or to do any or all of these things, as the case may be, and the developer, occupier or owner shall carry out the order of Council and shall put the site in a clean and sanitary condition to Council's satisfaction.

### **2.6 ENFORCEMENT AUTHORITY**

#### **2.6.1 Delegation of Authority**

The *Urban and Rural Planning Act, 2000* provides for delegation of enforcement responsibilities under Section 109, where, an employee of a council may issue an order under the section (see below). An order made by an employee shall be confirmed by a majority vote of the members of the council present at the next meeting of that Council after the order is made and if the order is not confirmed in this manner, it shall be considered to be cancelled.

#### **2.6.2 Right of Entry**

Council or an officer may enter upon any public or private land and may at all reasonable times enter any development or building upon the land for the purpose of making surveys or examinations or obtaining information relative to the carrying out of any development, construction, alteration, repair, or any other works whatsoever which Council is empowered to regulate.

### **2.6.3 Enforcement Authorities**

1. Where it is determined that a use of land or development is contrary, or apparently contrary, to the Municipal Plan and Development Regulations, Council may initiate enforcement measures by issuing a stop work order.
2. A stop work order requires that person to stop the development or work connected therewith pending the final adjudication in any prosecution arising out the of the development.
3. Every inspector shall keep a record of any violation of these Regulations and report that violation to Council.
4. A person who does not comply with an Order is guilty of an offence under the provisions of the *Urban and Rural Planning Act, 2000*.



### **3.0 LAND USE ZONES AND LAND USE CLASS POLICIES**

#### **3.1 ZONES AND USE ZONE TABLES**

##### **3.1.1 Land Use Zones**

1. The Municipal Planning Area is divided into Land Use Zones which are shown on the Land Use Zoning Maps attached to, and forming part of, these Regulations. For each zone, the intent and governing policies are set out in Chapter 3 of the Municipal Plan.
2. The boundaries of the Use Zones shown on the Land Use Zoning Maps are general only and, except where they coincide with roads, shorelines, or other prominent physical features, are not intended to define exact limits. No Development Regulation amendment shall be required in order to accommodate minor adjustments of the Use Zone boundaries.
3. Other than such minor boundary adjustments, no development shall be permitted that does not conform to the Use Zone delineated on the Land Use Zoning Maps.
4. Where there is uncertainty regarding the existence of a watercourse identified on the zoning map, this can be confirmed in the field. If it is determined that the watercourse does not exist, the area in question shall be treated as if it is occurring within the surrounding zone.
5. The following zones were developed to reflect the needs of the Town of Mount Carmel-Mitchell's Brook-St. Catherine's. The Municipal Plan states the Intent and Policies for each of the land use classes. The Development Regulations enable the implementation of these policies through the following zones:
  1. Residential
  2. Mixed Development
  3. Commercial
  4. Public Use
  5. Industrial
  6. Recreation Open Space
  7. Conservation
  8. Rural: Rural-Traditional; Rural-Heritage; and Rural-Mixed
  9. Comprehensive Development Area-Mixed Development
  10. Coastal Shoreline
  11. Cemetery
- 6 Provincial Interest Overlays are indicated on the Land Use Zoning maps (Refer to 3.13):
  - Agricultural Development Area
  - Endangered Plants
  - Cottage Planning Area 019-99-E

### **3.1.2 Land Use Zone Tables: Permitted and Discretionary uses**

This Chapter provides a Use Zone Tables which sets out the permitted, and discretionary uses for each Zone. The standards, requirements and conditions applicable to these Uses are set out in an associated Site Development Standards table, conditions, with reference to Chapters 4, to 7. Sections 2.4.1 and 2.4.14 provide Council with discretion regarding decisions for both permitted and discretionary uses.

#### **3.1.2.1 Permitted Uses**

Subject to these Regulations, Permitted Uses set out in the Use Zone Table shall be permitted by the Council in that Use Zone provided that it meets the development standards and requirements of the Development Regulations.

#### **3.1.2.2 Discretionary Uses**

The discretionary uses listed in the Use Zone Tables may be permitted at the discretion of Council, provided that they are complimentary to uses within the permitted use class, or that their development shall not inhibit or prejudice the existence or the development of such uses. (Refer to the Development Standards set out in Chapters 3, 4, 5, 6 and 7).

Council must be satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest.

Council is required to provide public notice of the application in accordance with Provision 2.4.4 and has considered any objections or representations which may have been received on the matter.

### **3.1.3 Accessory Uses and Accessory Building**

A permit is required for accessory uses and accessory buildings. Definitions and examples of an accessory use and accessory building is provided in Chapter 5.

### **3.1.4 Uses Not Permitted**

Uses that are not listed as Permitted or Discretionary Use on a Use Zone Table shall not be permitted in that Use Zone.

### **3.1.5 Uses Permitted in All Land Use Zones**

The following uses shall be permitted in all land use zone.

1. Environmental protection uses (Section 4.5.1);
2. Open space/park & trail uses (Section 4.5.2);
3. Mineral exploration not classed as 'Development' (Section 4.4.9);

4. Development associated with public infrastructure and municipal services, including utilities (Section 4.8);
5. Accessory use: Wharf/boathouse/slipways/breakwater, subject to 5.2.4.1 where they are accessory to a principal use;
6. Accessory Uses and Accessory Buildings (Section 5.o) provided the buildings are clearly incidental and complimentary to the main building character, size and use.

### **3.1.6 Development Conditions and Standards**

- a. All Development within the Municipal Planning Area must conform to:
  - a. Policies set out in the Municipal Plan;
  - b. Development standards and conditions set out in the Development Regulations;
  - c. Standards set out in the National Building Code and ancillary codes (plumbing, electrical, etc.);
  - d. Any other municipal regulation or bylaw in force in the Municipal Planning Area regulating or controlling development, conservation, heritage, fences, and use of land and buildings under the *Municipalities Act, 1999*;
  - e. Requirements of Federal and Provincial legislation, regulations, policies and guidelines.
- b. If Council is aware that a proposed development may not comply with Provincial or Federal legislation, it may require the applicant to provide confirmation that necessary government approvals have been obtained before issuing a development permit.
- c. If Council deems that a proposed development may trigger the requirements of the *Environmental Assessment Act, 2002*, the proponent shall be advised to consult with the Environmental Assessment Division and a development permit cannot be issued until this process is complete.
- d. Where these Regulations are more stringent than Provincial or Federal legislation, these Regulations shall apply.
- e. If the proposed development is not a use that is a permitted or discretionary use in the Zone where the land is located; then, the applicant may consider an application to rezone the property.
- f. A permit is required from Digital Government and Service NL for onsite septic and wells.

### 3.2 RESIDENTIAL ZONE

USE ZONE TABLE: RESIDENTIAL	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> <li>- Single detached dwelling (4.7.1)</li> <li>-Semi-detached (double) dwelling (4.7.2)</li> <li>-Subsidiary apartment</li> <li>- Home businesses-(5.3.1) only those set out in Condition 3-all others are discretionary uses</li> <li>-Uses set out in 3.1.5</li> </ul>	<ul style="list-style-type: none"> <li>-Townhouse (4.7.5)</li> <li>-Garden Suite (4.7.4)</li> <li>-Mini-homes (4.7.6 (a))</li> <li>-Apartment building (4.7.7)</li> <li>-Group Home (4.7.9)</li> <li>-Home businesses-(5.3.1) those listed in Condition 4</li> <li>-Convenience store (4.3.12)</li> <li>-Urban agriculture (4.2.2)</li> <li>-Public Gathering Places-Indoor (4.6.4)</li> <li>-Energy generating facility – residential only (4.4.2)</li> </ul>

SITE DEVELOPMENT STANDARDS: RESIDENTIAL				
Standards	Single Dwelling		Double Dwelling	
	No services provided	One service: water	No services provided	One service: water
<b>Minimum</b>				
Lot area (square metres) See Condition 2	1860	1400	3720	2800
Frontage (metres)	30	23	30	30
Building Line Setback (metres)	8	8	8	8
Side yard Width (metres)	5	5	3	3
Side yard, Flanking (metres)	15	15	15	15
Rear yard Depth (metres)	15	15	6	6
<b>Maximum</b>				
Height (metres)	10	10	10	10

#### Conditions

- 1) Development must conform to the requirements of Section 3.1.6.
- 2) Onsite servicing must meet requirements of Digital Government and Service NL.  
Note: For lots where duplexes are proposed the lot size shall be two times the size required for a single-family residence;

3) Home business permitted uses include:

- i. Professions, such as an accountant, architect, auditor, engineer, realtor, insurance agent, planner, lawyer;
- ii. Artisan and other home crafts;
- iii. Any business applying for only a phone/fax/internet service

4) Home business as a discretionary use include:

- i. Food preparation for catering services and baking;
- ii. Music and dance lessons and educational tutoring
- iii. Personal service that do not disrupt the residential character of the neighbourhood, such as a hairdressing, tailor, photographer, pet groomer, caterer's establishment, shoe repair, dressmaking, sewing repairs and tailor shop, small appliance, clock/watch, bicycle, ski and snowboard and computer repair, locksmiths, manicurists;
- iv. Care services, such as child care, or home-care; and similar occupations or businesses.
- v. Art gallery and framing shop;
- vi. Pet grooming services;
- vii. Bed and Breakfasts;
- viii. Boarding House
- ix. Home Care-Residential
- x. Furniture repair and upholstery;
- xi. Sale of bedding plants and trees grown on the same lot

### 3-3 MIXED DEVELOPMENT

USE ZONE TABLE: MIXED DEVELOPMENT	
PERMITTED USES	DISCRETIONARY USES
<p>-All Residential Land Use Class</p> <p>All Commercial Land Use Class (4.3): <b>EXCEPT</b></p> <p>Amusement Park/Attraction, Campgrounds, Resort</p> <p>-Home businesses-(5.3.1) only those set out in Condition 5-all others are discretionary uses</p> <p>-Uses set out in 3.1.5</p>	<p>-Public Gathering – Indoor (4.6.4)</p> <p>-Home businesses-(5.3.1) those listed in Condition 6</p>

#### Development Standards

- 1) For Residential development, the standards in the Residential zone apply;
- 2) For Commercial development, the standards in the Commercial zone apply;
- 3) Development must conform to the requirements of Section 3.1.6.
- 4) Onsite servicing must meet requirements of Digital Government and Service NL
- 5) Home business permitted uses include:
  - a. Professions, such as an accountant, architect, auditor, engineer, realtor, insurance agent, planner, lawyer;
  - b. Artisan and other home crafts;
  - c. Any business applying for only a phone/fax/internet service
- 6) Home business as a discretionary use include:
  - a. Food preparation for catering services and baking;
  - b. Music and dance lessons and educational tutoring
  - c. Personal service that do not disrupt the residential character of the neighbourhood, such as a hairdressing, tailor, photographer, pet groomer, caterer's establishment, shoe repair, dressmaking, sewing repairs and tailor shop, small appliance, clock/watch, bicycle, ski and snowboard and computer repair, locksmiths, manicurists;
  - d. Care services, such as child care, or home-care; and similar occupations or businesses.
  - e. Art gallery and framing shop;
  - f. Pet grooming services;
  - g. Bed and Breakfasts;

- h. Boarding House
- i. Home Care-Residential
- j. Furniture repair and upholstery
- k. Sale of bedding plants and trees grown on the same lot

### 3.4 COMMERCIAL ZONE

USE ZONE TABLE : COMMERCIAL ZONE	
PERMITTED USES	DISCRETIONARY USES
- Commercial Land Use Class (4.3): All Uses, <b>EXCEPT</b> Amusement Park/Attraction (4.3.1), Campgrounds (4.3.8), Resort (4.3.22) -Uses set out in 3.1.5	-Public Gathering – Indoor (4.6.4)

DEVELOPMENT STANDARDS: COMMERCIAL USE	
<b>Minimum Standards</b>	
Front yard (building line) (metres)	At the discretion of Council
Side yard (metres):	1 - 5 at the discretion of Council
Flanking yard (metres):	4
Rear yard (metres):	5
<b>Maximum Standards</b>	
Height (metres)	15

#### Condition

- 1) Development must conform to the requirements of Section 3.1.6;



### 3.5 PUBLIC USE ZONE

USE ZONE TABLE: PUBLIC USE	
PERMITTED USES	DISCRETIONARY USES
<i>-Institutional/Public Uses – ALL (4.6)</i> <i>-Public Gathering-Indoor (4.6.4)</i> <i>-Uses set out in 3.1.5</i>	<i>-Club and lodge (4.3.10)</i> <i>-Outdoor Market (4.3.22)</i>

DEVELOPMENT STANDARDS: PUBLIC USE	
Minimum Standards in Metres (m):	
Frontage (metres)	15
Front yard (building line) (metres)	8
Side yard (metres)	5 or 2.4 at the discretion of
Flanking yard (metres)	8
Rear yard (metres)	15
Maximum Standards	
Height (metres)	18
Coverage (%)	45%

#### Conditions

- 1) Development must conform to the requirements of Section 3.1.6
- 2) Institutional uses shall be encouraged to locate on arterial and collector roads.
- 3) All Public/Institutional developments shall provide information regarding access/egress and on-site parking and loading details.

### 3.6 INDUSTRIAL ZONE

USE ZONE TABLE INDUSTRIAL	
PERMITTED USES	DISCRETIONARY USES
<i>-Industrial-General (4.4.5)</i> <i>-Uses set out in 3.1.5</i>	<i>-Industrial-Heavy and Hazardous (4.4.6)</i> <i>-Salvage/Scrap Yard (4.4.3)</i>

- 1) Development must conform to the requirements of Section 3.1.6
- 2) All industrial uses shall provide information regarding access/egress and on-site parking and loading details.

### 3.7 RECREATION OPEN SPACE ZONE

USE ZONE TABLE: RECREATION OPEN SPACE	
PERMITTED USES	DISCRETIONARY USES
<i>-Open Space, Parks and Trails (4.5.2)</i> <i>-Uses set out in 3.1.5</i>	<i>-Public gathering places-outdoor (4.6.5)</i> <i>-Restaurant – Mobile Take Out, Street Vendor only (4.3.23.3)</i> <i>-Outdoor Market (4.3.19)</i>

#### Conditions

- 1) Development must conform to the requirements of Section 3.1.6;
- 2) Development standards for Recreation Open Space are at the discretion of Council;

### 3.8 CONSERVATION ZONE

USE ZONE TABLE : CONSERVATION	
PERMITTED USES	DISCRETIONARY USES <i>Refer to Condition 3</i>
- <i>Environmental Protection (4.5.1)</i> - <i>Uses set out in 3.1.5</i>	- <i>Open Space, Parks and Trails (4.5.2)</i> - <i>Forest activities-domestic harvest only (4.4.4)</i> - <i>Fishery use (4.4.3)</i> - <i>Mineral exploration-not development (4.4.9)</i> - <i>Marina (4.3.6)</i> - <i>Mobile accommodation</i>

#### Conditions

- 1) Development must conform to the requirements of Section 3.1.6;
- 2) Any development within a specified distance of a designated trail or water course shall be reviewed to ensure that development does not negatively impact such trail or watercourse and the property owner may be required by the Town to provide a buffer
- 3) Uses must comply with provincial interests as set out in Water Resource Management Division Policy for Shore Water zoning and Policy for Flood Plain Management.

### 3.9 RURAL ZONES

#### 3.9.1 Rural-Mixed zone

USE ZONE TABLE : RURAL-MIXED ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"><li>-Commercial Agriculture (4.2.1)</li><li>-Forestry Activities (4.4.7)</li><li>-Mineral Working (4.4.10)</li><li>-Contractor- General (4.4.1)</li><li>- Protective and Emergency Services (4.6.3)</li><li>-Resort (4.2.22), including interpretation centre</li><li>-Cemetery (4.6.1)</li><li>-Campground (4.3.8)</li><li>-Cottage (see Condition 4)</li><li>-Uses set out in 3.1.5</li></ul>	<ul style="list-style-type: none"><li>-Outdoor Market (4.3.19)</li><li>-Natural Resource-Related Uses (4.4.25)</li><li>-Public Gathering – Outdoor (4.6.5)</li><li>-Amusement Park/Attraction (4.3.1)</li><li>-Salvage/scrap yard (4.4.13)</li><li>-Service Station (4.3.29)</li><li>-Kennel (4.2.2.4)</li><li>-Marina (4.3.16)</li><li>-Residential: (1) Single detached dwelling only in association with commercial agriculture</li></ul>

#### Conditions

- 1) Development must conform to the requirements of Section 3.1.6;
- 2) Any applications within the Agricultural Development Area must be referred to the Land Stewardship Division;
- 3) The Development standards are at the discretion of Council.
- 4) No Cottages applications are to be accepted in the Cottage area overlay (Crown Lands-Land Management Division) as shown on the Land Use Zoning map. All other development applications shall be referred to the Land Management Division.

### 3.9.2 Rural-Traditional use zone

USE ZONE TABLE: RURAL-TRADITIONAL USE ZONE	
PERMITTED USES	DISCRETIONARY USES
<i>-Commercial Agriculture (4.2.1) (See Condition 1 below)</i> <i>-Forestry Activities (4.4.7)</i> <i>-Cottage (4.7.6))</i> <i>-Cemetery (4.6.1)</i> <i>-Uses set out in 3.1.5</i>	<i>-Residential: (1) Single detached dwelling only in association with a permitted use (4.7.2)</i>

- 1) Only commercial agriculture identified by the Land Stewardship Management Division would be considered in the Rural-Traditional use zone.

### 3.9.3 Rural-Heritage zone

USE ZONE TABLE: RURAL-HERITAGE ZONE	
PERMITTED USES	DISCRETIONARY USES
<i>-Forestry Activities (4.4.7) (See Condition 1 below)</i> <i>-Uses set out in 3.1.5</i>	<i>-Resort (4.3.22) – see Condition 2 below</i> <i>-Public Gathering – Outdoor (4.6.5)</i>

#### Conditions:

- 1) Forestry activity is only allowed according to the Five-Year Forestry Management Plan;
- 2) Resort development is restricted to heritage interpretation type facilities only;

### 3.10 COMPREHENSIVE DEVELOPMENT AREA – MIXED DEVELOPMENT

USE ZONE TABLE COMPREHENSIVE DEVELOPMENT AREA (CDA) – MIXED DEVELOPMENT	
PERMITTED USES	DISCRETIONARY USES
-Non-conforming uses (2.4.3) -Uses set out in 3.1.5	

#### Conditions:

- 1) The lands zoned as Comprehensive Development Area represent lands which have development potential; however, as there is no schematic design showing the primary road network and environmental development capability of the land, it is premature to zone these lands for development.
- 2) It is intended that this area is suitable for mixed development which may include a combination of residential development and commercial development due to the frontage on Route 90, the Irish Loop.
- 3) No new development can take place until a comprehensive plan, such as a subdivision layout (Chapter 9), has been prepared indicating road access, lot layout, proposed servicing and zoning.
- 4) An environmental and archaeological assessment may additionally be required by Council to identify which lands should be preserved and protected before determining the developable area of any CDA.

### 3.11 COASTAL SHORELINE ZONE

USE ZONE TABLE COASTAL SHORELINE ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"><li>- <i>Environmental Protection (4.5.1)</i></li><li>- <i>Mobile accommodation (4.7.10)</i></li><li>- <i>Uses set out in 3.1.5</i></li></ul>	<ul style="list-style-type: none"><li>- <i>Open Space, Parks and Trails (4.5.2)</i></li><li>- <i>Marina (4.3.6)</i></li></ul>

#### Conditions

- 1) Development must conform to the requirements of Section 3.1.6;
- 2) Any development within a specified distance of a designated trail or water course shall be reviewed to ensure that development does not negatively impact such trail or watercourse and the property owner may be required by the Town to provide a buffer.
- 3) Pending water and sewer approvals from Digital Government and Service NL, if required, the lot size shall be at the discretion of Council; however, all lots must have road access for emergency service vehicle access and a minimum distance of 4 metres between mobile accommodations;
- 4) Uses must comply with Provincial interests as set out in Section 4.1.8-Water Body Protection.



### 3.12 CEMETERY ZONE

USE ZONE TABLE CEMETARY ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> <li>-Cemetery (4.6.1)</li> <li>-Uses set out in 3.1.5</li> </ul>	

### **3.13 PROVINCIAL AND TOWN INTEREST OVERLAYS**

Wherever possible, the requirements of the federal and provincial agencies have been incorporated into the Development Regulation standards; however, given that these change over time and other exigencies, applicants are responsible to ensure that all appropriate federal and provincial permits and approvals have been secured prior to the use and/or development of land within the municipal planning area boundary.

Where available, the Land Use zoning mapping shows overlays of land use designations and buffers required by provincial or federal legislation as identified in the ILUC report #1751. These are set out in Section 3.13, Provincial Interest Overlays. .

The following Provincial Interest overlays are shown on the Land Use Zoning map. The Provincial Government Agency requirement regarding these interests is indicated below:

- Endangered Plants: Location of Endangered plants under the *Endangered Species Act, 2001* shall be shown as an Overlay point and all development applications in the vicinity of these identified sites must be referred to the Wildlife Division;
- Cottage Planning Area 019-99-E (Minute of Council 109-83): No Cottages applications are to be accepted in the Cottage area overlay as shown on the Land Use Zoning map. All other development applications shall be referred to the Land Management Division.
- Agricultural Development Area (Markland) as designated under the Lands Act, 1990: any applications for development in the ADA must be referred to the Lands Resources Management Division for approval.

#### **Town Interest Overlay**

The Town interest overlay consists of an area identified of interest for Future Water Supply where Rural-Traditional Use zone applies; however, as the Town wishes to ensure that no activity is undertaken in this area that might compromise the integrity of the water for the long-term future use as a water supply, all development applications shall be reviewed in ensure that waterbodies are protected from adverse impacts.

## **4.0 LAND USE AND DEVELOPMENT DEFINITIONS AND CONDITIONS**

### **4.1 PROVINCIAL & FEDERAL INTEREST REQUIREMENTS DEVELOPMENT**

The following sections contain standards and conditions that may be relevant in any zone for any development subject to the site location and proposed use or development.

#### **Archaeology**

- 1) Council will ensure that any public works project or major land development that results in ground disturbance is sent to Provincial Archaeology Office for review. As well, any accidental discoveries of historic resources must also be reported to the Provincial Archaeology Office.
- 2) Before approval is granted for a major development such as a subdivision or a new commercial or public building, the application shall be referred to the Provincial Archaeology Office for comments.

#### **Climate Change Impacts**

- 3) Council will take into consideration available data regarding provincial climate change projections for Argentia (nearest regional site) when considering land for future developments that are in close proximity to a river, floodplain or coastline. These projections suggest that extreme precipitation events will become more intense, by about 4%. Climate change is expected to result in more precipitation and more frequent extreme weather events that may result in increased flooding, sea surge and coastal erosion. These factors must be considered when allocating land for future development in close proximity to a river, floodplain or coastline which may be subject to flooding, sea surge, coastal erosion or other climate change risks;

#### **Crown Lands (Crown Lands Administration & Land Management Divisions)**

- 4) Council will ensure that the use of Crown land is subject to the Town of Mount Carmel-Mitchell's Brook-St. Catherine's Municipal Plan and Development Regulations, including zoning and permitting requirements.
- 5) Approvals must be obtained from the appropriate Regional Lands Office, Government of Newfoundland and Labrador; applications are made to the Regional Lands Office.
- 6) Crown land applications must be approved by the Council regarding the use and development of the land prior to approval for issuance of title by the Lands Branch.
- 7) No applications for cottages or residences are to be accepted for the area that overlaps the Cottage Planning area designated by Order in Council 109-83. All other applications must be forwarded to the Land Management Division for review.

### **Electricity – NL Hydro**

- 8) Council will consult with Newfoundland Power and Newfoundland and Labrador Hydro to avoid any potential conflict with regard to development near the main transmission line that falls within the Municipal Planning Area boundary.

### **Work near Survey Control Monuments**

- 9) Council will inform the Surveys and Mapping Division when a proposed development is proposed in the vicinity of a Survey Control Monument. There are 29 survey monuments in the Municipal Planning Area. The locations of the 29 survey control markers can be viewed at: <https://arcg.is/1rWnSC> . Any development applications occurring in the vicinity of these markers must be referred to the GIS & Mapping Division;

### **Agriculture**

- 10) Council shall identify the Markland Agricultural Development Area (ADA) designated under the *Lands Act, 1990* on the Future Land Use and Land Use Zoning maps and refer development applications to the Land Resources Stewardship Division for comment; Within the ADA, Council will ensure that development does not negatively impact existing agriculture development, including small scale home gardens, or limit future expansion.

### **Mineral lands**

- 11) Within the 300-metre quarry referral buffer on the Future Land Use and Land Use Zoning maps, Council shall refer development applications to the Mineral Lands Division for comment in order to prevent conflict between incompatible uses;
- 12) Council shall permit Mineral exploration that is not a development as a permitted use in all zones and allow Mineral exploration that is a development as a discretionary use; Mineral working will be a permitted use in areas zoned 'Rural'.
- 13) Council will indicate areas identified with as having natural hazard potential as 'Conservation' on the Land Use Zoning maps, including the coastal erosion hazards and slope movement hazards.
- 14) For approved developments where the extraction of quarry materials is occurring or may be expected occur, the Town shall send a copy of the development permit to the Quarry Materials Section, Mineral Lands Division at [quarries@qov.nl.ca](mailto:quarries@qov.nl.ca). Quarry materials include but are not limited to aggregate, fill, rock, stone, gravel, sand, clay, borrow material, topsoil, overburden, subsoil, peat. It is important that the Mineral Lands Division has the documentation necessary to distinguish excavation associated

with an approved development from excavation that constitutes quarrying; possessing development permits for developments which may involve excavation shall assist greatly in making this distinction.

### **Local Governance and Land Use Planning**

- 15) The Town shall ensure that the requirements under the *Urban and Rural Planning Act, 2000* and subordinate regulation are fulfilled, including, the *Highway Sign Regulations and (Minister's) Development Regulations*; and that the provincial and federal government interest requirements are integrated into the planning documents.

### **Digital Government and Service NL**

- 16) Council will ensure that applicants for a development or building permit from the Town are aware of Digital Government and Service NL requirements;

### **Water bodies**

- 17) Council will protect rivers, streams, ponds, wetlands, riparian areas, and shorelines by ensuring conformance with requirements of the Water Resources Management Division under the *Water Resources Act, 2002* and the *Environmental Protection Act, 2002*, including the following Policy Directives: W.R.91-1-Infilling Bodies of Water, W.R. 97-1-Development in Shore Water Zones and W.R. 97-2-Development in Wetlands, the Guidelines for the Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses; a permit for any Non-Domestic Water use of any purpose; a permit for Infilling within 15 metres of Bodies of Water; and, meeting the requirements under the *Environmental Control Water and Sewage Regulations, 2003* for any effluent or runoff from a site.
- 18) On-site sewerage disposal systems are prohibited within 30 metres from a waterbody or watercourse;
- 19) Council will ensure conformance with requirements of the Water Resources Management Division of the provincial government regarding development within or adjacent to a Watercourse or Wetland, the following applies:
  - a. A Section 48 permit under the *Water Resources Act , 2002* administered by the Water Resource Management Division, and compliance with departmental policy is required, for:
    - i. Any infilling work within 15 m of a body of water; and,
    - ii. Any work in *Shore Water zones* ("Shore Water Zone" means the land that is intermittently occupied by water as a result of the naturally fluctuating surface water level in a body of water which can be either a fresh or salt water body and, in either case, the low water mark and

high-water mark of the water body defining the edges of the shore water zone);

- b. A Non-Domestic Water Use Permit from the Water Resource Management Division is required before construction and for all existing, new or planned water use from any water source;

## **Wildlife**

- 20) Council shall approach the Eastern Habitat Joint Venture to discuss the services offered by this program.
- 21) The land abutting the Avalon Wilderness Reserve shall be managed to protect park values and ensure appropriate compatible activities.
- 22) For species listed under the *Endangered Species Act, 2007*:
  - a. Where the Wildlife Division identifies rare species habitat, Council shall require appropriate protection, such as a buffer, as recommended by Wildlife. At this time, this included the Red Crossbill and Rusty Blackbird, Boreal Lichen and Blue Felt Lichen;
  - b. Any reports of disturbance, harassment, injury or killing of listed species shall be reported to the Wildlife Division;
  - c. Council shall protect yellow birch trees which are the habitat for two rare lichen species, Boreal Felt Lichen and Blue Felt Lichen;
- 23) Council shall require the following standards to protect general wildlife habitat and landscape connectivity, wherever possible, particularly in the Rural zone, such as:
  - a. a riparian buffer of 30 metre minimum undisturbed natural vegetated along wetlands and waterbodies (ponds, rivers, creeks etc.), or more for riparian areas near agricultural areas;
  - b. green belts connected to forested areas or other habitat patches to create wildlife travel corridors;
  - c. incorporate a minimum percentage of forests to be maintained during lot clearing, for example. Vegetation clearing should always be done outside the May 01 to July 31 period (note that some raptors start breeding in March) to minimize disturbance during that sensitive breeding/ young rearing;
  - d. Council will ensure that yellow birch trees are retained as they are valuable habitat for lichens, some of which are designated as 'vulnerable' under the *Species and Risk Act, 2007*.

## Forestry

- 24) Council shall ensure that forestry activities including harvesting, road building and silviculture, are not restricted within the Municipal Planning area and that they are conducted according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town; Ensure that forestry activities including harvesting, road building and silviculture, are not restricted within the Municipal Planning area and that they are conducted according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town; This will accomplished as follows:
- a. Council shall ensure forestry activities proposed are compatible with the town plan, and that municipal interests are incorporated into the 5-Year plan as prepared by the Forest Service in consultation with the town. Furthermore, the town requires that annual operating plans be approved by council by permit (with conditions) as defined under the *Urban and Rural Planning Act, 2000*;
  - b. Ensure that forestry activities including harvesting, road building and silviculture, are guided by the zoning and policies defined in the Municipal Plan. Forestry activities will be guided according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town, and further conditions may be applied for the annual operations and defined by the town in order to issue a permit for development (includes forestry);

## Transportation and Infrastructure

- 25) Council shall ensure that the provincial ***Building Near Highways Regulation*** are complied with along any provincial highway within the Municipal Planning area.

## Environmental Assessment Division

- 26) Council shall protect Salmonier River, as a scheduled salmon river, by requiring development applications within 200 metres of the high-water mark of a scheduled salmon river be registered with the Environmental Assessment Division, as required by Section 28 of the *Environmental Assessment Regulations, 2003*.

## Scheduled Salmon River

- 27) Council shall provide a buffer along Salmonier River, a scheduled salmon river and shall zone the shoreline as 'Conservation'.
- 28) Council shall ensure that those applicants undertaking work in or near water are referred to the Department of Fisheries and Oceans website <http://www.dfohttp://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.htmlmpo.gc.ca/pnw-ppe/index-eng.html> to ensure compliance with the Fisheries Act. In cases where impacts to fish and fish habitat cannot be avoided, a request for review should be submitted to Newfoundland and Labrador Region – Fish and Fish Habitat Protection

Program at FPP-NL@dfo-mpo.gc.ca. A contact number for this agency is (709) 772-4140.

- 29) Ensure that the implementation of the 50 metre referral buffer by the federal government along salmon rivers is addressed in the Environmental Assessment registration required within 200 metres of a salmon river under the provincial Environmental Assessment Regulations, 2003. To avoid overlap, the Environmental Assessment Division handles the referrals to the federal government regarding development along salmon rivers.

### **Federal Interest**

- 30) Council shall provide a 50-metre buffer along Salmonier River which is a scheduled salmon river and zone the shoreline as 'Conservation'.

## **4.2 AGRICULTURE LAND USE CLASS**

### **4.2.1 Commercial Agriculture:**

**Definition:** Commercial Agriculture means of farm operation as specified in the *Farm Practices Protection Act, 2000*.

#### **Conditions:**

1. No structure for a Livestock and Poultry Farm Operation shall be erected or used unless it complies with the conditions set out in the 'Environmental Farm Practices Guidelines for Livestock Producers in Newfoundland and Labrador' and 'Environmental Farm Practices Guidelines for Poultry Producers in Newfoundland and Labrador';
2. The structure shall be at least 600 metres from:
  - a. a residence (except a farm residence or a residence which is a nonconforming use in any zone in which agriculture is a permitted use class in the Use Zone Table of these Regulations),
  - b. an area designated for residential use in an approved Plan, and
  - c. a Provincial or Federal Park.
3. The structure shall be at least 45 metres from the boundary of the property on which it is to be erected.
4. The structure shall be at least 90 metres from the centre line of a street.
5. The erection of the structure shall be approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.
6. Manure storage must be located 100 m from the boundary of the property; Digital Government and Service NL must approve all manure systems
7. No development for residential use shall be permitted within 600 metres of an existing structure designed to contain more than five animal units unless the development is



first approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.

8. Approvals must be obtained from the Land Stewardship Resource Division, Government of Newfoundland and Labrador for any commercial farming operation.
9. The Town, in its discretion, may refuse to issue a permit for an agricultural operation where in its opinion the use is likely to create an environmental hazard or a nuisance to residences in the general vicinity of the proposed agricultural use.

#### **4.2.2 Urban Agriculture**

**Definition:** Urban Agriculture means non-farm operation agricultural activities that are compatible within a developed urban setting, such as some residential and mixed-use zones, and includes, but is not limited to, horticulture, vegetable growing, fruit growing, and the use of land as market gardens, nursery grounds, and community gardens, and the keeping of livestock and poultry.

##### **4.2.2.1 General Conditions:**

1. Urban agricultural uses must meet the requirements for a home business (refer to 5.3);
2. A permit is not required for any residential market garden or home gardening that does not involve permanent structures, on-site sales, or keeping of domestic pets (cats, dogs) except or kennels (4.2.2.4).

##### **4.2.2.2 Community Garden**

A community garden use shall be subject to the following conditions:

1. Community gardens are to be maintained in a neat and tidy fashion; and
2. All disturbed areas not comprising the area of the community garden are to be reinstated with a minimum of grass sods to the satisfaction of the Town.

##### **4.2.2.3 Livestock and Poultry Conditions**

The following standards apply to livestock and poultry:

1. For every 0.4 hectare (with a minimum of 0.4 hectares), only one of any of the following is allowed (or a combination):
  - a. 2 of these livestock species: cow, bull, horse, mule, ass, swine or llama, and includes their young;
  - b. 6 sheep/goats;
  - c. 12 head of poultry (excluding roosters);
  - d. 12 rabbits; and,
2. On lots smaller than 0.4 hectares, but greater than 669 m<sup>2</sup> = 4 chickens, no roosters shall be allowed.

#### **4.2.2.4 Kennel**

**Definition:** Kennel means a building or portion thereof used for the keeping or boarding of more than eight (8) domestic pets, excluding livestock, kept for the purposes of commercial breeding or showing, or for personal use, with or without veterinary care, and includes an animal shelter.

#### **Conditions:**

1. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
2. The outside perimeter of all areas related to the kennel where animals are kept shall be enclosed by a solid fence or fence and a solid hedge at least 1.8 metres in height to screen the areas from adjacent properties;
3. The kennel must be located on a lot of 2 hectares or more;
4. All buildings related to the kennel may be required to have 8 centimetres of insulation in all exterior walls and ceiling for the purpose of soundproofing;
5. All buildings, pens and runs shall be sited not less than 15 metres from any property line, and 90 metres from any residence except the kennel site; and, Council shall be satisfied that the kennel shall not impact upon surrounding residential neighbourhoods.

### **4.3 COMMERCIAL LAND USE CLASS**

This class includes land uses and development for activities providing for the sale of goods and services. Generally, the Use Zone standards apply; however, as required, specific conditions are tailored to the activity and associated traffic in order to address public health, safety and conservation issues and achieve the intent of the community of the land use zone in which the activity is located.

#### **4.3.1 Amusement Establishment/Use**

**Definition:** Amusement establishment use means the use of land or a building or a part thereof used by the public for indoor non-sport games, including but are not limited to, billiard and pool halls, bingo hall, mechanical amusement games (more than three game machines), video games. It does not include those on the premises of a hotel or bar.

#### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Must address traffic access/egress and on-site movement as well as parking;
3. For a temporary permit in particular, must address site rehabilitation after event;

#### **4.3.2 Amusement Park/Attraction**

**Definition:** Amusement Park/attraction means an outdoor area where buildings or structures may be permanently or temporarily erected for the purpose of amusement,

entertainment or education of a large number of people; including but are not limited to, a circus, carnival, midway show, race-track, sideshow, fairgrounds, or similar exhibition which may have mechanically or electrically operated amusement rides or games, and theme parks.

#### **Conditions:**

1. Required to submit a Planned unit Development application (2.2.2 & 2.2.4);
2. Must meet Use Zone Site Development Standards and conditions or except for temporary amusement operations;
3. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

#### **4.3.3 Auto Body Shop**

**Definition:** An auto body shop consists of a building or a clearly defined space on a lot used for the storage and repair of motor vehicles including body repair, painting and detailing, but does not include a service station or an automobile repair shop or an automotive sales establishment.

#### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Must be of 20 metres from a residential lot;
3. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
4. There shall be no outdoor storage of inoperable vehicles on the premises and no scrapping of vehicles shall be permitted;
5. Must apply measures to minimize any noise, spray or fumes through the installation of appropriate equipment; and all waste fluids and tires shall be disposed of in accordance with applicable provincial regulations;
6. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties; and,
7. A parking area abutting a residential lot may be required to have an appropriately screened by a fence, wall, or hedge of height of about 2.4 metres and located a minimum distance of 1 metre from the edge of the parking area.

#### **4.3.4 Automotive Repair Shop**

**Definition:** An automotive repair shop means a development for the servicing and repair of motor vehicles. This definition includes but is not limited to transmission repair shops, muffler repair shops, tire shops, automotive glass shops, auto body repair, painting and detailing, and automotive upholstery shops, but does not include an automotive sales establishment, a service station, or salvage or wrecking and recycling yard.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
3. There shall be no outdoor storage of inoperable vehicles on the premises and no scrapping of vehicles shall be permitted;
4. Outline measures to minimize any noise, spray or fumes through the installation of appropriate equipment; and all waste fluids and tires shall be disposed of in accordance with applicable provincial regulations;
5. A minimum buffer between residential use and vehicle repair, body repair, car wash shall not be located closer than 20 metres from residential use; and,
6. A parking area abutting a residential lot may be required to be appropriately screened by a fence, wall, or hedge of height not less than 1 metres and located a minimum distance of 1 metre from the edge of the parking area.

#### **4.3.5 Automotive Sales and Service Establishment**

**Definition:** An automotive sales and service establishment means a lot, building or structure used for the display and sale of new or new and used motor vehicles, including trucks and mobile homes; and may include the servicing, repair, cleaning, polishing, and lubrication of motor vehicles; the sale of automotive accessories and related products; and the leasing or renting of motor vehicles.

**Conditions:**

1. The developer shall submit to Council an acceptable Planned unit Development application (2.2.2 & 2.2.4), which shall include the following:
  - a. the number and location of parking spaces,
  - b. ingress and egress of the parking lot,
  - c. motor vehicle circulation pattern around the lot,
  - d. location of any building on the lot,
  - e. area to be landscaped and screened and the type of landscaping to be used, and
  - f. customer parking in accordance with these regulations.
2. The automotive sales use may be required to have a principal building on the lot in which the business is conducted. The principal building shall include washroom

facilities and be connected to municipal water and sewer services where such services exist. Where municipal water and sewer services do not exist, the washroom facilities of the principal building be approved by and meet the requirements of Digital Government and Service NL.

3. The automotive sales lot may be required to paved and provide drainage, lighting, curbs, and landscaping in accordance with the requirements of Council;
4. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
5. The automotive sales use shall be properly licensed under any relevant Provincial legislation prior to the use commencing.

#### **4.3.6 Bar/Licenced Liquor Establishment**

**Definition:** A Bar means a development licensed for the sale of alcoholic beverages to the public, for consumption within the premises and where entertainment and meals may be provided. Typical Uses include but are not limited to, dance clubs, cabarets, nightclubs, lounges, tavern, neighbourhood pubs and bars, brewpubs, beverage rooms, private clubs, cocktail lounges, and similar uses.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions; and,
2. Recommend consideration of a separation distance of 100 m from a residential lot;
3. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

#### **4.3.7 Building Supply Store**

**Definition:** A Building supply store means a building or land on which building and construction supplies and home improvement materials are kept for sale.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions; and,
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
3. Recommend that storage of supplies is appropriately screened and/or fenced in order to prevent unsightly property.

#### **4.3.8 Campground, including RV campgrounds**

**Definition:** Campground (including RV campgrounds) means a public or privately-operated facility offering overnight to seasonal camping experiences for 3 or more tent sites or serviced recreational vehicle sites, associated rental cabins, and including accessory administrative offices, convenience store, laundry facilities, sanitary facilities, recreational hall and associated recreational uses that cater to short-term guests, not to year-round residents and does not include industrial, work or construction camps or permanent mobile home or mini-home parks;

**Conditions:**

1. A proposed campground, including trailer and Recreational Vehicle park, shall require a Planned unit Development application (2.2.2 & 2.2.4) satisfactory to Council containing the following information:
  - a. Location and size of camp and trailer sites
  - b. Internal roads and accesses and parking areas
  - c. Parking areas for proposed campground
  - d. Accessory uses such as laundry facilities, storage areas, washrooms, showers, convenience store, staff accommodations, and outdoor and indoor recreation facilities
  - e. Water supply and waste disposal
  - f. Landscaping for proposed campground
  - g. Buffers and screening between the site and other nearby land uses
  - h. Delineation of the property to be developed on a legal survey
  - i. Where deemed necessary by Council, a phasing plan for development.
  - j. On-site water and sewer services must meet minimum standards required by Council and relevant Provincial agencies.
  - k. Washroom facilities, recreational areas, parking areas, and similar facilities directly associated with the development shall not be located on separate properties.
2. All camp sites and on-site facilities that form part of the development shall be accessible only via the internal road network of the development.
3. The development permit shall specify the maximum number of campsites for different uses such as tents, trailers, and RVs that shall be permitted on the site.
4. No expansion or alteration of a campground, other than repairs and maintenance, shall take place without the approval of Council.
5. The operation shall comply with all regulations of Council pertaining to noise and unruly behaviour.
6. Where deemed necessary by Council, a deposit sufficient to cover the cost of buffers and screening shall be deposited with Council until the work is completed in accordance with the approved plan.

#### **4.3.9 Child Care–Non-residential (residential child care is under Home Business)**

**Definition:** Child care – Non-residential means a building or part of a building in which personal care services are regularly provided to children for group day care, family day care, pre-school, play school, out-of-school care, specialized day care, and emergency day care, all as licensed and regulated by the Province of Newfoundland and Labrador, but does not include a school as defined by the *Schools Act, 1997* (Note: child care - residential is found in section 5.4)

##### **Conditions:**

1. A Child Care Centre shall be duly licensed and approved, staffed, equipped and operated in accordance with the requirements of the agencies having jurisdiction or authority;
2. The section of the street on which the use is located allows sufficient area and sight distance for the safe and convenient drop off and pick up of children without hindering the safety and convenience of vehicular and pedestrian traffic on the street, or the development provides adequate off-street drop off or pick up spaces satisfactory to Council; and,
3. The use must be compatible with nearby uses.

#### **4.3.10 Club and Lodge**

**Definition:** Club and Lodge means a building or structure used by a non-profit association or organization for fraternal, social, or recreational purposes, including but not limited to such examples as, the Lion's Club, Kinsmen Club. This use can also be an Accessory Use (refer to sub-section 5.1)

##### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. This can also be an Accessory Building (refer to section 5.1)

#### **4.3.11 Contractor, Limited (Small)**

**Definition:** Contractor, limited (small) means a building or part thereof providing services for electrical, plumbing, heating, painting and similar contractor services to individual households including accessory sale of goods associated with this service where and there is no accessory manufacturing or fleet of vehicles consisting of more than 4 vehicles.

##### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
3. Recommend that all materials are within an enclosed building;

#### **4.3.12 Convenience Store**

**Definition:** Convenience store means a building which is used as a retail store providing a range of household and grocery items, and may include, but not limited to, postal services, take-out, and may be licensed to sell alcohol, but is not a supermarket. The convenience store may also be a subsidiary use within a primary use, such as a service station.

**Conditions:**

1. The store may form part of, or be attached to, a dwelling unit or be a stand-alone building;
2. The retail use shall be subsidiary to the residential character of the area and shall not affect residential amenities or adjoining properties;
3. The take-out use shall be subject to the conditions set out in 4.3.26.1;
4. Adequate provision for on-site parking, loading, buffering and landscaping must be provided;
5. The hours of operation are appropriate to the nature of the building and surrounding neighbourhood and the operation does not create a nuisance.
6. Must meet Use Zone Site Development Standards and conditions;
7. A Take Out associated with a convenience store shall be subject to the following standards:
  - a. A Take-Out Food Use shall have a parking area or stacking lane with a minimum length before the pick-up window, as determined by Council during the review of the application based on the anticipated on the level of traffic to be generated as indicated in the application;
  - b. Order boards and signage shall be designed to minimize impact on adjacent residential or institutional uses.
  - c. As determined by Council: A buffer consisting of a sound-proof fence and landscaping may be required adjacent to residential uses. A fence, berm, and landscaping or a combination of these elements shall be used to reduce headlight glare, lighting, and noise from the Take Out; garbage receptacles shall be placed either before the pick-up window or after the pickup window.

#### **4.3.13 Custom Manufacturing Service and Sales (small/artisan)**

**Definition:** Custom manufacturing service (small/artisan) means a building where goods are stored, produced, assembled, or repaired to consumer specifications and sold at retail on the premises and may include, but not limited to, welding, sheet metal, woodworking, flooring and tile contractors, and machine shop.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;



2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

#### **4.3.14 General Service/Repair Shop**

**Definition:** General Service/repair shop means an outlet for servicing, repairing, installing, or renting items and equipment, without limiting the generality of the foregoing, includes but is not limited to the following examples, radio, television, and computer service and repair shops; locksmith shops; small appliance service or repair shops; household and limited contractor service or repair shops; tools and equipment rental shops.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties.

#### **4.3.15 Hotel or Inn**

**Definition:** Hotel or Inn means a commercial establishment offering lodging and guest services to travelers and sometimes to permanent residents, and may have restaurants, meeting rooms, conference facilities, a lounge, stores, etc., that are available to the general public. In general, to be called a hotel (not a bed and breakfast), an establishment must have a minimum of five letting rooms accessed from within the building, at least three of which must have ensuite private bathroom facilities.

**Conditions:**

1. Require to submit a Planned unit Development application (2.2.2 & 2.2.4);
2. Must meet Use Zone Site Development Standards and conditions
3. A Hotel or Inn is for temporary accommodation. The unit is not a place of residence or dwelling. Units may be rented on a temporary basis but not as an open-ended monthly apartment.
4. The Hotel or Inn shall contain a lobby with a front desk and office, along with a maintenance, housekeeping and laundry room(s) large enough to accommodate the needs of the commercial-residence.
5. Housekeeping services including cleaning, provision of clean linen and towels (daily or weekly) shall be provided. Hostels may additionally offer organized and managed cooperative cleaning and cooperative kitchen.
6. Access to units shall be through or associated with a clearly defined lobby. Exterior access to units can be provided as long as access to each unit is from a common parking lot on the site,

7. Units shall not have individual driveways to the street. Parking shall be provided in a parking lot with parking spaces and aisles and access for the overall parking lot to the street.
8. The Hotel or Inn shall have an overall cohesive design including a prominent lobby, pleasant appearance from the street, clear parking lot street entrance and design with a dust free surface, and landscaping (trees, shrubs, lawn) in setbacks and open areas.
9. There shall not be separate utility connections or utility billing or addressing for individual rooms.

#### **4.3.16 Marina**

**Definition:** Marina means a dock or basin together with associated facilities where slips, moorings, supplies, repairs, and other services that are typically available for boats and other watercraft, including storage, sales and rentals, with or without a club house and catering facilities. It can also include a boat-house or shed associated with a dock or wharf.

#### **Conditions:**

1. Required to submit a Planned unit Development application (2.2.2 & 2.2.4)
2. Must meet Use Zone Site Development Standards and conditions
3. Provide and maintain public access to the shoreline via a walkway, path or trail, located, designed and constructed to the satisfaction of the Council
4. Parking shall be provided for both vehicles and boat trailers with adequate turning areas within the parking lot;
5. Outdoor storage areas for boats or other equipment may be required to be landscaped and screened to the requirements of the Council;
6. Marinas may be required to be serviced with a supply of potable water and facilities for the collection and disposal of wastewater in a manner acceptable to the Council;
7. Wharf/Boathouse/Slipway/Breakwater structures shall follow the guidelines for the *Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses* which are available at:  
[http://www.env.gov.nl.ca/env/waterres/regulations/appforms/Guidelines\\_for\\_Wharves.s.pdf](http://www.env.gov.nl.ca/env/waterres/regulations/appforms/Guidelines_for_Wharves.s.pdf)
8. The Applicant must obtain a permit under of the *Water Resources Act, 2002* under Section 48 (<http://assembly.nl.ca/Legislation/sr/statutes/wo4-01.htm>) for any infilling or dredging work associated with these structures or other works near or in any body of water prior to the start of construction. Contact: Manager, Water Rights & Investigations Section - (709) 729-4795

#### **4.3.17 Medical or Dental Clinic/Office**

**Definition:** Medical or dental clinic/office means a building or part thereof used by qualified physicians, dentists, osteopaths, counselors, or other drugless practitioners, including their staff and patients, for the purpose of out-patient consultation, diagnosis and office treatment. A medical clinic may include accessory uses such as waiting and treatment rooms, laboratories, dispensaries and administrative offices. A medical clinic does not include accommodation for overnight patient care or operating room facilities.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions

#### **4.3.18 Motel**

**Definition:** Motel means an establishment providing accommodation for travelers or the transient public that consists of one or more than one building containing four or more attached accommodation units accessible from the exterior only and may or may not have facilities for serving meals.

**Conditions:**

1. Required to submit a Planned unit Development application (2.2.2 & 2.2.4)
2. Must meet Use Zone Site Development Standards and conditions
3. Units may be rented on a temporary basis but not as an open-ended monthly apartment.
4. A Motel unit is for temporary accommodation. The unit is not a place of residence or dwelling. No individual can abide in the units in a particular Motel for more than three months out of every calendar year.
5. The Motel shall contain a lobby with a front desk and office, along with a maintenance, housekeeping and laundry room(s) large enough to accommodate the needs of the commercial-residence.
6. Housekeeping services including cleaning, provision of clean linen and towels (daily or weekly) shall be provided.
7. Access to units shall be through or associated with a clearly defined lobby. Exterior access to units can be provided as long as access to each unit is from a common parking lot on the site,
8. Units shall not have individual driveways to the street. Parking shall be provided in a parking lot with parking spaces and aisles and access for the overall parking lot to the street.
9. The Motel shall have an overall cohesive design including a prominent lobby, pleasant appearance from the street, clear parking lot street entrance and design with a dust free surface, and landscaping (trees, shrubs, lawn) in setbacks and open areas.

10. There shall not be separate utility connections or utility billing or addressing for individual rooms

#### **4.3.19 Outdoor Market**

**Definition:** Outdoor market means the sale of goods or products at an open property with no permanent buildings; temporary facilities or open stalls may be used to hold and display the goods being sold. Examples may include, but are not limited to, farmers markets, fish market, flea markets or other types of goods.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
3. Requires sufficient off street/highway parking for customers and ensure that the sight lines (visual) or sign distance at any intersection is not obstructed.

#### **4.3.20 Personal Service**

**Definition:** Personal service means a building or part of a building used for the provision of personal services to an individual which are related to the care and appearance of the body, or the cleaning and repair of personal effects; and where the sale of retail of goods, wares, merchandise, articles, or things is only accessory to the provisions of such service. Examples include, but are not limited to, barbershops, hairdressers, beauty salons, health and wellness centres/spas, tanning salons, tattoo parlours, tailors, dressmakers, photography studio, music studio, tattoo shop, handmade crafts, shoe repair shops, and dry-cleaning establishments and laundromats. This Use Class does not include medical and dental clinics and excludes any manufacturing or fabrication of goods for sale.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions

#### **4.3.21 Offices: Professional, Financial and Associated Support Services**

**Definition:** Offices (professional, financial and associated support services) means development primarily used for the provision of professional, management, administrative, consulting, and financial services, but does not include medical or dental clinics or government services. Typical Uses include, but are not limited to: the offices of lawyers, accountants, engineers, and architects; offices for real estate and insurance firms; clerical, secretarial, employment, telephone answering, and similar office support services; and banks, credit unions, loan offices and similar financial uses.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions

**4.3.22 Resort – Tourist Establishment**

**Definition:** Resort means the use of land, buildings and structures to provide sleeping accommodations, communal or individual facilities for cooking and serving of meals for guests or a restaurant; recreation uses, such as golfing, tennis, lawn bowling, marinas, health spa, swimming pools, angling and other watersport activities, hunting and recreational shooting, cross-country skiing, sightseeing, camping, hiking, indoor recreational activities and other similar uses, plus gift and craft shops and the furnishing of equipment, supplies or services to guests in connection with any of the foregoing activities and may include accommodation for the operator and staff. This category also includes commercial rental cottages or a tourist cabin development.

**Conditions:**

1. Required to submit a Planned unit Development application (2.2.2 & 2.2.4)
2. Must meet Use Zone Site Development Standards and conditions

**4.3.23 Restaurants**

**4.3.23.1 Take-Out**

**Definition:** Restaurant take-out means a building designed to allow drivers to remain in their vehicles before and during an activity on the site. Food and drink are prepared then sold to the public for immediate consumption either within an eating area inside or outside of the building or within the patron's own motor vehicle onsite, or for elsewhere off the premises it may include a seating area for in-house consumption and parking for in-house patrons. It is not licensed to sell alcoholic beverages.

1. Order boards with an intercom shall be designed to minimize noise impact on adjacent residential or institutional uses.
2. A buffer consisting of a sound-proof fence and landscaping shall be provided adjacent to residential uses. A fence, berm, and landscaping or a combination of these elements shall be used to reduce headlight glare, order board lighting, and noise from the Take Out. Garbage receptacles shall be placed either before the pick-up window or after the pickup window as determined by Council.
3. If the use of any land, building or structure is composed of a combination of Take-out Use and any one or more other uses, those uses shall not be construed as accessory to one another and all provisions pertaining to each use shall apply.
4. Must meet Use Zone Site Development Standards and conditions.

#### **4.3.23.2 Full-Service Restaurant**

**Definition:** Restaurant-full service means a building or part of a building wherein the primary purpose is the preparation of food for sale to the public y for consumption within the building and may include a take-out area. It is characterized by the provision of table service, including buffet service and may also be licensed to serve alcoholic beverages.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions
2. Refer to Outdoor Commercial Patio for standards related to outdoor areas.

#### **4.3.23.3 Mobile Take-Out or Street Vendor**

**Definition:** Restaurant-mobile take-out or street vendor means a mobile food preparation motorized vehicle or non-motorized cart offering food and non-alcoholic beverages for immediate consumption that subject to the requirements of the *Municipalities Act, 1999* and the *Highway Traffic Act, 1990*.

**Conditions:**

The use of land for the parking of a vehicle or trailer for a period of time for vending purposes, including the sale of refreshments or merchandise or as an office shall be subject to the following conditions.

1. The parking of a vehicle or trailer for vending or office purposes shall only be permitted as a subsidiary use on a lot with an existing principal building.
2. The parking of a vehicle or trailer shall not be located on any required landscaped yards.
3. The parking of a vehicle or trailer shall only be permitted if the lot has a sufficient parking area to accommodate the parking requirements of the principal building or use on the lot and the subsidiary vehicle or trailer use with its associated parking.
4. The parking of a vehicle or trailer shall not hinder lot access or egress or create an obstruction to vehicles entering or exiting the lot.
5. If a vehicle or trailer is used for the purpose of the preparation, cooking, and/or sale of food and/or refreshments, the following approvals are required prior to the placement of a vehicle or trailer on the lot:
  - a. approval from the Fire Department regarding the appliances to be used and the required fire suppression measures, and
  - b. approval from Digital Government and Service NL regarding the storage and preparation of food and/or refreshments.

6. A vehicle or trailer shall be required to provide, or have access to, washroom facilities as determined by Council.
7. Council shall limit the length of the Development Permit to a maximum of one year and the permit may be renewed on an annual basis if the applicant wishes to continue the use.

#### **4.3.24 Retail**

**Definition:** Retail means a building or part of a building used for the retail or consignment sale of goods, wares, substances, or merchandise directly to the public within an enclosed building, including, but not limited to, a drug store, bakery appliance or clothing store or art studio and shop. This use class does not include the sale of gasoline, heavy agricultural and industrial equipment, wholesale goods, automotive and recreation vehicle sales/rentals, flea market, gas bars, greenhouses, plant nurseries and market gardens, service stations, and box store or warehouse sales. Accessory uses may include the assembly or repair of products sold on site or public services such as postal services or pharmacy.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions.

#### **4.3.25 Service Station**

**Definition:** Service Station means land or building used exclusively for the sale/installation of petroleum products (oil or lubricant change) and may include minor repair to vehicles, cleaning and maintenance essential to the actual operation of vehicles, and the sale of automotive accessories; but does not include an automotive body repair shop, automotive sales establishment. Service stations are classified as: Residential or Highway as outlined below.

**Conditions**

Minimum Standards for all Service Stations and Gas Bars, notwithstanding the development standards of the Use Zone in which a service station or gas bar is located, a service station and/or gas bar shall be subject to the following conditions:

1. All gasoline pumps shall be located on pump islands designed for such purpose, and to which automobiles may gain access from either side, except in the case of propane, diesel, and kerosene pumps, which may access from one side;
2. Pump islands and canopies shall be set back at least 4 metres from the required landscaped front or side yards;
3. Accesses may be required not be less than 7 metres wide and shall be clearly marked and, where a service station is located on a corner lot, the minimum distance between

an access and the intersection of street lines at the junction shall be 10 m and the lot line between entrances shall be clearly indicated;

- a. Lot Area (minimum) 900 square metres
  - b. Lot frontage (minimum) 48 metres; or 35 metres along each flanking street
  - c. Building Height (maximum) 1 storey
  - d. Building Line (minimum) 6 metres
  - e. Building Line – Canopies (minimum) 3 metres
4. Surface runoff shall be directed to an oil/water separator before being discharged into a storm sewer or other drainage system.
  5. Minimum of 2 access points for access/egress.
  6. Landscaping may be required along front and exterior lot lines.
  7. Required to submit a Planned unit Development application (2.2.2 & 2.2.4)

#### **4.3.26 Veterinarian Clinic**

**Definition:** Veterinarian Clinic means a building, structure or parts thereof where one or more registered veterinarian surgeons including associated staff provide examinations and surgical or medical treatment to domestic pets, animals or livestock, and may include treatment rooms, laboratories, dispensaries and associated office

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions
2. Facilities for the overnight care of animals undergoing treatment may be permitted indoors and is considered incidental to the hospital use.
3. A kennel is not permitted in association with a veterinarian clinic.

#### **4.4 INDUSTRIAL LAND USE CLASS**

##### **4.4.1 Contractor, General**

**Definition:** Contractor, General means on-site storage space and maintenance for materials, construction equipment or vehicles including heavy equipment, temporary storage containers, construction trailers, and temporary office trailers normally associated with the contractor service. development used for the provision of building construction, landscaping, concrete, and electrical, excavation, drilling, heating, plumbing, paving, road construction, sewer or similar services of a construction nature which require Any sales, display, office or technical support service areas shall be accessory to the principal general contractor service only. This use class does not include professional, financial and associated support services, or scrapyards.



**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;

**4.4.2 Energy Generation Facilities**

**Definition:** Energy generation facilities means a facility constructed for the purpose of generating electrical energy from wind, solar or small hydro means.

**Conditions:**

- 1.

with an approved development from excavation that constitutes quarrying; possessing development permits for developments which may involve excavation shall assist greatly in making this distinction.

### **Local Governance and Land Use Planning**

- 15) The Town shall ensure that the requirements under the *Urban and Rural Planning Act, 2000* and subordinate regulation are fulfilled, including, the *Highway Sign Regulations and (Minister's) Development Regulations*; and that the provincial and federal government interest requirements are integrated into the planning documents.

### **Digital Government and Service NL**

- 16) Council will ensure that applicants for a development or building permit from the Town are aware of Digital Government and Service NL requirements;

### **Water bodies**

- 17) Council will protect rivers, streams, ponds, wetlands, riparian areas, and shorelines by ensuring conformance with requirements of the Water Resources Management Division under the *Water Resources Act, 2002* and the *Environmental Protection Act, 2002*, including the following Policy Directives: W.R.91-1-Infilling Bodies of Water, W.R. 97-1-Development in Shore Water Zones and W.R. 97-2-Development in Wetlands, the Guidelines for the Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses; a permit for any Non-Domestic Water use of any purpose; a permit for Infilling within 15 metres of Bodies of Water; and, meeting the requirements under the *Environmental Control Water and Sewage Regulations, 2003* for any effluent or runoff from a site.
- 18) On-site sewerage disposal systems are prohibited within 30 metres from a waterbody or watercourse;
- 19) Council will ensure conformance with requirements of the Water Resources Management Division of the provincial government regarding development within or adjacent to a Watercourse or Wetland, the following applies:
  - a. A Section 48 permit under the *Water Resources Act , 2002* administered by the Water Resource Management Division, and compliance with departmental policy is required, for:
    - i. Any infilling work within 15 m of a body of water; and,
    - ii. Any work in *Shore Water zones* ("Shore Water Zone" means the land that is intermittently occupied by water as a result of the naturally fluctuating surface water level in a body of water which can be either a fresh or salt water body and, in either case, the low water mark and

- high-water mark of the water body defining the edges of the shore water zone);
- b. A Non-Domestic Water Use Permit from the Water Resource Management Division is required before construction and for all existing, new or planned water use from any water source;

## **Wildlife**

- 20) Council shall approach the Eastern Habitat Joint Venture to discuss the services offered by this program.
- 21) The land abutting the Avalon Wilderness Reserve shall be managed to protect park values and ensure appropriate compatible activities.
- 22) For species listed under the *Endangered Species Act, 2007*:
  - a. Where the Wildlife Division identifies rare species habitat, Council shall require appropriate protection, such as a buffer, as recommended by Wildlife. At this time, this included the Red Crossbill and Rusty Blackbird, Boreal Lichen and Blue Felt Lichen;
  - b. Any reports of disturbance, harassment, injury or killing of listed species shall be reported to the Wildlife Division;
  - c. Council shall protect yellow birch trees which are the habitat for two rare lichen species, Boreal Felt Lichen and Blue Felt Lichen;
- 23) Council shall require the following standards to protect general wildlife habitat and landscape connectivity, wherever possible, particularly in the Rural zone, such as:
  - a. a riparian buffer of 30 metre minimum undisturbed natural vegetated along wetlands and waterbodies (ponds, rivers, creeks etc.), or more for riparian areas near agricultural areas;
  - b. green belts connected to forested areas or other habitat patches to create wildlife travel corridors;
  - c. incorporate a minimum percentage of forests to be maintained during lot clearing, for example. Vegetation clearing should always be done outside the May 01 to July 31 period (note that some raptors start breeding in March) to minimize disturbance during that sensitive breeding/ young rearing;
  - d. Council will ensure that yellow birch trees are retained as they are valuable habitat for lichens, some of which are designated as 'vulnerable' under the *Species and Risk Act, 2007*.

## **Forestry**

- 24) Council shall ensure that forestry activities including harvesting, road building and silviculture, are not restricted within the Municipal Planning area and that they are conducted according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town; Ensure that forestry activities including harvesting, road building and silviculture, are not restricted within the Municipal Planning area and that they are conducted according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town; This will accomplished as follows:
- a. Council shall ensure forestry activities proposed are compatible with the town plan, and that municipal interests are incorporated into the 5-Year plan as prepared by the Forest Service in consultation with the town. Furthermore, the town requires that annual operating plans be approved by council by permit (with conditions) as defined under the *Urban and Rural Planning Act, 2000*;
  - b. Ensure that forestry activities including harvesting, road building and silviculture, are guided by the zoning and policies defined in the Municipal Plan. Forestry activities will be guided according with the 5-Year Forest Management Plan as prepared by the Forest Service in consultation with the Town, and further conditions may be applied for the annual operations and defined by the town in order to issue a permit for development (includes forestry);

## **Transportation and Infrastructure**

- 25) Council shall ensure that the provincial *Building Near Highways Regulation* are complied with along any provincial highway within the Municipal Planning area.

## **Environmental Assessment Division**

- 26) Council shall protect Salmonier River, as a scheduled salmon river, by requiring development applications within 200 metres of the high-water mark of a scheduled salmon river be registered with the Environmental Assessment Division, as required by Section 28 of the *Environmental Assessment Regulations, 2003*.

## **Scheduled Salmon River**

- 27) Council shall provide a buffer along Salmonier River, a scheduled salmon river and shall zone the shoreline as 'Conservation'.
- 28) Council shall ensure that those applicants undertaking work in or near water are referred to the Department of Fisheries and Oceans website <http://www.dfohttp://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.htmlmpo.gc.ca/pnw-ppe/index-eng.html> to ensure compliance with the Fisheries Act. In cases where impacts to fish and fish habitat cannot be avoided, a request for review should be submitted to Newfoundland and Labrador Region – Fish and Fish Habitat Protection

Program at FPP-NL@dfo-mpo.gc.ca. A contact number for this agency is (709) 772-4140.

- 29) Ensure that the implementation of the 50 metre referral buffer by the federal government along salmon rivers is addressed in the Environmental Assessment registration required within 200 metres of a salmon river under the provincial Environmental Assessment Regulations, 2003. To avoid overlap, the Environmental Assessment Division handles the referrals to the federal government regarding development along salmon rivers.

### **Federal Interest**

- 30) Council shall provide a 50-metre buffer along Salmonier River which is a scheduled salmon river and zone the shoreline as 'Conservation'.

## **4.2 AGRICULTURE LAND USE CLASS**

### **4.2.1 Commercial Agriculture:**

**Definition:** Commercial Agriculture means of farm operation as specified in the *Farm Practices Protection Act, 2000*.

#### **Conditions:**

1. No structure for a Livestock and Poultry Farm Operation shall be erected or used unless it complies with the conditions set out in the 'Environmental Farm Practices Guidelines for Livestock Producers in Newfoundland and Labrador' and 'Environmental Farm Practices Guidelines for Poultry Producers in Newfoundland and Labrador';
2. The structure shall be at least 600 metres from:
  - a. a residence (except a farm residence or a residence which is a nonconforming use in any zone in which agriculture is a permitted use class in the Use Zone Table of these Regulations),
  - b. an area designated for residential use in an approved Plan, and
  - c. a Provincial or Federal Park.
3. The structure shall be at least 45 metres from the boundary of the property on which it is to be erected.
4. The structure shall be at least 90 metres from the centre line of a street.
5. The erection of the structure shall be approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.
6. Manure storage must be located 100 m from the boundary of the property; Digital Government and Service NL must approve all manure systems
7. No development for residential use shall be permitted within 600 metres of an existing structure designed to contain more than five animal units unless the development is

first approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.

8. Approvals must be obtained from the Land Stewardship Resource Division, Government of Newfoundland and Labrador for any commercial farming operation.
9. The Town, in its discretion, may refuse to issue a permit for an agricultural operation where in its opinion the use is likely to create an environmental hazard or a nuisance to residences in the general vicinity of the proposed agricultural use.

#### **4.2.2 Urban Agriculture**

**Definition:** Urban Agriculture means non-farm operation agricultural activities that are compatible within a developed urban setting, such as some residential and mixed-use zones, and includes, but is not limited to, horticulture, vegetable growing, fruit growing, and the use of land as market gardens, nursery grounds, and community gardens, and the keeping of livestock and poultry.

##### **4.2.2.1 General Conditions:**

1. Urban agricultural uses must meet the requirements for a home business (refer to 5.3);
2. A permit is not required for any residential market garden or home gardening that does not involve permanent structures, on-site sales, or keeping of domestic pets (cats, dogs) except or kennels (4.2.2.4).

##### **4.2.2.2 Community Garden**

A community garden use shall be subject to the following conditions:

1. Community gardens are to be maintained in a neat and tidy fashion; and
2. All disturbed areas not comprising the area of the community garden are to be reinstated with a minimum of grass sods to the satisfaction of the Town.

##### **4.2.2.3 Livestock and Poultry Conditions**

The following standards apply to livestock and poultry:

1. For every 0.4 hectare (with a minimum of 0.4 hectares), only one of any of the following is allowed (or a combination):
  - a. 2 of these livestock species: cow, bull, horse, mule, ass, swine or llama, and includes their young;
  - b. 6 sheep/goats;
  - c. 12 head of poultry (excluding roosters);
  - d. 12 rabbits; and,
2. On lots smaller than 0.4 hectares, but greater than 669 m<sup>2</sup> = 4 chickens, no roosters shall be allowed.

#### **4.2.2.4 Kennel**

**Definition:** Kennel means a building or portion thereof used for the keeping or boarding of more than eight (8) domestic pets, excluding livestock, kept for the purposes of commercial breeding or showing, or for personal use, with or without veterinary care, and includes an animal shelter.

#### **Conditions:**

1. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
2. The outside perimeter of all areas related to the kennel where animals are kept shall be enclosed by a solid fence or fence and a solid hedge at least 1.8 metres in height to screen the areas from adjacent properties;
3. The kennel must be located on a lot of 2 hectares or more;
4. All buildings related to the kennel may be required to have 8 centimetres of insulation in all exterior walls and ceiling for the purpose of soundproofing;
5. All buildings, pens and runs shall be sited not less than 15 metres from any property line, and 90 metres from any residence except the kennel site; and, Council shall be satisfied that the kennel shall not impact upon surrounding residential neighbourhoods.

### **4.3 COMMERCIAL LAND USE CLASS**

This class includes land uses and development for activities providing for the sale of goods and services. Generally, the Use Zone standards apply; however, as required, specific conditions are tailored to the activity and associated traffic in order to address public health, safety and conservation issues and achieve the intent of the community of the land use zone in which the activity is located.

#### **4.3.1 Amusement Establishment/Use**

**Definition:** Amusement establishment use means the use of land or a building or a part thereof used by the public for indoor non-sport games, including but are not limited to, billiard and pool halls, bingo hall, mechanical amusement games (more than three game machines), video games. It does not include those on the premises of a hotel or bar.

#### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Must address traffic access/egress and on-site movement as well as parking;
3. For a temporary permit in particular, must address site rehabilitation after event;

#### **4.3.2 Amusement Park/Attraction**

**Definition:** Amusement Park/attraction means an outdoor area where buildings or structures may be permanently or temporarily erected for the purpose of amusement,

entertainment or education of a large number of people; including but are not limited to, a circus, carnival, midway show, race-track, sideshow, fairgrounds, or similar exhibition which may have mechanically or electrically operated amusement rides or games, and theme parks.

##### **Conditions:**

1. Required to submit a Planned unit Development application (2.2.2 & 2.2.4);
2. Must meet Use Zone Site Development Standards and conditions or except for temporary amusement operations;
3. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

#### **4.3.3 Auto Body Shop**

**Definition:** An auto body shop consists of a building or a clearly defined space on a lot used for the storage and repair of motor vehicles including body repair, painting and detailing, but does not include a service station or an automobile repair shop or an automotive sales establishment.

##### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Must be of 20 metres from a residential lot;
3. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
4. There shall be no outdoor storage of inoperable vehicles on the premises and no scrapping of vehicles shall be permitted;
5. Must apply measures to minimize any noise, spray or fumes through the installation of appropriate equipment; and all waste fluids and tires shall be disposed of in accordance with applicable provincial regulations;
6. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties; and,
7. A parking area abutting a residential lot may be required to have an appropriately screened by a fence, wall, or hedge of height of about 2.4 metres and located a minimum distance of 1 metre from the edge of the parking area.



#### **4.3.4 Automotive Repair Shop**

**Definition:** An automotive repair shop means a development for the servicing and repair of motor vehicles. This definition includes but is not limited to transmission repair shops, muffler repair shops, tire shops, automotive glass shops, auto body repair, painting and detailing, and automotive upholstery shops, but does not include an automotive sales establishment, a service station, or salvage or wrecking and recycling yard.

**Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
3. There shall be no outdoor storage of inoperable vehicles on the premises and no scrapping of vehicles shall be permitted;
4. Outline measures to minimize any noise, spray or fumes through the installation of appropriate equipment; and all waste fluids and tires shall be disposed of in accordance with applicable provincial regulations;
5. A minimum buffer between residential use and vehicle repair, body repair, car wash shall not be located closer than 20 metres from residential use; and,
6. A parking area abutting a residential lot may be required to be appropriately screened by a fence, wall, or hedge of height not less than 1 metres and located a minimum distance of 1 metre from the edge of the parking area.

#### **4.3.5 Automotive Sales and Service Establishment**

**Definition:** An automotive sales and service establishment means a lot, building or structure used for the display and sale of new or new and used motor vehicles, including trucks and mobile homes; and may include the servicing, repair, cleaning, polishing, and lubrication of motor vehicles; the sale of automotive accessories and related products; and the leasing or renting of motor vehicles.

**Conditions:**

1. The developer shall submit to Council an acceptable Planned unit Development application (2.2.2 & 2.2.4), which shall include the following:
  - a. the number and location of parking spaces,
  - b. ingress and egress of the parking lot,
  - c. motor vehicle circulation pattern around the lot,
  - d. location of any building on the lot,
  - e. area to be landscaped and screened and the type of landscaping to be used, and
  - f. customer parking in accordance with these regulations.
2. The automotive sales use may be required to have a principal building on the lot in which the business is conducted. The principal building shall include washroom

with an approved development from excavation that constitutes quarrying; possessing development permits for developments which may involve excavation shall assist greatly in making this distinction.

### **Local Governance and Land Use Planning**

- 15) The Town shall ensure that the requirements under the *Urban and Rural Planning Act, 2000* and subordinate regulation are fulfilled, including, the *Highway Sign Regulations and (Minister's) Development Regulations*; and that the provincial and federal government interest requirements are integrated into the planning documents.

### **Digital Government and Service NL**

- 16) Council will ensure that applicants for a development or building permit from the Town are aware of Digital Government and Service NL requirements;

### **Water bodies**

- 17) Council will protect rivers, streams, ponds, wetlands, riparian areas, and shorelines by ensuring conformance with requirements of the Water Resources Management Division under the *Water Resources Act, 2002* and the *Environmental Protection Act, 2002*, including the following Policy Directives: W.R.91-1-Infilling Bodies of Water, W.R. 97-1-Development in Shore Water Zones and W.R. 97-2-Development in Wetlands, the Guidelines for the Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses; a permit for any Non-Domestic Water use of any purpose; a permit for Infilling within 15 metres of Bodies of Water; and, meeting the requirements under the *Environmental Control Water and Sewage Regulations, 2003* for any effluent or runoff from a site.
- 18) On-site sewerage disposal systems are prohibited within 30 metres from a waterbody or watercourse;
- 19) Council will ensure conformance with requirements of the Water Resources Management Division of the provincial government regarding development within or adjacent to a Watercourse or Wetland, the following applies:
  - a. A Section 48 permit under the *Water Resources Act, 2002* administered by the Water Resource Management Division, and compliance with departmental policy is required, for:
    - i. Any infilling work within 15 m of a body of water; and,
    - ii. Any work in *Shore Water zones* ("Shore Water Zone" means the land that is intermittently occupied by water as a result of the naturally fluctuating surface water level in a body of water which can be either a fresh or salt water body and, in either case, the low water mark and

high-water mark of the water body defining the edges of the shore water zone);

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21) The land abutting the Avalon Wilderness Reserve shall be managed to protect park values and ensure appropriate compatible activities.

22) For species listed under the *Endangered Species Act, 2007*:

- a. Where the Wildlife Division identifies rare species habitat, Council shall require appropriate protection, such as a buffer, as recommended by Wildlife. At this time, this included the Red Crossbill and Rusty Blackbird, Boreal Lichen and Blue Felt Lichen;
- b. Any reports of disturbance, harassment, injury or killing of listed species shall be reported to the Wildlife Division;
- c. Council shall protect yellow birch trees which are the habitat for two rare lichen species, Boreal Felt Lichen and Blue Felt Lichen;

23) Council shall require the following standards to protect general wildlife habitat and landscape connectivity, wherever possible, particularly in the Rural zone, such as:

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## **Transportation and Infrastructure**

- 25) Council shall ensure that the provincial *Building Near Highways Regulation* are complied with along any provincial highway within the Municipal Planning area.

## **Environmental Assessment Division**

- 26) Council shall protect Salmonier River, as a scheduled salmon river, by requiring development applications within 200 metres of the high-water mark of a scheduled salmon river be registered with the Environmental Assessment Division, as required by Section 28 of the *Environmental Assessment Regulations, 2003*.

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### **Federal Interest**

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## **4.2 AGRICULTURE LAND USE CLASS**

### **4.2.1 Commercial Agriculture:**

**Definition:** Commercial Agriculture means of farm operation as specified in the *Farm Practices Protection Act, 2000*.

#### **Conditions:**

1. No structure for a Livestock and Poultry Farm Operation shall be erected or used unless it complies with the conditions set out in the 'Environmental Farm Practices Guidelines for Livestock Producers in Newfoundland and Labrador' and 'Environmental Farm Practices Guidelines for Poultry Producers in Newfoundland and Labrador';
2. The structure shall be at least 600 metres from:
  - a. a residence (except a farm residence or a residence which is a nonconforming use in any zone in which agriculture is a permitted use class in the Use Zone Table of these Regulations),
  - b. an area designated for residential use in an approved Plan, and
  - c. a Provincial or Federal Park.
3. The structure shall be at least 45 metres from the boundary of the property on which it is to be erected.
4. The structure shall be at least 90 metres from the centre line of a street.
5. The erection of the structure shall be approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.
6. Manure storage must be located 100 m from the boundary of the property; Digital Government and Service NL must approve all manure systems
7. No development for residential use shall be permitted within 600 metres of an existing structure designed to contain more than five animal units unless the development is

first approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.

8. Approvals must be obtained from the Land Stewardship Resource Division, Government of Newfoundland and Labrador for any commercial farming operation.
9. The Town, in its discretion, may refuse to issue a permit for an agricultural operation where in its opinion the use is likely to create an environmental hazard or a nuisance to residences in the general vicinity of the proposed agricultural use.

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1. Urban agricultural uses must meet the requirements for a home business (refer to 5.3);
2. A permit is not required for any residential market garden or home gardening that does not involve permanent structures, on-site sales, or keeping of domestic pets (cats, dogs) except or kennels (4.2.2.4).

##### **4.2.2.2 Community Garden**

A community garden use shall be subject to the following conditions:

1. Community gardens are to be maintained in a neat and tidy fashion; and
2. All disturbed areas not comprising the area of the community garden are to be reinstated with a minimum of grass sods to the satisfaction of the Town.

##### **4.2.2.3 Livestock and Poultry Conditions**

The following standards apply to livestock and poultry:

1. For every 0.4 hectare (with a minimum of 0.4 hectares), only one of any of the following is allowed (or a combination):
  - a. 2 of these livestock species: cow, bull, horse, mule, ass, swine or llama, and includes their young;
  - b. 6 sheep/goats;
  - c. 12 head of poultry (excluding roosters);
  - d. 12 rabbits; and,
2. On lots smaller than 0.4 hectares, but greater than 669 m<sup>2</sup> = 4 chickens, no roosters shall be allowed.

#### **4.2.2.4 Kennel**

**Definition:** Kennel means a building or portion thereof used for the keeping or boarding of more than eight (8) domestic pets, excluding livestock, kept for the purposes of commercial breeding or showing, or for personal use, with or without veterinary care, and includes an animal shelter.

#### **Conditions:**

1. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
2. The outside perimeter of all areas related to the kennel where animals are kept shall be enclosed by a solid fence or fence and a solid hedge at least 1.8 metres in height to screen the areas from adjacent properties;
3. The kennel must be located on a lot of 2 hectares or more;
4. All buildings related to the kennel may be required to have 8 centimetres of insulation in all exterior walls and ceiling for the purpose of soundproofing;
5. All buildings, pens and runs shall be sited not less than 15 metres from any property line, and 90 metres from any residence except the kennel site; and, Council shall be satisfied that the kennel shall not impact upon surrounding residential neighbourhoods.

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This class includes land uses and development for activities providing for the sale of goods and services. Generally, the Use Zone standards apply; however, as required, specific conditions are tailored to the activity and associated traffic in order to address public health, safety and conservation issues and achieve the intent of the community of the land use zone in which the activity is located.

#### **4.3.1 Amusement Establishment/Use**

**Definition:** Amusement establishment use means the use of land or a building or a part thereof used by the public for indoor non-sport games, including but are not limited to, billiard and pool halls, bingo hall, mechanical amusement games (more than three game machines), video games. It does not include those on the premises of a hotel or bar.

#### **Conditions:**

1. Must meet Use Zone Site Development Standards and conditions;
2. Must address traffic access/egress and on-site movement as well as parking;
3. For a temporary permit in particular, must address site rehabilitation after event;