

Development Regulations 2024-2034



TOWN OF CAPE BROYLE



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URBAN AND RURAL PLANNING ACT, 2000

RESOLUTION TO APPROVE

THE TOWN OF CAPE BROYLE

DEVELOPMENT REGULATIONS, 2024-2034

Under the authority of section 16, section 17 and section 18 of the *Urban and Rural Planning Act 2000*, the Town Council of Cape Broyle:

- adopted the Development Regulations for the Town of Cape Broyle on the 20th day of February, 2024;
- gave notice of the adoption of the Development Regulations for the Town of Cape Broyle by publication in the Shoreline News on the 5th day of April, 2024 and 22th day of March, 2024;
- set the 16th day of April 2024 at the Cape Broyle Community Centre, 37 Harbour Road, Cape Broyle for the Public Hearing.

Now under the authority of Section 23 of the *Urban and Rural Planning Act 2000*, the Town Council of Cape Broyle approves the Development Regulations for the Town of Cape Broyle as adopted.

SIGNED AND SEALED this 16 day of July, 2024

Mayor:

Beverly O'Brien

Town Clerk:

Wendy Dwyer

Development Regulations/Amendment

REGISTERED

Number 0860-0003-2024

Date 23 DEC 2024

Signature [Signature]

(Town of Cape Broyle seal)



URBAN AND RURAL PLANNING ACT, 2000

RESOLUTION TO ADOPT

TOWN OF CAPE BROYLE

DEVELOPMENT REGULATIONS, 2024-2034

Under the authority of Section 16 of the *Urban and Rural Planning Act, 2000*, the Town Council of Cape Broyle adopts the Town of Cape Broyle Development Regulations, 2024-2034.

The Development Regulations (2024-2034) were adopted by the Town Council of Cape Broyle on the 20th day of February, 2024.

Signed and sealed this 16 day of July, 2024

Mayor:

Beverly O'Brien

Town Clerk:

Wendy Dwyer



(Town of Cape Broyle seal)

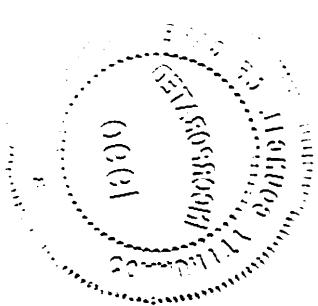
CANADIAN INSTITUTE OF PLANNERS (CIP) CERTIFICATION

I certify that the Town of Cape Broyle Development Regulations, 2024-2034 have been prepared in accordance with the requirements of the *Urban and Rural Planning Act, 2000* of the Province of Newfoundland and Labrador.

AMyers

Member of Canadian Institute of Planners (MCIP)





Call No. 1000
1000

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	LEGAL EFFECT.....	2
1.4	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	<i>Who can apply and how</i>	4
2.2.2	<i>Application Requirements for All Applications</i>	5
2.2.3	<i>Application Information Requirements for Discretionary Uses.....</i>	5
2.2.4	<i>Application Information Requirements for Planned Unit Developments.....</i>	6
2.3	WHERE PROPOSED DEVELOPMENT DOES NOT MEET DEVELOPMENT REGULATIONS REQUIREMENTS.....	8
2.3.1	<i>Variances.....</i>	8
2.3.2	<i>Non-Conforming Uses or Non-Conforming Development.....</i>	9
2.3.3	<i>Amendment to Development Regulations.....</i>	9
2.4	COUNCIL DECISION-MAKING	11
2.4.1	<i>Discretionary Decision-making Powers of Council.....</i>	11
2.4.2	<i>Timely Decision-making.....</i>	11
2.4.3	<i>Deferment of Application:</i>	11
2.4.4	<i>Public Notice</i>	11
2.4.5	<i>Briefing Sessions.....</i>	12
2.4.6	<i>Approval in Principle.....</i>	13
2.4.7	<i>Approval of Permit.....</i>	14
2.4.8	<i>Permit responsibilities of the applicant.....</i>	14
2.4.9	<i>Temporary Use Permit.....</i>	15
2.4.10	<i>Correction of Errors and Remedial Work.....</i>	15
2.4.11	<i>Revoke Permit.....</i>	15
2.4.12	<i>Fee for Permit</i>	15
2.4.13	<i>Refusing of Application for a Permit.....</i>	15
2.4.13.1	<i>Written Reasons and Right of Appeal</i>	15
2.4.13.3	<i>Refusal based on Premature development.....</i>	16
2.4.14	<i>Appeal</i>	16
2.4.15	<i>Register</i>	16
2.5	SPECIAL CONDITIONS FOR DEVELOPMENT	16
2.5.1	<i>Development Agreement</i>	16
2.5.2	<i>Planning Impact Analysis.....</i>	17
2.5.3	<i>Financial Guarantees by Developer</i>	17
2.5.4	<i>Service Levy</i>	18
2.5.5	<i>Require Land Conveyed for Public Work Purpose</i>	18
2.5.6	<i>Restoration of Land</i>	18
2.6	ENFORCEMENT AUTHORITY	19
2.6.1	<i>Delegation of Authority.....</i>	19
2.6.2	<i>Right of Entry</i>	19

2.6.3	<i>Enforcement Authorities</i>	19
3.0	LAND USE ZONES AND PROVINCIAL INTEREST OVERLAYS	21
3.1	INTERPRETATION OF LAND USE ZONES & DEVELOPMENT STANDARDS	21
3.1.1	<i>Land Use Zones</i>	21
3.1.2	<i>Land Use Zone Tables: Permitted and Discretionary uses</i>	21
3.1.2.1	<i>Permitted Uses</i>	22
3.1.2.2	<i>Discretionary Uses</i>	22
3.1.3	<i>Accessory Uses and Accessory Building</i>	22
3.1.4	<i>Uses Not Permitted</i>	22
3.1.5	<i>Uses Permitted in All Land Use Zones</i>	23
3.1.6	<i>Development Conditions and Standards</i>	23
3.2	LAND USE ZONES	25
3.2.1	<i>MIXED-RESIDENTIAL/COMMERCIAL ZONE</i>	25
3.2.2	<i>MIXED DEVELOPMENT ZONE</i>	28
3.2.3	<i>ENVIRONMENTAL PROTECTION ZONE</i>	32
3.2.4	<i>OPEN SPACE, PARKS AND TRAILS ZONE</i>	34
3.2.5	<i>HERITAGE CONSERVATION ZONE</i>	35
3.2.6	<i>INDUSTRIAL ZONE</i>	36
3.2.7	<i>PUBLIC UTILITY ZONE</i>	37
3.2.8	<i>RURAL ZONE</i>	38
3.2.9	<i>RESIDENTIAL SUBDIVISION AREA ZONE</i>	39
3.2.10	PROVINCIAL INTEREST OVERLAYS	40
3.3	ACCESSORY USES	41
3.3.1	<i>General Accessory Uses</i>	41
3.3.2	<i>Subsidiary Apartments</i>	41
3.4	ACCESSORY BUILDINGS	42
3.4.1	<i>Accessory Buildings - General</i>	42
3.4.2	<i>Accessory Buildings - Residential Use Classes</i>	43
3.4.3	<i>Accessory Buildings - Non-Residential</i>	44
3.4.3.1	<i>General</i>	44
3.4.3.2	<i>Wharf/Boathouse/Slipway/Breakwater</i>	45
3.5	HOME BUSINESS IN RESIDENTIAL USES	45
3.5.1	<i>Home Business: Definition and examples</i>	45
3.5.2	<i>General Development Conditions for Home Businesses</i>	47
3.5.3	<i>Development Conditions for Specific Home Businesses</i>	48
3.5.3.1	<i>Bed and Breakfast</i>	48
3.5.3.2	<i>Boarding House</i>	49
3.5.3.3	<i>Day Care: Residential</i>	49
3.5.3.4	<i>Parking for Home Business</i>	50
4.0	LAND USE TYPE/CLASS DEFINITIONS AND CONDITIONS	51
4.1	INTERPRETATION	51
4.2	AGRICULTURE LAND USE CLASS	51
4.2.1	<i>Commercial Agriculture</i> :	51
4.2.2	<i>Urban Agriculture</i>	52
4.2.2.1	<i>General Conditions</i>	52
4.2.2.2	<i>Community Garden</i>	53

4.2.3	<i>Non-household pet animals in the Mixed Residential/Commercial and Mixed Development zones</i>	53
4.2.2.4	<i>Kennel</i>	53
4.3	COMMERCIAL LAND USE CLASS	54
4.3.1	<i>Amusement Establishment/Use</i>	54
4.3.2	<i>Amusement Park/Attraction</i>	54
4.3.3	<i>Auto Body Shop</i>	54
4.3.4	<i>Automotive Repair Shop</i>	55
4.3.5	<i>Bar/Licenced Liquor Establishment</i>	56
4.3.6	<i>Building Supply Store</i>	56
4.3.7	<i>Business Support Service</i>	56
4.3.8	<i>Campground, including RV campgrounds</i>	56
4.3.9	<i>Child Care – Non-residential (Note: residential child care is under Home Business)</i>	58
4.3.10	<i>Club and Lodge</i>	58
4.3.11	<i>Contractor, Limited (Small)</i>	58
4.3.12	<i>Convenience Store</i>	59
4.3.13	<i>Custom Manufacturing Service and Sales (small/artisan)</i>	59
4.3.14	<i>Garage, Public parking /taxi stand</i>	60
4.3.15	<i>General Service/Repair Shop</i>	60
4.3.16	<i>Hotel or Inn</i>	60
4.3.17	<i>Marina</i>	61
4.3.18	<i>Medical or Dental Clinic/Office</i>	62
4.3.19	<i>Motel</i>	62
4.3.20	<i>Outdoor Commercial Patio</i>	63
4.3.21	<i>Outdoor Market</i>	64
4.3.22	<i>Personal Service</i>	64
4.3.23	<i>Offices: Professional, Financial and Associated Support Services</i>	64
4.3.24	<i>Resort</i>	65
4.3.25	<i>Restaurants</i>	65
4.3.25.1	<i>Take-Out</i>	65
4.3.25.2	<i>Full-Service Restaurant</i>	66
4.3.25.3	<i>Mobile Take-Out or Street Vendor</i>	66
4.3.26	<i>Retail</i>	67
4.3.27	<i>Service Station</i>	67
4.3.28	<i>Veterinarian Clinic</i>	68
4.3.29	<i>Mobile Street Vendor (non-food) or office</i>	68
4.3.30	<i>Short Term Residential Rental</i>	68
4.4	INDUSTRIAL LAND USE CLASS	69
4.4.1	<i>Crematorium</i>	69
4.4.2	<i>Composting Facility</i>	69
4.4.3	<i>Contractor, General</i>	70
4.4.4	<i>Energy Generation Facilities</i>	70
4.4.4.1	<i>General Energy Generation</i>	70
4.4.4.2	<i>Wind Turbines</i>	71
4.4.4.2.1	<i>Commercial wind turbine generator</i>	71
4.4.4.2.2	<i>Private wind turbine generator</i>	71
4.4.5	<i>Fishery Use</i>	72
4.4.6	<i>Forestry Activities</i>	72
4.4.7	<i>Industrial - General</i>	72
4.4.8	<i>Industrial - Light</i>	73

4.4.9	<i>Industrial Mall</i>	74
4.4.10	<i>Mineral Exploration</i>	74
4.4.11	<i>Mineral Working</i>	76
4.4.12	<i>Mining</i>	77
4.4.13	<i>Natural Resource-Related Uses</i>	78
4.5	CONSERVATION LAND USE CLASS	79
4.5.1	<i>Environmental Protection</i>	79
4.5.2	<i>Open Space, Parks and Trails</i>	79
4.6	PUBLIC/INSTITUTIONAL LAND USE CLASS.....	81
4.6.1	<i>Cemetery</i>	81
4.6.2	<i>Institutional Use</i>	82
4.6.3	<i>Protective and Emergency Services</i>	83
4.6.4	<i>Public Gathering Places -Indoor</i>	83
4.6.5	<i>Public Gathering Places - Outdoor</i>	84
4.6.6	<i>Sports and Recreation Facilities</i>	84
4.7	RESIDENTIAL LAND USE CLASS	85
4.7.1	<i>Single Detached Dwelling</i>	85
4.7.2.	<i>Semi-Detached Dwelling (Double dwelling)</i>	85
4.7.3	<i>Townhouses</i>	86
4.7.4	<i>Mini-Home and Mobile Homes</i>	86
4.7.5	<i>Apartment Building</i>	87
4.7.6	<i>Cottage (or Cabin)</i>	87
4.7.7	<i>Supportive Housing</i>	88
4.7.8	<i>Tiny Homes</i>	88
4.7.9	<i>Hostel</i>	89
4.8	PUBLIC INFRASTRUCTURE AND UTILITIES.....	89
4.8.1	<i>Communications</i>	89
4.8.2	<i>Easement</i>	90
4.8.3	<i>Utilities</i>	90
5.0	GENERAL DEVELOPMENT REGULATIONS	93
5.1	NUISANCE PROHIBITION AND BUFFERS.....	93
5.1.1	<i>Nuisance and Unsightly development</i>	93
5.1.2	<i>Buffers</i>	94
5.2	LOT SITING AND BUILDING ENVELOPE	95
5.2.1	<i>Lot Area Integrity</i>	95
5.2.2	<i>Lot Fronting on to a Public Street</i>	95
5.2.3	<i>Building Line and Setbacks</i>	95
5.2.4	<i>Flanking or Corner lots and double fronting lots</i>	96
5.2.5	<i>Side Yards</i>	96
5.2.6	<i>Multiple Uses on One Lot</i>	96
5.2.7	<i>Outdoor Storage</i>	97
5.2.8	<i>Civic Numbering Siting Conditions</i>	97
5.2.9	<i>Building Orientation and Quality</i>	97
5.2.10	<i>Heritage Building or Structure</i>	97
5.3	LANDSCAPING.....	98
5.3.1	<i>General Requirements – Residential, Commercial and Industrial zones</i>	98
5.3.2	<i>Subdivisions</i>	99
5.4	MUNICIPAL SERVICES AND PUBLIC UTILITIES	99

5.4.1	<i>Access And Streets</i>	100
5.4.2	<i>Shared Driveway</i>	101
5.4.3	<i>Storm Water Management</i>	101
5.4.4	<i>Effluents</i>	102
5.4.5	<i>On-Site Services (Wells and onsite sanitary sewer systems)</i>	102
5.4.6	<i>Environmental Investigations</i>	102
5.5	OFF-STREET LOADING, PARKING AND SIGNS	103
5.5.1	<i>Off-Street Loading Requirements</i>	103
5.5.2	<i>Parking</i>	103
5.5.2.1	<i>Parking requirements</i>	103
5.5.2.2	<i>Parking Development Plans</i>	104
5.5.2.3	<i>Off-Street Parking Requirements</i>	104
5.5.2.4	<i>Designated Mobility Impaired Parking Spaces</i>	106
5.6	SIGNS (ADVERTISEMENTS).....	107
5.6.1	<i>Permit Required</i>	107
5.6.1.1	<i>Signs/Advertisements Exempt from Permit Requirement</i>	107
5.6.1.2	<i>Application for Permit</i>	107
5.6.1.3	<i>Signs/Advertisements Prohibited in Street Reservation</i>	107
5.6.1.4	<i>Permit Valid for Limited Period</i>	108
5.6.1.5	<i>Removal of Signs/Advertisements</i>	108
5.6.1.6	<i>Non-Conforming Uses</i>	108
5.6.2	<i>Sign Standards</i>	108
5.6.2.1	<i>Advertisements Relating to Onsite Uses</i>	108
5.6.2.2	<i>Advertisements Relating to Offsite Uses on Local Roads</i>	108
5.6.2.3	<i>Highway Sign Regulations, 1999</i>	109
6.0	SUBDIVISION OF LAND	111
6.1	SUBDIVISION APPLICATION	111
6.1.1	<i>Permit Required</i>	111
6.1.2	<i>Subdivision Standards apply</i>	111
6.1.3	<i>Subdivisions standards do not apply</i>	111
6.1.4	<i>Public Notice</i>	112
6.1.5	<i>Subdivision Subject to Zoning</i>	112
6.1.6	<i>Subdivision Permit Subject to Considerations</i>	112
6.1.7	<i>Restriction on Sale of Lots</i>	113
6.1.8	<i>Building Permits Required</i>	113
6.2	SUBDIVISION APPLICATION REQUIREMENTS	113
6.2.1	<i>Subdivision Development Agreement</i>	113
6.2.2	<i>Municipal Services to be Provided</i>	113
6.2.3	<i>Private Well water source: Groundwater Supply Assessment and Reporting</i>	114
6.2.4	<i>Fees, Service Levies and Land for Open Space</i>	115
6.2.4.1	<i>Subdivision Fees</i>	115
6.2.4.2	<i>Service Levies and Local Improvement Assessments</i>	115
6.2.4.3	<i>Deposit of Securities</i>	115
6.2.4.4	<i>Land for Public Open Space</i>	115
6.3	SUBDIVISION DESIGN STANDARDS.....	116
6.4	SUBDIVISION ENGINEERING STANDARDS.....	118
6.4.1	<i>Engineer to Design Works and Certify Construction Layout</i>	118
6.4.2	<i>Developer to Pay Engineer's Fees and Charges</i>	118
6.4.3	<i>Street Works May Be Deferred</i>	118

6.4.4	<i>Construction of Utilities</i>	119
6.4.5	<i>Structures in Street Reservation</i>	119
6.4.6	<i>Transfer of Streets and Utilities to Council</i>	119
6.4.7	<i>Mini/mobile home park subdivision</i>	120
	SCHEDULES.....	121
	SCHEDULE A: FEDERAL AND PROVINCIAL GOVERNMENT REQUIREMENTS.....	123
A.1	<i>Removal of Quarry materials, site grading, soil deposit</i>	123
A.2	<i>Crown land</i>	123
A.3	<i>Surveys Control Markers</i>	124
A.4	<i>Archaeology</i>	124
A.5	<i>Water Resources (watercourses, shorelines, and wetland)</i>	124
A.6	<i>Forestry and Wildlife</i>	125
A.7	<i>Climate Change Impacts</i>	126
A.8	<i>Easements</i>	126
A.9	<i>Provincial Government permits from Digital Government and Service NL</i>	126
A.9.1	<i>General requirements</i>	126
A.9.2	<i>Provincial Highway Sign Regulations, 1996</i>	126
A.10	<i>Pollution Prevention</i>	127
A.11	<i>National Codes and Regulations</i>	128
	SCHEDULE B.....	129
	INTERPRETATION	129
	SCHEDULE C: MINISTER'S DEVELOPMENT REGULATIONS	139
	SCHEDULE D – NON-CONFORMING USES AND NON-CONFORMING DEVELOPMENT	149
	SCHEDULE E: LAND USE ZONING MAP	151

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

The Development Regulations shall be subject to all Federal and Provincial legislation, regulations, policies, guidelines and standards, as amended from time to time.

Notwithstanding these requirements, these Development Regulations incorporate specific compliance requirements as set out in Schedule A-Provincial and federal interests and requirements.

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 Legal Effect

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

These Regulations may be cited as the “Town of Cape Broyle Development Regulations 2024”, 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 Act, the *Ministerial Development Regulations 03/01* are included in these regulations.

To assist interpretation of the Development Regulations, technical planning definitions are found in Schedule B. 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. The Minister’s Development Regulations are found in Schedule C.

1.4 Delegation of Authority

Under Section 109 (2) of the Act, a council may 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. This chapter 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.

No land over which there is an existing structure shall be subdivided for the purpose of creating distinct lot for different dwelling units unless;

- a. Each dwelling unit is entirely contained within the new lot 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 Town Development Regulations;
- 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.

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 form(s) 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 site, 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 or other documentation sufficient to satisfaction of Council.

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 5.5;
- iv. proposed access/egress, parking, loading requirements;
- v. a landscaping plan and buffers (see Section 5.3)

2.2.3 Application Information Requirements for Discretionary Uses

- 1) 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, provided notification, such as a notice published in a newspaper circulating in the area of the application, if any, or

social media, and other means of emailing or notifying the public or by direct contact with property owners near the location that is subject to the application, and

- c. that Council has considered any representations or submissions received in response to that advertisement.
- d. 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:
 - i. floor area to be used for Discretionary Use,
 - ii. number of employees employed on site, and
 - iii. 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 or a mix of uses that responds to a unique market opportunity. 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. A Planned unit development may also have buildings with zero lot line provided that they are meet Digital Government and Service NL requirements. The Planned Unit Development would be prepared and reviewed by the Council according to its regular development approval process.

Conditions:

1. Required to comply with the permitted /discretionary uses in the relevant zone;
2. A Planned Unit Development must have frontage on a public road and comply with use requirements of the Zone within which it is located.
3. Notwithstanding the requirement for serviced development, if municipal services are not feasible to the standard required by the Town, the provision of on-site services must meet requirement of provincial agencies, in particular, Water Resource Management Division and Service NL;
4. 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.
5. A Planned Unit development and/or subdivision shall comply with the requirements of the Municipal Plan or any scheme adopted under it, and with the zoning for the site as it pertains to land use, height, and have a suitable relationship to nearby land uses in respect to appearance, traffic requirements, and demands on municipal services;

In addition to the information in 2.2.2, the following requirements will apply to all proposed Planned Unit Development applications involving development of large sites for commercial (including commercial recreational), industrial, residential and public institutional development. A Planned Unit Development application would normally contain the following:

- Goals, objectives and land use policies for the development area;
- Identification of developable area of site, indicating accommodation of site conditions such as poor drainage, steep slopes, flooding potential and rocky ground;
- Proposed siting of new buildings, or additions, including building square footage area size, building height, and setback distances to property lines;
- Building lot area coverage where applicable;
- Total number of proposed multi-unit residential dwellings, or strata unit commercial and/or industrial units, and interior floor plans;
- 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;
- Identification of outdoor amenity and open space and recreation areas;
- Identification of unenclosed storage areas and area size; and,
- Overview of landscaping treatment and approach for the site development.
- Phasing of the development;
- Street and servicing layout, including on-site road pattern and traffic and relation to surrounding community in conformance with Town standards;
- Indicate any issues related to the long-term maintenance of streets and other services; and,
- if required, an amendment to the Municipal Plan and/or Development Regulations.

6. A Planned Unit Development may be approved by Council in any zone as a development and/or subdivision on public or private services, subject to the following requirements:

- a. The development and/or subdivision shall comply with the requirements of the Municipal Plan or any scheme adopted under it, and with the zoning for the site as it pertains to land use, height, and have a suitable relationship to nearby land uses in respect to appearance, traffic requirements, and demands on municipal services; and,
- b. A Development Agreement having a Planned Unit Development site plan attached thereto, satisfactory to Council, between the owners of the land and the Town shall be registered in the Registry of Deeds of Newfoundland and Labrador, controlling the use and development of such land.

2.3 WHERE PROPOSED DEVELOPMENT DOES NOT MEET DEVELOPMENT REGULATIONS REQUIREMENTS

If a proposed application does not meet the requirements of these Development Regulations, there are three options to consider:

- If a variance under the Minister's Development Regulations can be applied;
- Whether the existing use/development is non-conforming and subject to associated provisions under the *Urban and Rural Planning Act, 2000* or the Minister's Development Regulations (refer to Schedule C); and,
- Whether the applicant wishes to request an amendment to the Development Regulations (which may require an associated amendment to the Municipal Plan).

2.3.1 Variances

Where the proposed development does not comply with any numeric requirement in the applicable use zone table set out in these Regulations for the zone in which the site occurs, Council may, in its discretion, at the request of the applicant, provide a variance to the requirement 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 total of 10% variance is set in the *Minister's Development Regulations 3/01* and cannot be amended by Council and the requirements set out in Section 12 apply (see Appendix C).

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 separately are 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

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

- a. The building or use is clearly vacated or the building is demolished;
- b. The owner or tenant has ceased paying building taxes for that use; and
- c. The owner or tenant has stated in writing that the use has ceased

When an application involves a non-conforming use or non-conforming development, the appropriate sections of the *Urban and Rural Planning Act, 2000* (Part XII) and *Minister's Development Regulations 03/01* (Sections 14-17) apply. These can be found in Schedule D.

2.3.3 Amendment to Development Regulations

An amendment to these Development Regulations may be requested by the property owner or a person operating under the owner's written consent and shall be submitted to the Council. Note that 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.

Where a Plan amendment and/or Development Regulation amendment is required, 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.

An amendment to 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 to the text of the Development Regulations and/or the Land Use Zoning Map which **does not** require an associated amendment to the Municipal Plan does not follow the full process set out in Sections 14-25 of the Act (Section 35 (5)); 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.

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 60 days of the application being received by Council (with information complete to the satisfaction of 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 60 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

The following list indicates the requirements regarding public notice. Council must, at the applicant's expense (Section 35 (1) of the Act), 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 will be by advertisement in a newspaper circulating in the area, and a minimum of seven (7) days will be provided for persons to respond.
2. A proposed development is listed as a **discretionary use**; 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 will be provided for persons to respond.
3. A **Planned Unit Development** is proposed; Council will publish a notice in a newspaper circulating in the area or by other reliable means give public notice, and will provide a minimum of fourteen (14) days for persons to respond; or,
4. If **Council determines** that the public should be notified of an application; notice of the application will be by advertisement in a newspaper circulating in the area, and a minimum of seven (7) days will be provided for persons to respond;
5. A **Planning Impact Analysis** is proposed; Council will publish a notice in a newspaper circulating in the area or by other reliable means give public notice, and will provide a minimum of fourteen (14) days for persons to respond;
6. Notification regarding a **Variance** will be carried out as follows: A **variance**; 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 3/01*) and a minimum of seven (7) days will 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 of the application that is the subject of the briefing session to advertise the application by a minimum of one (1) advertisement in a newspaper circulating in the local area, or by any other means at least ten (10) calendar days prior to the holding of a briefing session where the application shall be discussed.

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

An Approval in Principle will 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 will not constitute permission to commence development.* No form of development will commence until Council has issued a proper development permit.

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.

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-principal.

A decision by Council on an application for an Approval in Principle can be appealed in accordance with Section 42 of the Act.

2.4.7 Approval of Permit

- (1) A written permit issued by Council or its designated staff will 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 will 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 5.6).
- (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 Sections 42-46 of the *Urban and Rural Planning Act, 2000* and Sections 5 to 11 of the *Minister's Development Regulations 3/01* under that Act.

2.4.8 Permit responsibilities of the applicant

The applicant must meet the requirements of these Regulations and the conditions attached to the permit to develop. Note that, 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 one (1) year and may be extended at the request of the applicant for one (1) additional year, up to a maximum of two (2) years.

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

1. Council or any designated officer may revoke an approval and any subsequent permits for:
 - a. failure by the holder, to comply with these Regulations or any condition attached to the permit;
 - b. where the permit was issued contrary to the applicable regulations;
 - c. the permit was issued on the basis of incorrect information.

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 Refusing of Application for a Permit

2.4.13.1 Written Reasons and Right of Appeal

When refusing to issue a permit or attaching conditions to a permit, Council shall, in writing:

- a. state the reasons for so doing; and,
- b. advise the applicant of their right to appeal in accordance with Sections 42-46 of the *Urban and Rural Planning Act, 2000* and Sections 5 to 11 of the *Minister's Development Regulations 2001* under that Act.

2.4.13.2 Resubmission of Application

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 previous refusal.

2.4.13.3 Refusal based on Premature development

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

2.4.14 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 *Minister's Development Regulations3/01* under that Act. The applicant must be informed of the right to appeal in the letter of refusal.

2.4.15 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

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 will 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 application (Section 2.5.1), Development Scheme, Section 29 of the *Urban and Rural Planning Act, 2000*, or

Subdivision greater than 5 lots (Chapter 6), 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 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 Planning Impact Analysis will 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 Planning Impact Analysis 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 2.4.4.

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 will 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 the standards required by Council and for uses that are permitted on that real property.

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 does not involve 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 development.

2.5.6 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 regarding enforcement.

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 of Council 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 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*.

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3.0 LAND USE ZONES AND PROVINCIAL INTEREST OVERLAYS

3.1 INTERPRETATION OF LAND USE ZONES & DEVELOPMENT STANDARDS

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 will 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 Cape Broyle. The Municipal Plan states the objectives and policies for each of the land use classes. The Development Regulations enable the implementation of these policies through the following zones:
 - a. Mixed-Residential/Commercial
 - b. Mixed Development
 - c. Heritage Conservation
 - d. Environmental Protection
 - e. Open Space, Park and Trails
 - f. Industrial
 - g. Public Utility
 - h. Rural
 - i. Residential Subdivision Area

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 6. Sections 2.4.1 and 2.4.13.1 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 will 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).

Discretionary uses may be allowed, with or without conditions, after Council undertakes the following determinations:

- a. Council must be satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, policies and Future Land Use Map, or any further scheme or plan or regulation pursuant thereto, and to the public interest.
- b. Whether it is necessary to attach conditions to an approval that differ from the standard conditions in the Development Regulations to ensure that the discretionary use is compatible with nearby uses and the predominant uses of the zone;
- c. whether these is appropriate for the site

Council is required to provide public notice of Discretionary use applications and shall consider 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. Accessory use means aiding or contributing in a secondary way to a principal use to carry out its function. Definitions, examples and notification requirements regarding accessory uses and accessory buildings is provided in Sections 3.3 and 3.4.

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, except for Accessory Uses and Buildings as set out in Sections 3.3 and 3.4.

3.1.5 Uses Permitted in All Land Use Zones

The following uses will be permitted in all land use zones:

1. Environmental protection uses;
2. Open space, park, & trail uses;
3. Mineral exploration not classed as 'Development';
4. Development associated with public infrastructure and municipal services, including public infrastructure and utilities;
5. Accessory use: Wharf/boathouse/slipways/breakwater, subject to 3.4.3.4 are Permitted uses where they are accessory to a Principal use; and a Discretionary use when not accessory to a Principal use.
6. Accessory Uses and Accessory Buildings, provided the buildings are clearly incidental and complimentary to the main buildings' character, size and use.

Note that as trails are permitted in all zones, the following considerations apply:

- (1) Wherever space and terrain characteristics allow, the appearance and use of well-known trails and/or mapped trails (including the Track and the East Coast Trail) shall be protected by natural vegetation buffers that separate the trail and other forms of development and from hazard areas and areas subject to erosion, such as river and brook banks. The vegetation buffer shall be deep enough to prevent shallow rooted trees being knocked over by wind.
- (2) As a condition of a development permit the Town may require that a trail corridor be deeded to the Town or a non-profit group approved by the Town.

3.1.6 Development Conditions and Standards

1. 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 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.
2. 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.
3. If Council deems that a proposed development may trigger the requirements of the Environmental Assessment Act, the proponent will be advised to consult with the

Environmental Assessment Division and a development permit cannot be issued until this process is complete.

4. Where these Regulations are more stringent than Provincial or Federal legislation, these Regulations will apply.
5. 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 amend the Development Regulations to rezone the property. Note that this may also require an amendment to the Municipal Plan if a policy change is required.

3.2 LAND USE ZONES

3.2.1 MIXED-RESIDENTIAL/COMMERCIAL ZONE

USE ZONE TABLE: MIXED RESIDENTIAL/COMMERCIAL ZONE

PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> -<i>Single Detached Dwelling (4.7.1)</i> -<i>Semi-Detached Dwelling (Double dwelling) (4.7.2)</i> - <i>Townhouses (4.7.3)</i> -<i>Urban Agriculture (4.2.2)</i> - <i>Home businesses-(5.3.1) only those set out in Condition 3-all others are discretionary uses</i> -<i>Child Care – Non-residential (Note: residential child care is under Home Business) (4.3.9)</i> -<i>Uses set out in 3.1.5</i> 	<ul style="list-style-type: none"> -<i>Amusement Establishment/Use (4.3.1)</i> -<i>Apartment Building (4.7.5)</i> -<i>Building Supply Store (4.3.6)</i> -<i>Business Support Service (4.3.7)</i> -<i>Campground, including RV campgrounds (4.3.8)</i> -<i>Cemetery (4.6.1)</i> -<i>Club and Lodge (4.3.10)</i> -<i>Convenience Store (4.3.12)</i> -<i>Custom Manufacturing Service and Sales -(small/artisan) (4.3.13)</i> -<i>Day Care-Residential (5.3.2.3)</i> -<i>Garage, Public parking /taxi stand (4.3.14)</i> -<i>General Service/Repair Shop (4.3.15)</i> -<i>Home businesses-(5.3.1)-see Condition 4</i> -<i>Hotel or Inn (4.3.16)</i> -<i>Medical or Dental Clinic/Office (4.3.18)</i> -<i>Mini-Home and Mobile Homes (4.7.4)</i> -<i>Mobile Street Vendor (non-food) or office (4.3.29)</i> -<i>Motel (4.3.19)</i> -<i>Offices: Professional, Financial & Associated Support Services (4.3.23)</i> -<i>Outdoor Commercial Patio (4.3.20)</i> -<i>Outdoor Market (4.3.21)</i> -<i>Personal Service (4.3.22)</i> -<i>Protective and Emergency Services (4.6.3)</i> -<i>Public Gathering Places – Outdoor (4.6.5)</i> -<i>Public Gathering Places -Indoor (4.6.4)</i> -<i>Resort – Tourist Establishment (4.3.24)</i> -<i>Restaurants (4.3.25): Take-Out (4.3.25.1), Full-Service (4.3.25.2)</i> -<i>Mobile Take-Out or Street Vendor (4.3.25.3)</i> -<i>Retail (4.3.26)</i> -<i>Service Station (4.3.27)</i> -<i>Short Term Rental (4.3.30)</i> -<i>Supportive Housing (4.7.7)</i> -<i>Veterinarian Clinic (4.3.28)</i>

Conditions

1. Development must conform to the requirements of Section 3.1.6.
2. Onsite Water and Sanitary sewer standards must comply with Service NL regulations. Also, at the determination of Service NL, a Groundwater Assessment may be necessary.
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;

DEVELOPMENT STANDARDS: MIXED DEVELOPMENT- RESIDENTIAL/COMMERCIAL ZONE				
Minimum Standards:	Single Detached Dwelling			
	No services provided	One service: water	Biogreen Secondary Wastewater Treatment system	
Lot area (m ²)	1860	1400	1395	930
Frontage (m) *	30	23	23	18
Building Line Setback	8	8	8	8
Side yard Width (m)	5	5	5	5
Side yard, Flanking (m)	15	10	10	10
Rear yard Depth* (m)	10	10	10	10
Maximum Standard				
Height (m)	10	10	10	10
Lot Coverage	33%	33%	33%	33%

DEVELOPMENT STANDARDS: MIXED-RESIDENTIAL/COMMERCIAL ZONE Non-residential development	
Minimum Standards:	
Front yard (building line) (m)	At the discretion of Council
Side yard (m)	1 - 5 at the discretion of Council
Flanking yard (m)	4 - 6 at the discretion of Council
Rear yard (m)	5
Maximum Standards	
Height (m)	15

3.2.2 MIXED DEVELOPMENT ZONE

USE ZONE TABLE: MIXED DEVELOPMENT ZONE

PERMITTED USES	DISCRETIONARY USES
<i>-Single Detached Dwelling (4.7.1)</i>	<i>-Amusement Establishment/Use (4.3.1) Amusement Park/Attraction (4.3.2) Apartment Building (4.7.5) Automotive Repair Shop (4.3.4) Bar/Licenced Liquor Establishment (4.3.5) Building Supply Store (4.3.6) Business Support Service (4.3.7) Campground, including RV campgrounds (4.3.8) Cemetery (4.6.1) Club and Lodge (4.3.10) Commercial Agriculture (4.2.1) Contractor-General (4.4.3) Contractor, Limited (Small) (4.3.11) Convenience Store (4.3.12) Custom Manufacturing Service and Sales (small/artisan) (4.3.13)</i>
<i>-Semi-Detached Dwelling (Double dwelling) (4.7.2)</i>	
<i>-Townhouses (4.7.3)</i>	
<i>-Urban Agriculture (4.2.2)</i>	
<i>- Home businesses-(5.3.1) only those set out in Condition 3-all others are discretionary uses</i>	<i>Day Care-Residential (5.3.2.3) -Garage, Public parking /taxi stand (4.3.14) General Service/Repair Shop (4.3.15) -Home businesses-(5.3.1) those not set out in Condition 3 (which are permitted) listed below in Condition 4</i>
<i>-Child Care-Non-residential (Note: residential child care is under Home Business) (4.3.9)</i>	<i>Hostel (4.7.9) Hotel or Inn (4.3.16) Industrial – General (4.4.7) Industrial – Light (4.4.8) Industrial Mall (4.4.9) Kennel (4.2.2.4) Medical or Dental Clinic/Office (4.3.18) Mini-Home and Mobile Homes (4.7.4) Mobile Street Vendor (non-food) or office (4.3.29) Motel (4.3.19) Natural Resource-Related Uses (4.4.13)</i>
<i>-Uses set out in 3.1.5</i>	<i>Outdoor (4.6.5) Garage, Public parking /taxi stand (4.3.14)</i>

USE ZONE TABLE: MIXED DEVELOPMENT ZONE

PERMITTED USES	DISCRETIONARY USES
	<p><i>Outdoor Commercial Patio (4.3.20)</i></p> <p><i>Outdoor Market (4.3.21)</i></p> <p><i>Personal Service (4.3.22)</i></p> <p><i>Veterinary Clinic (4.3.28)</i></p> <p><i>Protective and Emergency Services (4.6.3) Offices: Office-Offices-Professional, Financial and Associated Support Services (4.3.23)</i></p> <p><i>Public Gathering Places-Outdoor (4.6.5)</i></p> <p><i>Public Gathering Places -Indoor (4.6.4)</i></p> <p><i>Resort - Tourist Establishment (4.3.24)</i></p> <p><i>Restaurants (4.3.25): Take-Out (4.3.25.1), Full-Service (4.3.25.2), Mobile Take-Out or Street Vendor (4.3.25.3)</i></p> <p><i>Retail (4.3.26)</i></p> <p><i>Service Station (4.3.27)</i></p> <p><i>Short Term Rental (4.3.30)</i></p> <p><i>Sports and Recreation facilities (4.6.6)</i></p> <p><i>Supportive Housing (4.7.7) Townhouses (4.7.3)</i></p> <p><i>Veterinarian Clinic (4.3.28)</i></p>

**DEVELOPMENT STANDARDS: MIXED DEVELOPMENT-
RESIDENTIAL/COMMERCIAL ZONE**

Minimum Standards:	Single Detached Dwelling			
	No services provided	One service: water	Biogreen Secondary Wastewater Treatment	
			With on-site drilled well	With off-site water source
Lot area (m ²)	1860	1400	1395	930
Frontage (m) *	30	23	23	18
Building Line Setback (m)	8	8	8	8
Side yard Width (m)	5	5	5	5
Side yard, Flanking (m)	15	10	10	10
Rear yard Depth* (m)	10	10	10	10
Maximum Standard				
Height)	10	10	10	10
Lot Coverage	33%	33%	33%	33%

DEVELOPMENT STANDARDS: MIXED DEVELOPMENT ZONE

Non-residential development

Minimum Standards:	
Front yard (building line) (m)	At the discretion of Council
Side yard (m):	1 - 5 at the discretion of Council
Flanking yard (m):	4 - 6 at the discretion of Council
Rear yard (m):	5
Maximum Standards	
Height (m)	15

Conditions

1. Development must conform to the requirements of Section 3.1.6;
2. Onsite Water and Sanitary sewer standards must comply with Service NL regulations. Also, at the determination of Service NL, a Groundwater Assessment may be necessary.
3. 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
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;

3.2.3 ENVIRONMENTAL PROTECTION ZONE

USE ZONE TABLE: ENVIRONMENTAL PROTECTION ZONE
(Subject to Water Resource Management Division policies
- refer to conditions)

PERMITTED USES	DISCRETIONARY USES
<i>-Environmental Protection (4.5.1)</i>	<i>-Marina (4.3.17)</i>
<i>-Open Space, Parks and Trails (4.5.2)</i>	<i>-Outdoor Market (4.3.21)</i>
<i>-Uses set out in 3.1.5</i>	<i>-Restaurants (4.3.25): Take-Out (4.3.25.1), Mobile Take-Out or Street Vendor (4.3.25.3)</i> <i>-Public Gathering Places – Outdoor (4.6.5)</i>

Conditions

1. Development must conform to the requirements of Section 3.1.6;
2. Any development within 15 m of a designated trail or water course will 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. Within 15 m of a waterbody, shoreline infilling conditions and areas known to be subject to flooding:
 - a. For all portions of a lot that are located *within 15 metres* of the edge of a wetland or the top of the stream bank of a watercourse, no building or structure will be permitted, except for:
 - i. reconstruction of a building that was in existence on the date of approval of this Municipal Plan;
 - ii. an accessory building or structure to the above reconstructed building;
 - iii. a passive recreational use;
 - iv. wharves, boathouses, slipways and breakwaters that conform to the guidelines provided by the Water Resources Management Division; and/or,
 - v. uses that require direct access to a body of water in buffers.

- b. A Section 48 permit under the *Water Resources Act, 2002* administered by the Water Resource Management Division of the Department of Municipal and Provincial Affairs, and compliance with departmental policy is required, for:
 - i. Any *infilling work* within 15 metres 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);
- 4. Development on any lands known to flood are required to obtain approval from the Water Resources Management Division before an application can be approved.

3.2.4 OPEN SPACE, PARKS AND TRAILS ZONE

USE ZONE TABLE: OPEN SPACE, PARKS AND TRAILS ZONE

PERMITTED USES	DISCRETIONARY USES
<p><i>-Conservation-All (4.5) including environmental protection and open space and trails uses;</i></p> <p><i>-Sports and Recreation Facilities (4.6.6)</i></p> <p><i>-Public Gathering Places-Outdoor (4.6.5)</i></p> <p><i>-Uses set out in 3.1.5</i></p>	<p><i>- Public gathering places-outdoor (4.6.5)</i></p> <p><i>-Restaurant – Mobile Take Out, Street Vendor only (4.3.26.3)</i></p> <p><i>-Vendor-retail merchandise and office (4.3.31)</i></p> <p><i>-Outdoor Market (4.3.22)</i></p>

Conditions

1. Development must conform to the requirements of Section 3.1.6;
2. Development standards for Open Space, Parks and Trails are at the discretion of Council;

3.2.5 HERITAGE CONSERVATION ZONE

USE ZONE TABLE: HERITAGE CONSERVATION ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> <i>-Urban Agriculture: Community Garden (4.2.2.1)</i> <i>-Institutional Use (4.6.2) Subject to Condition 2</i> <i>-Public Gathering Places -Indoor (4.6.4)</i> <i>-Public Gathering Places – Outdoor (4.6.5)</i> <i>-Uses set out in 3.1.5</i> 	<ul style="list-style-type: none"> <i>-Outdoor Market (4.3.21)</i> <i>Mobile Take-Out or Street Vendor (4.3.25.3)</i>

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

Conditions

1. Development must conform to the requirements of Section 3.1.6
2. This use is limited to the municipal facilities, such as, the Town Hall
3. Development standards must comply with Mixed Development zone standards;

3.2.6 INDUSTRIAL ZONE

USE ZONE TABLE: INDUSTRIAL ZONE	
PERMITTED USES	DISCRETIONARY USES
<i>-Fishery Use (4.4.5)</i>	<i>-Contractor, General (4.4.3)</i>
<i>-Industrial – General (4.4.7)</i>	
<i>-Uses set out in 3.1.5</i>	

Conditions

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

3.2.7 PUBLIC UTILITY ZONE

USE ZONE TABLE: PUBLIC UTILITY ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"><i>-Energy Generation Facilities (4.4.4)</i><i>-Easement (4.8.2)</i><i>-Utilities (4.8.3)</i><i>-Uses set out in 3.1.5</i>	

3.2.8 RURAL ZONE

USE ZONE TABLE: RURAL ZONE

PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none">-Commercial Agriculture (4.2.1)-Urban Agriculture (4.2.2)-Forestry Activities (4.4.6)-Uses set out in 3.1.5	<ul style="list-style-type: none">Amusement Park/Attraction (4.3.2)Campground, including RV campgrounds (4.3.8)Cemetery (4.6.1)Composting Facility (4.4.2)Contractor, General (4.4.3)Cottage (or Cabin) (4.7.6)Crematorium (4.4.1)Energy Generation Facilities (4.4.4)Industrial – General (4.4.7)Kennel (4.2.2.4)Mineral Working (4.4.11)Mining (4.4.12)Natural Resource-Related Uses (4.4.13)Outdoor Market (4.3.21)Resort – Tourist Establishment (4.3.24)Salvage/Scrap Yard (4.4.14)Single Detached Dwelling (4.7.1)- only if associated with an agricultural development;Solid Waste Recycling/Disposal & Composting Site (4.4.15)

Conditions

1. Development must conform to the requirements of Section 3.1.6;
2. The Development standards are at the discretion of Council.
3. Cottages that are accessible by road must be located within a cottage subdivision. By definition, remote cottages are not accessible by road; therefore, this restriction does not apply.

3.2.9 RESIDENTIAL SUBDIVISION AREA ZONE

USE ZONE TABLE RESIDENTIAL SUBDIVISION AREA ZONE	
PERMITTED USES	DISCRETIONARY USES
<i>Uses permitted in all zones (3.1.5)</i>	<i>-Accessory uses (5.1)</i>

Conditions:

1. No new development can take place until a planned unit application or subdivision application has approved and an appropriate amendment has been carried out.

3.2.10 PROVINCIAL INTEREST OVERLAYS

The following overlays are indicated on the Land Use Zoning map and the requirements related to these overlays are indicated below:

Building Control Line (Protected Road Zoning Regulations, 1996):

- 1) A permit is required from Digital Government and Service NL for any development within the Building Control line as shown on the Land Use Zoning map as well as the Permit from the Town of Cape Broyle;

East Coast Trail

- 2) The following buffers apply to the East Coast Trail:
 - a. A referral buffer is established for the East Coast Trail as an overlay on the Land Use Zoning mapping, where in the Rural zone, a 250-metre referral buffer is established where applications would be referred to the East Coast Trail Association and the Town of Cape Broyle.
 - b. Elsewhere in the Municipal Planning area, the following development restrictions apply with regard to the East Coast Trail in the community:
 - i. A minimum buffer of 15 metres on either side of the trail shall be maintained except in respect of privately owned lands where the land is deeded or assigned to the Town or a non-profit body, the minimum buffer shall be 7.5 metres from the centre-line of the trail to create a 15-metre-wide trail corridor.
 - ii. Within the buffer of a trail, only public utilities and roads may be allowed. No other development is permitted on or near the trail.
 - iii. No development shall take place within 100 metres of the East Coast Trail unless it has been reviewed by the East Coast Trail Association and approved by the Town.

Survey Control Monuments

- 3) The Town must inform the Surveys and Mapping Division when a proposed development is proposed in the vicinity of a Survey Control Monument. There are 7 monuments in the Municipal Planning Area and these can be found at the GIS and Mapping Division website: <https://arcq.is/ylHiH>;

Heritage Sites

- 4) There are heritage sites that the Town has designated under *the Municipalities Act, 1999* for heritage conservation, including Immaculate Conception Roman Catholic church and grounds, the Immaculate Conception Cemetery, O'Brien's General Store, Mulcahy's Stage and the Whale Station on the southern shore. These sites are to be preserved for their heritage value and development in the vicinity of these sites must take the heritage value into consideration.

3.3 ACCESSORY USES

3.3.1 General Accessory Uses

Definition: Accessory Use as defined in the Minister's *Development Regulations* (see Schedule C) "...means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use..."

Examples of accessory uses and buildings subsidiary to a primary use include, but are not limited to, the following:

- a. facilities for the serving of food and alcoholic beverages in an arena or other public gathering place, adult day care, senior's residence, marina, or hotel;
- b. childcare, catering, convenience and take-out food service maybe permitted as an accessory use to a recreational facility, provided that they are contained within the building envelope of the recreational building;
- c. a gift or souvenir shop in a museum, hotel or other public institutional establishment;
- d. an office, convenience store, or small catering establishment in a campground;
- e. a dock, wharf, slip or stage associated with a permitted use; exception includes a storage building and workshop only if it does not detract from the nature of the neighbourhood;
- f. a storage building or workshop;
- g. a subsidiary apartment which is a separate dwelling unit constructed within and subsidiary to a self-contained dwelling or commercial building;
- h. a home business;
- i. a residence only associated with a resource use, such as a farm house on an agriculture farm operation;
- j. a satellite dish or similar device attached to a building;
- k. a wind generator, solar panel, radio antenna, or similar device;
- l. an office or storage building associated with a commercial building; and,
- m. a workshop or storage building dock associated with an industrial use.

General Condition for all accessory uses:

- (1) Must conform to Use Zone Table in which the primary permitted use is located;

3.3.2 Subsidiary Apartments

Definition: Subsidiary apartment means a separate dwelling unit constructed within, or attached to, and is subsidiary to a single detached dwelling.

Conditions:

- 1) One subsidiary apartment may be permitted in a single detached dwelling only;

- 2) A subsidiary apartment shall be contained within the same building as the primary residential use.
- 3) Council may consider a subsidiary apartment for seniors as a granny suite built as an attachment to the main floor of the principal single detached residential dwelling.
- 4) For the purpose of calculating lot area and yard requirements, the subsidiary apartment shall be considered part of the single detached residential dwelling.
- 5) A minimum of one off-street parking spaces shall be required for the subsidiary apartment.
- 6) The minimum floor area required is 40 m² for a one-bedroom subsidiary apartment, plus 10 m² for each additional bedroom.
- 7) The apartment shall not alter the appearance of the structure as a single detached residential dwelling;
- 8) The apartment shall have a separate entrance/egress to the outside;
- 9) The apartment must be completely self-contained, with facilities for cooking, sleeping, and bathing.
- 10) For lots without municipal water, Service NL shall determine water and sewerage disposal requirements and a permit may be issued subject to its approval.

3.4 ACCESSORY BUILDINGS

3.4.1 Accessory Buildings – General

Definition: As defined in the Minister's *Development Regulations* (see Appendix

"Accessory Building accessory building includes

- (i) a detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory and which has a use that is customarily incidental or complementary to the main use of the building or land,
- (ii) for residential uses, domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetables storage cellars, shelters for domestic pets or radio and television antennae,
- (iii) for commercial uses, workshops or garages, and
- (iv) for industrial uses, garages, offices, raised ramps and docks;"

General Conditions:

- (1) Accessory buildings are permitted in each use class provided the buildings are clearly incidental and complimentary to the main buildings' character, size and use.
- (2) Accessory buildings shall not be used for human habitation.
- (3) The side yard requirements set out in the applicable Use Zone Tables shall apply to accessory buildings wherever they are located on the lot but accessory buildings on

two (2) adjoining properties may be built to property boundaries provided they shall be of fire-resistant construction and have a common firewall.

(4) Quonset style/steel buildings may only be permitted within the Rural Zone.

(5) Shipping containers (sea cans) are not permitted as an Accessory Building;

(6) Accessory buildings shall not be located in an easement;

3.4.2 Accessory Buildings - Residential Use Classes

Conditions

(1) Location:

- a. An accessory building shall not be built within any easement area;
- b. Accessory buildings shall not be located in front of the building line (front yard) on the street which the building has its legal civic address.

EXCEPT: where an accessory building on a corner lot may be located in front of the building line on the flanking yard provided the location does not impede visibility on the flanking street, and the accessory building is set back a minimum of 8 m from the flanking street; these accessory buildings are limited to 50 m² provided that:

- i. A public notice has been advertised in accordance with the requirements for Variances;
- ii. The slope of the lot and/or natural screening effectively blocks the view of the building from the street and adjoining properties. The placement of the building must not negatively affect neighbouring properties; and,
- iii. A site plan is submitted showing all buildings on the lot including the proposed accessory building.

(2) Size: The maximum size for an accessory building located in the rear yard is 7% of the size of the property, at Council discretion;

(3) Setbacks: A minimum of 1 metre from any property boundary; and, 2.4 metres from any building and 3 metres from the nearest part of a residential structure;

(4) Height:

- a. Where the residence (primary use) is one-storey in height, the accessory building shall not exceed the height of the primary building;
- b. Where the primary building (single detached dwelling, detached dwelling, townhome, etc.) is more than two stories in height, the accessory building cannot be greater than 2/3 the height of the primary building;

(5) Accessory buildings shall not be used for commercial or industrial uses on a residential property, regardless of the use zone in which it is located, unless Council has issued a permit for such use;

(6) Repairs to vehicles, other than minor vehicle maintenance, are prohibited in accessory buildings;

- (7) No truck, bus, semi-trailer, or other vehicle body shall be used as an accessory building;
- (8) Except for minor maintenance, no accessory building will be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery;
- (9) An accessory building may be used for a home business as outlined in home business section.
- (10) **Exterior Cladding:** With the exception of greenhouses, the exterior cladding of the accessory building shall match or coordinate with the exterior siding of the main dwelling on the lot and shall be residential in character.
- (11) In making discretionary decisions with respect to accessory buildings, Council shall consider:
 - a. The location of the accessory building on the lot;
 - b. The size of the accessory building compared to the dwelling on the lot and the size of structures on neighbouring properties;
 - c. Visibility of the structure from neighbouring properties and/or street;
 - d. If the accessory building will block a view and/or light from adjoining properties;
 - e. The use of the accessory building;
 - f. Site conditions, such as topography and the presence of wetlands; and
 - g. Any other on-site conditions that may warrant Council's considerations.

3.4.3 Accessory Buildings – Non-Residential

3.4.3.1 General

An accessory building associated with a non-residential use shall be permitted, subject to the following requirements:

- (1) an accessory building shall be located on the lot so that it has no undesirable impact on the private enjoyment of any adjoining residential lots;
- (2) the use of an accessory building shall be directly related to the principal use or building on the lot;
- (3) an accessory building shall not be erected or placed upon any easements;
- (4) an accessory building shall maintain a minimum side yard and rear yard of 1 metre;
- (5) an accessory building shall maintain a minimum separation distance of 3 metres from the main building;
- (6) radio and television antennae shall have a maximum height of 15 metres;
- (7) the exterior siding of an accessory building shall match or be complimentary to the exterior siding of the principal building on the lot.
- (8) For a use that could occur in residential, public/institutional, commercial and industrial zones, a wharf/Boathouse/Slipway/Breakwater is subject to 3.4.3.2.

3.4.3.2 Wharf/Boathouse/Slipway/Breakwater

- (1) Must meet Use Zone Site Development Conditions;
- (2) Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
- (3) Wharf/Boathouse/Slipway/Breakwater structures shall follow the guidelines for the *Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses*.
- (4) The Applicant must obtain a permit under of the *Water Resources Act, 2002* under Section 48 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.

3.5 HOME BUSINESSES

Accessory uses in residential areas are primarily those subsidiary activities occurring in homes; these are most commonly referred to as 'home businesses' and are sufficiently prevalent to require specific standards to ensure that the intent of each residential zone can be protected for the enjoyment of its residents.

3.5.1 Home Business: Definition and examples

Definition: General home business means a subsidiary use of a dwelling or associated accessory building for commercial use involving the provision or sale of goods and/or services without detracting from the residential character of the neighbourhood in terms of traffic, or any other nuisance. This does not include Remote work (also known as work from home [WFH] or telecommuting) is a type of flexible working arrangement that allows an employee to work from remote location outside of corporate offices.

Home Business examples may include, but are not limited to:

1. Professions, such as an accountant, architect, auditor, engineer, realtor, insurance agent, planner, lawyer;
2. Artisan and other home crafts;
3. Telephone and mail order business;
4. Food preparation for catering services and baking;
5. Music and dance lessons and educational tutoring
6. Personal service that does 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;
7. Care services, such as child care, or home-care; and similar occupations or businesses.
8. Art gallery and framing shop;
9. Pet grooming services;

10. Bed and Breakfasts;
11. Boarding house
12. Home Care-Residential
13. Furniture repair and upholstery;
14. Sale of bedding plants and trees grown on the same lot;
15. Any business applying for only a phone/fax/internet service is permitted;
16. Discretionary Uses as approved by the Authority.

Exclusions:

An accessory home business shall not include any business activity related to any of the following uses:

1. Occupations that discharge or emit odors, noxious or toxic matter or vapors; heat, glare, noise and/or radiation;
2. Manufacturing, welding or any other light industrial use;
3. The salvage, repair, maintenance or sales of motor vehicles, or motor vehicle engines or parts;
4. Tow truck operations;
5. The use of mechanical or electrical equipment except as ordinarily utilized in purely domestic, household, recreational hobbies or a home office use;
6. The use of any motor vehicle exceeding 4,500 kg licensed gross vehicle weight, or a commercial vehicle unless such vehicle is completely enclosed within a building;
7. Materials and commodities that involve delivery to and from the home business residence in such bulk or quantity as to require regular or frequent delivery by a commercial vehicle or trailer;
8. Business that results in traffic congestion, on street parking overflow, electrical interference, fire hazards or health hazards;
9. Veterinary clinics, pet breeding and boarding kennels;
10. Orchestra and band training;
11. Office uses that generate regular daily visits by clients, as in a clinic;
12. Public gathering use;
13. Telephone or mail order sales of goods where customers enter the premises to inspect, purchase or take possession of goods;
14. Warehouse outlet;
15. Contractors Yards;
16. Adult Entertainment Uses; and,
17. Any other use that is not complimentary to the quiet enjoyment of a residential neighbourhood.

3.5.2 General Development Conditions for Home Businesses

- 1) The use is clearly subsidiary to the residential use, does not alter the character of the property or detract from the residential character of the neighbourhood. The primary use of the property remains residential and the scope and intensity of the use classes is entirely compatible with the residential uses of the property and neighbourhood;
- 2) The external appearance of the dwelling or accessory building shall not be changed by the home business.
- 3) Activities associated with the use are not hazardous, and are not a nuisance to the occupants of adjacent dwellings; no mechanical equipment is used except that is reasonably consistent with the use of a dwelling
- 4) No regular parking of commercial vehicles or trailers except for one vehicle with a gross weight of no greater than one tonne will be permitted.
- 5) The residence is occupied by the operator of the home business, except for Short Term Residential Rentals.
- 6) The business within the dwelling must be owned and operated by 1 (one) resident of the dwelling. The property owner must authorize an application for a home business by a resident who is not the owner of the property.
- 7) There shall be no use or storage of hazardous or dangerous materials.
- 8) Any retail sales are incidental and subsidiary to the approved use; no wholesale or retail sale of goods is externally apparent, for example, if sale of crafts occurs, it does not occur through walk-in or drive-in trade. A home business is not a retail shop, nor for customer destination wholesale sales.;
- 9) The residential lot has sufficient area to accommodate the parking and loading requirements of the dwelling unit and the home business. In addition to the two required parking spaces for a residential zone use, a home business shall provide one additional parking space for each non-resident employee working at such facility. The home base business applicant shall provide a site plan that indicates the parking spaces location and any landscape improvements related thereto at time of business license application.
- 10) The only home businesses that can be conducted outside the dwelling or accessory building are non-farm operation animal husbandry and market or home garden uses as defined under 'Agriculture – Urban' and Child Care.
- 11) A non-illuminated identification sign not exceeding 0.2 m² in area shall be permitted provided that the sign is consistent with the residential character of the neighbourhood.
- 12) Council may require fencing, screening, and/or a minimum buffer to protect the amenity of adjacent uses.
- 13) The home business will not create traffic safety or traffic congestion concerns. The use shall not generate traffic in excess of an average of 3 customer visits per hour and no home business will operate between 9 pm and 7 am.

- 14) Sufficient off-street parking must be provided; one dedicated parking spot is required if there is the allowed employee of the home business working in the dwelling. If there will be customer visits, adequate parking shall be provided to ensure no parking on the street by residents, staff, or customers from the property housing the home business. Parking shall respect and maintain the residential character of the neighbourhood;
- 15) The home business will adhere to all other conditions that Council considers necessary to protect the amenity of adjacent uses and the neighbourhood.
- 16) The home business will not use water or generate sewage in excess of what is normal in the residential area and can be accommodated by the municipal water supply and sewage system.
- 17) The use must be carried out inside the dwelling unit or inside an accessory building located on the same lot; the home business will occupy:
 - a. no more than thirty percent (30%) of the total floor area of the dwelling unit to a maximum of 55 m² can be used for the home occupation; and,
 - b. the home business can be housed all or in part of an accessory building.

3.5.3 Development Conditions for Specific Home Businesses

3.5.3.1 Bed and Breakfast

Definition: Bed and breakfast, sometimes referred to as a hospitality home or inn, means an owner-occupied or owner-managed dwelling for paid temporary accommodation with no more than four (4) guest rooms. The establishment may include a self-serving dining area for the use by overnight guests. Catered dining may be considered on a limited-use basis. It does not include a hotel, motel or hostel.

Conditions:

- (1) The principal use of the residential dwelling unit shall continue to be the home for the ongoing occupation by a single family; no other use such as for a Residential Care or Boarding use shall be permitted at the same time as a Bed and Breakfast use;
- (2) The person(s) operating the Bed and Breakfast shall hold a valid license issued by the agency/ agencies having jurisdiction or authority.
- (3) No more than four bedrooms accommodating not more than eight persons at any one time may be used by residential homes for a Bed and Breakfast use;
- (4) Bed and Breakfast amenities include a minimum of sleeping accommodation area per bedroom of 12 m² and full bathroom facilities with potable hot and cold water for each bedroom;
- (5) A Bed and Breakfast Use is not permitted within a subsidiary apartment, a mobile home or within multi-unit dwellings units in the zones;
- (6) Must conform to Use Zone Table and conditions;

3.5.3.2 Boarding House

Definition: Boarding house or lodging house means a single detached dwelling in which rooms are regularly rented to 3 or more persons other than the immediate family of the owner or tenant. Guests are semi-permanent boarders/lodgers, whereas hotel guests are travelers and transient guests. For clarification, no permit is required for 1 or 2 boarders in a single detached dwelling.

Conditions:

- (1) Must conform to Use Zone Table and conditions and General Standards for Home Businesses

3.5.2.3 Day Care: Residential

Definition: Day care or family and group care means a single detached dwelling accommodating up to but no more than six (6) persons exclusive of family or staff receiving care in a home-like setting, for example, group homes, halfway house, child, adult care (seniors) or disabled persons.

Conditions

A family group care centre use is permitted in any dwelling that is adequate in size to accommodate the number of persons living in the group, inclusive of staff, provided that, in the opinion of Council:

- (1) 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;
- (2) the use is compatible with nearby uses; that is, the use of the dwelling does not materially differ from, nor adversely affect, the amenities of adjacent residences or the surrounding neighborhood;
- (3) the use shall occupy a maximum of forty percent (40%) of the floor area of the dwelling unit;
- (4) the use shall have a maximum of six (6) adult day care users present at any time;
- (5) the operator of the day care shall maintain the dwelling in which the use is located as his/her primary residence;
- (6) the use shall operate only during the full daytime period between 7:30 a.m. and 7:00 p.m.
- (7) Council may require special access and safety features to be provided for the occupants before occupancy is permitted.

3.5.3.4 Parking for Home Business

- (1) In addition to the two required parking spaces for a residential zone use, a Home Business shall provide one additional parking space for each non-resident employee working at such facility;
- (2) The Home Base Business applicant shall provide a Site Plan that indicates the parking space location and any landscape improvements related thereto at time of business license application.

4.0 LAND USE TYPE/CLASS DEFINITIONS AND CONDITIONS

4.1 INTERPRETATION

The land use definitions provide a description of the use or development in terms of its structural form and level of activity generated in terms of pedestrian or vehicular traffic, noise, visual appearance, and any other considerations that constitute the impact the neighbourhood, street or zone in which it occurs. The examples provided are not intended to be exhaustive so that if a new use with a modern 'label' fits a category of use defined under a land use class, Council may, in its discretion apply the relevant the regulations and conditions accordingly. Wherever possible, the goal was to achieve consistency with federal and provincial terms and definitions.

The land use and development definitions are organized by land use class as required by Section 13 (1) (c) of the *Urban and Rural Planning Act, 2000*.

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*; set out as follows, A farm operation: "means an agricultural activity conducted by a farmer for gain or reward or with the expectation of gain or reward and includes

- (i) growing, producing, raising or keeping animals or plants or the primary products of those animals or plants
- (ii) composting,
- (iii) clearing, draining, burning, irrigating or cultivating land,
- (iv) using farm machinery, including vehicles on public roads, equipment, devices, materials and structures,
- (v) applying fertilizers, manure, pesticides or biological control agents,
- (vi) operating farm produce stands or agricultural tourist operations, including U-Pick farms or roadside stands, and
- (vii) preparing farm products for distribution for wholesale or retail consumption including the cleaning, grading or packaging of those products;"

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', as follows:

- a. The structure shall be at least 300 m from:
 - i. a residence (except a farm residence or a residence which is a non-conforming use in any zone in which agriculture is a permitted use class in the Use Zone Table of these Regulations),
 - ii. an area designated for residential use in an approved Plan, and
 - iii. a Provincial or Federal Park.
- (2) The structure shall be at least 45 m from the boundary of the property on which it is to be erected.
- (3) The structure shall be at least 90 m from the centre line of a street.
- (4) The erection of the structure shall be approved by the Land Stewardship Resource Division, Government of Newfoundland and Labrador.
- (5) Manure storage must be located 100 m from the boundary of the property; Service NL must approve all manure systems
- (6) No development for residential use shall be permitted within 600 m 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.
- (7) Approvals must be obtained from the Land Stewardship Resource Division, Government of Newfoundland and Labrador for any commercial farming operation.
- (8) 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.
- (9) The identified locations of Agricultural Areas of Interest are to be protected for the primary use of commercial agriculture. If commercial agriculture is discontinued and there is an application for another use of the site, the Town must consult with the Land Resource Stewardship Division before issuing any development permit.

4.2.2 Urban Agriculture

Definition: Urban Agriculture means non-farm operation agricultural activities that are compatible within a developed urban setting 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 agriculture that is conducted as a home business as determined at the discretion of Council, must meet the requirements for a home business (refer to 5.3);
- (2) A permit is not required for any small scale home gardens including residential market garden or home gardening or keeping of household pets; a permit is required for a kennel as defined in 4.2.2.4.

(3) Home gardening shall generally be conducted in the rear yard of the property unless otherwise determined at the discretion of Council.

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.

4.2.3 Non-household pet animals in the Mixed Residential/Commercial and Mixed Development zones

The decision regarding the number and type of non-household pet animals allowed on a property within the Mixed Residential/Commercial and Mixed Development zones is at the authority of Council. The need for notification regarding non-household pet animals will be determined on a case-by-case basis.

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 m 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 shall contain at least 8 cm 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,
- (6) 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) 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) Consider a buffer of 45 m between residential and Amusement Park/Attraction use;
- (5) For a temporary permit in particular, must address site rehabilitation after event;

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 shall be appropriately screened by a fence, wall, or hedge of height of about 2.4 m 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 m 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 m and located a minimum distance of 1 metre from the edge of the parking area.

4.3.5 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;
- (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;

4.3.6 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.

4.3.7 Business Support Service

Definition: A Business support service means development used to provide support services to businesses which are characterized by one or more of the following features: the use of mechanical equipment for printing, duplicating, binding or photographic processing; the provision of office maintenance, custodial or security service, and the sale, rental, repair or servicing of office equipment, furniture and machines.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions
- (2) Standard: Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

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, will 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 will not be located on separate properties.
- (2) All camp sites and on-site facilities that form part of the development will be accessible only via the internal road network of the development.
- (3) The development permit will specify the maximum number of campsites for different uses such as tents, trailers, and RVs that will be permitted on the site.
- (4) No expansion or alteration of a campground, other than repairs and maintenance, will take place without the approval of Council.
- (5) The operation will 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

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 3.5.3.4)

Conditions:

- (1) A Child Care Centre shall be duly licensed, 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 or part thereof 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.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Note that this can also be an Accessory Building

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 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) Must provide adequate provision for on-site parking, loading, buffering, landscaping;
- (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 may be required, as determined by Council, to be subject to the following standards:
 - a. A Take-Out Food Use may be required to 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. 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 Garage, Public parking /taxi stand

Definition: Garage, public parking/taxi stand means a building or area, other than a private garage, where motor vehicles are kept or stored for remuneration which does not include any automatic car washing establishment, a motor vehicle sales establishment or an automobile service station.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Recommend that it is located 20 m from residential uses; and appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

4.3.15 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.

4.3.16 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) The Hotel or Inn must be approved by the Provincial Government agency with jurisdiction.

- (4) 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.
- (5) 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. Housekeeping services including cleaning, provision of clean linen and towels, will be provided.
- (6) Access to units will 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 will not have individual driveways to the street. Parking will be provided in a parking lot with parking spaces, aisles and access for the overall parking lot to the street.
- (8) The Hotel or Inn will 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 will not be separate utility connections or utility billing or addressing for individual rooms.

4.3.17 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*.
- (8) The Applicant must obtain a permit under of the *Water Resources Act, 2002* under Section 48 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

4.3.18 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

4.3.19 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) The Motel must be registered with and approved by the Provincial Government agency with jurisdiction.
- (4) Units may be rented on a temporary basis but not as an open-ended monthly apartment.
- (5) 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.
- (6) 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.
- (7) Housekeeping services including cleaning, provision of clean linen and towels (daily or weekly) will be provided.
- (8) Access to units will 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,

- (9) Units will not have individual driveways to the street. Parking will be provided in a parking lot with parking spaces and aisles and access for the overall parking lot to the street.
- (10) The Motel will 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.
- (11) There will not be separate utility connections or utility billing or addressing for individual rooms

4.3.20 Outdoor Commercial Patio

Definition: Outdoor commercial patio means any outdoor area used in conjunction with any establishment licensed under the *Liquor Control Act, 1990* where meals or refreshments are served to the public for consumption on the premises.

Conditions:

- (1) An outdoor commercial patio shall not accommodate more than 50 percent (50%) of the licensed capacity of the restaurant or licensed liquor establishment with which the patio is associated, or 50 persons, whichever is the greater.
- (2) It is recommended that no outdoor commercial patio be permitted in any yard facing or abutting a residential zone or abutting a yard or lane facing or abutting a residential zone unless:
 - a. it is located a minimum of 30 m from the residential zone; and
 - b. it is screened and physically separated from the residential zone by a building, structure or wall that is at least 2 m in height so that noise from the outdoor patio is mitigated.
- (3) Unless otherwise determined by Council, an outdoor commercial patio may be required to have a minimum setback of 1.5 m from any lot line.
- (4) The location of an outdoor commercial patio on a lot shall not obstruct the view or path of pedestrian and vehicular traffic that accesses or egresses to or from a street onto or out of the lot.
- (5) The outdoor commercial patio must not encroach on or eliminate any required parking or loading space, driveway or aisle for the lot on which it is located.
- (6) The outdoor commercial patio shall be so located on the lot as to not interfere with snow clearing and snow operations of Council.
- (7) No outdoor commercial patio may be required to be located above the elevation of the floor of the first storey of the principal building where the lot adjoins a residential use zone.
- (8) Any outdoor lighting shall be directed toward or onto the outdoor commercial patio area and away from adjoining properties and streets.
- (9) Parking spaces shall be required for the gross floor area associated with the outdoor commercial patio use at the same ratio as for restaurants.

4.3.21 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.

4.3.22 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

4.3.23 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.

4.3.24 Resort

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

4.3.25 Restaurants

4.3.25.1 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.

Conditions:

- (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 may be required to be provided adjacent to residential uses. A fence, berm, and landscaping or a combination of these elements may be required to be used to reduce headlight glare, order board lighting, and noise from the Take Out. Garbage receptacles may be required to 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

4.3.25.2 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

4.3.25.3 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* and included 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.

Conditions

- (1) The parking of a vehicle or trailer shall not be located on any required landscaped yards.
- (2) 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.
- (3) 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.
- (4) 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 the Service NL regarding the storage and preparation of food and/or refreshments.
- (5) A vehicle or trailer may be required to provide, or have access to, washroom facilities as determined by Council.
- (6) 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.

4.3.26 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.

4.3.27 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 m from the required landscaped front or side yards;
- (3) Accesses may be required to be not be less than 7 m 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;
- (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 required along front and exterior lot lines.
- (7) Required to submit a Planned Unit Development application (2.2.2 & 2.2.4)

4.3.28 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.

4.3.29 Mobile Street Vendor (non-food) or office

Definition: A street vendor means a mobile vehicle or non-motorized cart merchandise under 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 refreshment shall be subject to the following conditions.

- (1) The parking of a vehicle or trailer for selling 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) A vehicle or trailer will be required to provide, or have access to, washroom facilities as determined by Council.
- (6) 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.

4.3.30 Short Term Residential Rental

Definition: A short term rental is the rental of a dwelling (house, townhouse, condominium, cottage, apartment, and secondary suites, where the owner is not resident, for less than 30-day period for any one occupant(s);

Conditions:

- (1) Must conform to residential development standards for the zone in which it is located
- (2) Must obtain a Business permit from the Town of Cape Broyle;
- (3) Must obtain approval from Digital Government and Service NL for commercial residential use;
- (4) The person(s) operating the Short-Term Rental shall hold any required license issued by an agency/agencies having jurisdiction or authority, such as, the Department of Tourism, Culture, Arts and Recreation, Government of Newfoundland and Labrador.

4.4 INDUSTRIAL LAND USE CLASS

4.4.1 Crematorium

Definition: A crematorium is a facility containing a certified furnace or similar device intended for use in the incineration of human or animal corpses.

Conditions:

- (1) A buffer between the crematorium and a sensitive land use, such as, a higher intensity land use with a concentration of employees, may be required at the discretion of the Council based on the following guideline:
 - a. The buffer may be required to be a minimum of 70 m from a residential or sensitive land use, such as elementary and secondary schools, day-cares unless there are extenuating physical characteristics of the site that would provide natural screening;
 - b. The buffer between other industrial uses may be 30 m unless there are extenuating physical characteristics of the site that would provide natural screening;
- (2) All crematory facilities shall be located within an enclosed building that meets building and fire code requirements.
- (3) All applicable local, provincial, and federal laws and regulations shall be met.

4.4.2 Composting Facility

Definition: Composting facility means a processing use that converts solid waste, including plant debris, decayed organic matter, municipal solid waste or agricultural waste, into a material to be used sold for the purpose of fertilizing and conditioning the soil for growing produce and nursery plantings.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions
- (2) Recommend special attention to storage

4.4.3 Contractor, General

Definition: Contractor, General means 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 on-site storage space for materials, construction equipment or vehicles including heavy equipment, temporary storage containers, construction trailers, and temporary office trailers normally associated with the contractor service. 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.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;

4.4.4 Energy Generation Facilities

4.4.4.1 General Energy Generation

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

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) The following requirements shall apply to wind, solar, and small hydro generating facilities:
 - a. Energy utilities are subject to the approval of relevant provincial and federal departments, agencies, and public utilities, including the Mineral Lands Division and Transport Canada. The design and location of such utilities shall take into consideration their impact on nearby land uses and persons, the environment, archaeological resources, and other matters that Council may deem to be significant.
 - b. A wind, solar, or small hydro generator within a built-up residential area will be limited to a single unit that serves an individual property.
 - c. An adequate separation distance will be maintained between wind generators and nearby buildings and structures to prevent damage to persons and properties due to a failure of a generator or any of its components or the shedding of ice.
 - d. Unless specifically exempted by Council or other relevant agencies, the design, construction and location of an energy utility shall be certified by a professional engineer who has consulted with the required agencies.

4.4..4.2 Wind Turbines

Definition: Wind turbine generator (commercial) means a structure designed to convert wind energy into mechanical or electrical energy. A commercial wind turbine may include, but not be limited to, wind turbine, generator, operations and maintenance buildings, meteorological towers, collector grids and electrical substations. Note that a Wind Farm or Wind Park: means more than one wind turbine generator located on a lot.

Conditions:

4.4.4.2.1 Commercial wind turbine generator

- i. A commercial wind turbine which has a collective energy nameplate rating of one hundred (100) kW or greater shall be connected to a transmission line and/or the local power grid.
- ii. All developments shall meet applicable federal and provincial regulatory requirements.
- iii. The development shall not create hazards or any negative impacts on neighbouring properties. In cases where there are potential conflicts or impacts between a proposed development and neighbouring property, Council may require the developer to ensure that adequate buffers or screening are maintained to reduce the impacts on adjoining properties or other mitigation measures that may be necessary to reduce the impacts.
- iv. The wind turbine tower shall be located to minimize visual impacts on the Town.
- v. The wind turbine tower shall have a clear unobstructed fall zone that has a radius equal to or greater than the height of the structure and is accommodated within the property bounds.
- vi. The wind turbine tower shall be designed and constructed to meet design loads for operational requirements including ice buildup. The blades shall either have de-icing capabilities or be constructed of a material (i.e., poly carbonate composite) that resists ice buildup.
- vii. Access to the site shall be restricted and shall include: fencing, gate, and signage posted as to the property owner, company name, twenty-four (24) hour emergency telephone number, and warnings of dangers to trespassers.
- viii. If the wind turbine ceases operations for a period of longer than two (2) years, the wind turbine, tower, and any related infrastructure shall be removed from the property.

4.4.4.2.2 Private wind turbine generator

- i. Private turbines shall primarily be for the generation of electrical power for the property owner of a residential use, for business owners and for varied public use buildings and other similar sites, but not for outside sale.

- ii. Council may determine that the minimum parcel size of 2,000 m² with a wind turbine height of approximately 10 m; if this is not sufficient to mitigate impacts to adjacent properties, the wind turbine proposal may be denied by Council.

4.4.5 Fishery Use

Definition: Fishery use means land and buildings used for the production, processing, storage and maintenance of fishery products or equipment including aquaculture and include land and buildings designated for the building, launching, docking or storage of a commercial fishing vessel, and similar operations, such as a marine centre, fish processing plant.

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

4.4.6 Forestry Activities

Definition: Forestry activities have the meaning as defined in the *Forestry Act, 1990*. This includes forest harvesting (commercial and domestic), road building and silviculture activities.

Conditions:

- (1) Required to submit a Comprehensive Planned Development application (2.2.2 & 2.2.4), or a Forestry Management Plan and to submit, every year, the annual operating plan;
- (2) Must meet Use Zone Site Development standards and conditions;
- (3) Permits for commercial and domestic woodcutting or other forestry related activities must be obtained from the Regional Forestry Office, Government of Newfoundland and Labrador;
- (4) All commercial harvesting operators must apply for a development permit.

4.4.7 Industrial - General

Definition: Industrial General means development used principally for one or more of the following activities:

- a. the processing of raw materials;
- b. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- c. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or

- household use, where such operations have impacts that would make them incompatible in non-industrial zones;
- d. the storage or trans-shipping of materials, goods and equipment;
- e. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or resale;
- f. transport establishments, which include the use of land, buildings, structures or parts thereof, where commercially licensed trucks, transports and buses are rented, leased, loaded or unloaded, serviced or repaired kept for hire, stored or parked for dispatching as common carriers or where goods are temporarily stored for further shipment. Fuel and petroleum products may be dispensed and parts and accessories sold;
- g. data centres (building(s) that house computing facilities like servers, routers, switches and firewalls, as well as supporting components like backup equipment, fire suppression facilities and air conditioning); or
- h. the training of personnel in general industrial operations.

Examples include, but are not limited to, factories, fish processing plants, marine service centres, cold storage plants, freight depots, concrete plant, general garage, industrial-related warehouses, welding shops, vehicle body repair and paint shops/depots, and similar uses. This use class does not include utility services or the preparation of food and beverages for direct sale to the public.

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) Minimum of 2 access points for access/egress;
- (4) Surface runoff shall be directed to an oil/water separator before being discharged into a storm sewer or other drainage system;
- (5) Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties.
- (6) Where it deems necessary, the Town shall require the provision of buffering by the developer which shall be to the satisfaction of the Town.

4.4.8 Industrial - Light

Definition: Industrial-light means the use of any land or buildings for any general industrial use that can be carried out without hazard or intrusion and without detriment to the amenity of the surrounding area by reason of noise, vibration, smell, fumes, smoke, grit, soot, ash, dust, glare or appearance., unsightly outdoor storage, refuse matter, or effluent. Examples include but are not limited to, a recycling depot, wholesale and warehouse uses, rental storage uses, commercial – custom service, catering services, industrial bakeries, food processing, light manufacturing and assembly (clothing,

furniture, consumer electronics), broadcast studio, and similar uses; but does not include a salvage/scrap yard.

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) Light industry uses must be conducted and wholly contained within an enclosed building and shall not be obnoxious by reason of noise, vibration, odour, dust, smoke, unsightly outdoor storage, refuse matter, or water carried waste. Such uses shall not involve the use of chemical processes which result in the emission of gases, use of significant volumes of water or which generate significant levels of truck traffic.

4.4.9 Industrial Mall

Definition: Industrial mall means a building or a group of buildings designed, developed, owned and managed as a unit in which separate spaces are leased or occupied by permitted industrial uses. No more than 30 percent of the gross floor area of an industrial mall is used for accessory office or related commercial uses.

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

4.4.10 Mineral Exploration

Definition: "Mineral exploration (development)" shall be defined as; the search for and sampling of minerals or quarry materials where the activity or activities involved meet the definition of "development" under the Urban and Rural Planning Act. "Mineral" and "quarry material" for the purpose of interpreting the definition of mineral exploration (development) are as defined in the provincial Mineral Act and Quarry Materials Act, 1998, respectively. Mineral exploration does not include mining or mineral working (e.g., quarrying). Activities which meet the definition of mineral exploration (development) are to be contrasted with mineral exploration activities that do not meet the definition of development, examples of which typically include traditional prospecting, geochemical sampling surveys (of rock, soil, sediment, water, or vegetation), ground-based and airborne geophysical surveys, and the cutting of survey lines.

For the purposes of municipal planning, exploration for quarry materials (e.g., sand, gravel) is considered a form of mineral exploration and included in the definition of mineral exploration.

The Mineral Lands Division, Mines Branch administers the *Mineral Act, 1990* under which mineral licences are issued and within the bounds of which mineral exploration may be approved by the issuance of an "exploration approval". Exploration approvals are generally issued for no longer than one year. Applications for exploration approval involving areas within a Municipal Planning Area and where the activities proposed may involve ground disturbance, wildlife disturbance, water quality impairments, or foreseeable land use conflict, are referred to the municipality (in addition to other government agencies), and terms and conditions are drafted to address any specific concerns raised during the referral process.

Conditions:

1. Must meet Use Zone Site Development Standards and conditions;
2. Procedure for Mineral exploration that does not meet the definition of 'Development': Mineral exploration that does not meet the definition of 'Development' which is permitted anywhere in the Municipal Planning Area must provide adequate notification to Council; and must not involve appreciable ground disturbance, construction of access roads, or objectionable noise, odour or appearance, of little or no visible impact (e.g. prospecting, ground-based geophysical surveys, geochemical sampling surveys);
3. Procedure for Mineral exploration, which is classed as 'Development' is subject to the following conditions:
 - a. adequate provision is made for buffering and mitigation of potential impacts on adjacent zones; mineral exploration shall be subject to conditions that control noise, appearance, and other impacts that may arise, as well as the duration of the exploration program. The precise nature of these controls will depend upon the location of the mineral exploration in relation to built-up and environmentally sensitive areas, such as water supply areas, watercourses, and wetlands.
 - b. Where there is to be ground disturbance, the developer shall provide a site restoration surety and/or other satisfactory guarantees of site landscaping to Council.
 - c. Council will not issue a permit for mineral exploration until all necessary permits and approvals have been obtained from the relevant Provincial agencies;
 - d. It complies with provincial standards. Basic environmental requirements for mineral exploration are already set out in the Mineral Regulations under the *Mineral Act, 1990* for example, that all excavated, stripped, and grubbed sites be rehabilitated by backfilling or re-contouring, as appropriate, and then placing stockpiled organic materials back over the site. The Mineral Lands Division conducts inspections year-round to ensure that the Mineral Regulations and

- the terms and conditions of exploration approvals are adhered to, including that rehabilitation, once due, is completed as required
- e. According to the Mineral Lands Branch, mineral exploration that is classed as development must be at least a discretionary use in all zones, provided that the work is subject to conditions appropriate to the use zone and which address any other concerns specific to the location.
- 4. If a town has any concerns about any mineral exploration activity, whether before or after the issuance of an exploration approval from the Mineral Lands Division to conduct the work, the town shall contact the Mines Branch, Mineral Lands Division in order to have the concerns addressed. Exploration for quarry materials (e.g., sand, gravel) is permitted using the same procedure and typically involves the excavation of test pits followed by their immediate rehabilitation.

4.4.11 Mineral Working

Definition: "Mineral working" shall be defined as; an operation consisting of one or more of the following activities: the digging for, excavation, and removal of quarry materials (i.e., quarrying) (may involve blasting), the removal of quarry materials previously excavated, the removal of quarry materials previously deposited on site, the stockpiling of quarry materials, the processing of quarry materials (e.g., crushing, screening, washing), the production of civil construction materials which use quarry materials in their natural form (e.g., asphalt, concrete), the re-processing of quarry materials including from reclaimed civil construction materials (e.g., reclaimed asphalt, concrete), the production of soil by blending organic materials with quarry materials, or the treatment or remediation of soil. "Quarry material" for the purpose of interpreting the definition of mineral working is as defined in the provincial Quarry Materials Act, 1998. Mineral working does not include mining but may include mineral exploration (development) as a secondary activity. Mineral working does not include the excavation and removal of quarry materials as a by-product of an approved development.

Conditions

- (1) The Mineral Lands Division requires that, 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 Mineral Lands Division, (Note that quarry materials include but are not limited to aggregate, fill, rock, stone, gravel, sand, clay, borrow material, topsoil, overburden, subsoil, peat).
- (2) The Mineral Lands Division requires that quarry materials produced as a by-product of an approved development can only be removed from the development site if royalties are paid to the province as required by *the Quarry Materials Act, 1998*. For example, site preparation to construct a building involves removing topsoil,

overburden, and possibly rock from the footprint area; these materials may be retained or re-used on the development site (no royalties due) or removed from the site (royalties due). In order to ensure that royalties due the province are paid; it is necessary that the Mineral Lands Division be made aware of approved developments where the removal of quarry materials is taking place or may take place.

- (3) The Mineral Lands Division requires that the environmental standards in the Mineral Regulations under the *Mineral Act, 1990* will apply.
- (4) At the request of the Mineral Lands Division, the Town will not permit mineral working to be located closer than the minimum distances set out below to the specified development or natural feature:

Minimum Buffer Distance of Pit and Quarry Workings

From existing or proposed Residential Development:

- where no blasting is involved 300 m
- where blasting is involved 1000 m

- From any other developed area or area likely to be developed during the life of the pit or quarry working..... 150 m
- From a Public highway or street..... 50 m
- From a Protected Road..... 90 m
- From a Waterbody or watercourse..... 50 m

Where a minimum required distance was originally observed when choosing the location of the quarry, quarrying shall not be discontinued or impeded where the buffer is reduced to less than the required distance due to encroachment of development towards the quarry;

If geophysical site conditions allow, the Town may consider reducing these distances upon the recommendation in the referral to the Mineral Lands Division providing there is no disruption to legal operation of the mineral working site.

4.4.12 Mining

Definition: Mining shall be defined as; an operation involving the extraction of a mineral for sale and for which a mining lease is required under the provincial Mineral Act administered by the Department of Natural Resources. "Mineral" for the purpose of interpreting the definition of mining is as defined under the Mineral Act. Mining may

include, as secondary activities, mineral exploration (development) and mineral working. Note that under the Mineral Act dimension stone (i.e., stone used for building facades, gravestones, etc.) is considered a mineral in Newfoundland but a quarry material in Labrador.

Conditions

The following conditions shall apply to a Mining application subject to Mineral Lands Division regulatory and permitting requirements:

- (1) An application for a development permit shall include a Mineral Working Development Plan satisfactory to the Council for the proposed Mining use, which shall include a site plan showing the location of physical site features and extraction and processing features required by the Council including but not limited to:
 - a. boundaries of the parcel to be mined;
 - b. extent of site area(s) to be mined;
 - c. buildings and structures on the site;
 - d. roads, parking and loading areas and entrance and exit to the site;
 - e. fences, berms and landscaping provided for screening;
 - f. waterbodies and channels to be removed, shifted and created;
 - g. location and expected maximum height of stockpiles of mined ores, sand and gravel;
 - h. location of major machinery and conveyors for receiving and processing raw ores including machinery for sifting, washing and grading ores, and the manufacturing of concrete and stone products;
 - i. the probable location of storage piles of topsoil and overburden removed from earlier phases of mined areas and temporarily being stored for replacement under the Reclamation plan; and
 - j. intended phases of mining operations to be carried out over all portions of the site.
- (2) An application for a development permit shall include a Mining Reclamation Plan satisfactory to Council for the proposed mineral working use which shall explain, illustrate and show to the satisfaction of Council a plan for restoration of the site which includes final ground contours, slopes, depth of topsoil, and vegetation and a phasing plan, if necessary, in the form of a grading and landscape plan or plans.

4.4.13 Natural Resource-Related Uses

Definition: Natural resource-related uses means the use of land or buildings for any commercial or industrial development directly associated with, or requiring proximity to, farm operation, fisheries, forestry or mineral working industries; for example, processing of meat, fish and poultry products, feed mills, sawmills, planning mills, single mill products industries, asphalt plant, gravel crushing operation sand may include, but not

limited to, such uses as animal husbandry services, produce or grain storage/processing facilities, farm machinery sales and service outlets, feed and seed warehouse and associated retail outlets, including a nursery or garden centre.

Condition:

- (1) Must meet Use Zone Site Development Standards and conditions;

4.5 CONSERVATION LAND USE CLASS

4.5.1 Environmental Protection

Definition: Environmental protection area means areas where development is restricted due to the natural features of the site for purposes of conservation or protection of habitat, wetlands, resource management, viewscapes or other special designations under legislation; or site unsuitability due to erosion control, steep slopes, flood control and water supply protection. Activities would include conservation measures to protect land and water resources.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Nothing in these Development Regulations shall prevent the designation of environmental protection areas in any zone.
- (3) Council will not permit development vulnerable to flooding in areas known to be subject to local flooding.
- (4) Require that development is limited to:
 - a. passive recreation facilities such as walking or nature trails, and associated interpretation programs do not have an adverse impact on the natural environment and residential properties; and,
 - b. wharves, boathouses, slips, dock or breakwater, subject to Council discretion; or,
 - c. development associated with scientific work related to environmental research and monitoring of conditions.
- (5) The Town may require that any development near a designated trail or water course be reviewed by the Town to ensure that development does not negatively impact such trail or watercourse. Where deemed necessary, the Town may require that the buffer be provided by the developer.

4.5.2 Open Space, Parks and Trails

Definition: 'Open space, parks and trails' means a generally undeveloped space or environmentally sensitive area maintained for the preservation of natural heritage, wildlife and the environment where the quality of the environment and naturalness of an

area is the focus of the recreational experience; activities & development are limited to trails, picnic areas, benches, playgrounds and associated signage.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Nothing in these Development Regulations shall prevent the designation of parks and playgrounds in any zones provided that such parks and playgrounds are not located in areas which may be hazardous to their use and are not operated for commercial purposes.
- (3) Parks and playgrounds may be located on backland but shall have at least one 5-m wide vehicular access directly onto a public street.
- (4) Public toilet facilities associated with a park or trail development requires review by the Council in consultation with Service NL in order to meet provincial regulatory requirements.
- (5) It is recommended that trails have a 3 m width as a pedestrian corridor with/without use by bicycles.
- (6) Council may require a screen or vegetative buffer between a trail and adjacent land uses to ensure that nuisance factors are minimized and trail activities do not hinder the enjoyment of property.
- (7) In the Rural zone: Open Space and Trails may be permitted in this zone subject to the following conditions:
 - a. the proposed use shall not interfere with adjacent agricultural and other natural resource uses by virtue of noise, increased traffic or other activities;
 - b. the proposed use shall not prejudice the continuation of existing agricultural and other natural resource uses and operational practices which may not be compatible with the proposed use;

4.6 PUBLIC/INSTITUTIONAL LAND USE CLASS

4.6.1 Cemetery

Definition: Cemetery means a facility or land area reserved and dedicated to the burial of the dead and includes a columbarium, mausoleum, mortuary and related maintenance facility. A discretionary accessory use might include a crematorium (a facility containing a certified furnace or similar device intended for use in the incineration of human or animal corpses) subject to conditions.

Conditions:

- (1) Council may require a landscape plan to be submitted as part of the Development Application. The landscape plan shall illustrate areas of landscaping in relation to the burial plots and shall identify the location and types of plant species that are to be planted.
- (2) It is recommended that a minimum 6 m wide buffer may be maintained between any lot line of the cemetery and areas designated for burial purposes and, within this buffer, trees and shrubs are to be planted to provide a landscaped screen between the cemetery uses and abutting properties.
- (3) A fence may be required to be constructed and erected along all lines of the cemetery
- (4) A cemetery use shall receive the approval of the Provincial Departments of Health and Community Services and Municipal and Provincial Affairs and shall be developed in accordance with the conditions of these Departments.
- (5) A discretionary crematorium is subject to the following conditions:
 - a. A buffer between the crematorium and a sensitive land use such as residential, day care, elementary or secondary school or higher intensity land use, may be required at the discretion of the Council based on the following guideline:
 - i. The buffer between the crematorium structure within the cemetery to the lot line shared with residential or sensitive land use, such as elementary or secondary schools, day-care, may be required to be a minimum of 70 m unless there are extenuating physical characteristics of the site that would provide natural screening
 - ii. The buffer between other resource uses may be required to be a minimum of 30 m but may be less if there are extenuating physical characteristics of the site that would provide natural screening;
 - b. All crematory facilities shall be located within an enclosed building that meets building and fire code requirements;
 - c. All applicable local, provincial, and federal laws and regulations shall be met;

4.6.2 Institutional Use

Definition: Institutional use means the use of land or buildings for public purposes, whether publicly or privately funded, where people may gather in larger numbers to access a regional or a municipal-wide or regional service, including but not limited to:

- a. Hospitals;
- b. Government Offices;
- c. Educational Facilities;
- d. Convention Centres or major cultural centres, such as provincial Arts and Culture Centres;
- e. Recreation Complex, such as an arena, multi-use sports and entertainment centres, roller rinks, swimming pools; and,
- f. Personal Care Facilities (larger than residential home), such as nursing or senior's homes, family and group care centres (see Condition 3 below).

Conditions:

- (1) Required to submit a Planned Unit Development application;
- (2) Must meet Use Zone Site Development Standards and conditions;
- (3) For Personal Care Facilities-Non-residential (Nursing Homes and Family & Group Homes/Care Centres), the following standards apply:
 - a. The development will be treated as a single comprehensive development as set out in Part II of these Development Regulations, except that the minimum dwelling floor areas, building line setbacks and yards shall be as determined by Council.
 - b. The development shall be tailored to the needs of the persons occupying the development in accordance with their condition.
 - c. The overall design of the development – including road layout, landscaping, building design and location, parking areas, and so forth – will be attractive and compatible with other uses in the vicinity.
 - d. A single management authority shall be responsible for the maintenance of properties within the development.
 - e. Building types can be as necessary to serve the purposes of the development, including a variety of dwelling types, care facilities, and communal facilities such as storage rooms, hobby rooms, workshops, and garages.
 - f. Adequate noise separation shall be maintained between the use and adjoining dwelling units in an apartment building.
 - g. a fire exit for the exclusive use of the facility use shall be provided,
 - h. a separate entrance for the exclusive use of the facility use shall be provided unless the entrance to the use from a common lobby or foyer is immediately adjacent to such lobby or foyer,
 - i. parking as required in these Development Regulations shall be provided and reserved for the exclusive use of the facility use and identified as such on the parking lot,

- j. a minimum of 5 m² of net floor space per person may be provided for use by the facility users, this aggregate floor space maybe utilized for the purpose of group amenity areas and individual rest areas;

4.6.3 Protective and Emergency Services

Definition: Protective and emergency services mean a development which is required for the public protection of persons and property from injury, harm or damage together with the incidental storage of equipment and vehicles, which is necessary for the local distribution of utility services. Typical uses include police stations, fire stations and ancillary training facilities.

Conditions:

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

4.6.4 Public Gathering Places -Indoor

Definition: Public gathering places-Indoor means a building or part thereof designed and equipped to be used for public gatherings for entertainment, religious (place of worship), cultural, civic, educational, charitable, philanthropic or social purposes and may include, but are not limited to, a movie theatre, playhouse, museum, art gallery, place of worship, funeral home, community or cultural centre, library. These are smaller than regional institutional uses, like a hospital or college campus, as the patrons generally are not such a broad segment of society and therefore does not create the same level of activity in terms on onsite use and traffic.

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) Where permitted as a discretionary use on a Use Zone Table in Chapter 3, a place of worship or an educational use shall conform to the frontage, building line setback, side yard, rear yard, lot coverage and height requirement specified for a single detached dwelling.
- (4) Crematory facilities may be allowed as a discretionary accessory use to a funeral home when the funeral home is the principal use, subject to meeting the following conditions:
 - a. A buffer between the crematorium and a sensitive land use, such as residential, day care, school or higher intensity land use, may be required at the discretion of the Council based on the following guideline, that the buffer be a minimum

of 70 m from a residential or sensitive land use, such as elementary or secondary schools, day-care unless there are extenuating physical characteristics of the site that would provide natural screening;

- a. All crematory facilities shall be located within an enclosed building that meets building and fire code requirements.
- b. All applicable local, provincial, and federal laws and regulations shall be met

4.6.5 Public Gathering Places - Outdoor

Definition: Public gathering places-outdoor means an open-air assembly use requiring the minimum of permanent facilities, and included, but is not limited to, facilities in the form of or similar to, an outdoor worship service and informal outdoor recreation, including, but not limited to, a picnic or barbecue area, playground and walking or jogging trails; but does not include sport and recreation facilities or a recreation complex.

Conditions:

- (1) Required to submit a Planned Unit Development application;
- (2) Must meet Use Zone Site Development Standards and conditions;
- (3) Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
- (4) The use shall not negatively impact upon the associated activities such that the combined uses create a public safety or health concern or inconvenience.
- (5) The use shall not be permitted in close proximity to a residential area where, in the opinion of Council, the use or its associated activities will create a nuisance, such as the generation of fumes, noise, vibration, litter, and lighting, affecting the nearby residential area.
- (6) Where it is determined by Council, for public safety and convenience, that fencing is required; the area of the use shall be fenced in accordance with the requirements of Council;
- (7) Where it is determined by Council that washroom facilities are required, the use shall be required to provide washroom facilities in accordance with the requirements of the Provincial Department of Health and Council;
- (8) Where it is determined by Council, a security deposit will be required to be submitted to the Town for the cleanup of the site and surrounding area of litter and debris which is generated by the activities or the use. The security deposit shall be returned upon the site and surrounding properties being left in a clean state that is satisfactory to Council.

4.6.6 Sports and Recreation Facilities

Definition: Sports and recreation facilities means land and a building, structure or part thereof, not part of a large institutional building, designed and equipped to be used for

athletic and leisure activities, and may include, but not limited to, a health and fitness centre, bowling alley, curling rink; tennis, squash, handball and badminton courts; sports fields, outdoor tennis courts, unenclosed ice surfaces or rinks, athletic fields, boating facilities, and informal outdoor recreation, such as, cycle, walking or jogging tracks; but does not include a recreation complex but may include Public Gathering-Outdoor uses.

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) Their environmental impact within the site can be contained and minimized;
- (4) The activity is not unduly detrimental to the wider amenity of the area; and,
- (5) The activity does not have a detrimental effect on neighbouring land uses or amenities.

4.7 RESIDENTIAL LAND USE CLASS

4.7.1 Single Detached Dwelling

Definition: A single detached means a detached dwelling unit containing one main dwelling unit which has a private entrance, and which is not attached to another dwelling; and, does not include mobile homes or recreational vehicles, but does include mini-homes or tiny homes; but it may contain a subsidiary apartment (see 5.1.2)

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) In the Resource zone, a single dwelling may only be permitted only as accessory to an agricultural use. A dwelling is subject to the approval of the Land Stewardship Division and Service NL before a permit is issued by the Town.

4.7.2. Semi-Detached Dwelling (Double dwelling)

Definition: A semi-detached dwelling means a building containing two dwelling units, where each dwelling unit has an external private entrance (as compared to apartment buildings with a common entrance), but does not mean a Single Detached Dwelling containing a subsidiary apartment. Both units must front on the street. Council may consider a duplex (double dwelling) where the units can be placed one above the other but must both front on the publicly maintained street.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions.

4.7.3 Townhouses

Definition: A townhouse or townhome is a single-family home that shares one or more walls with other independently-owned units. They are often in rows of uniform homes, two stories or taller. Residents own or rent their interior and exterior walls, lawn, and roof. Residential townhouses are usually three or more dwelling units, each unit separated vertically from the others, each of which must have an independent entrance to a front and rear yard immediately abutting the front and rear walls of the unit, and each of which may be located on a separate lot. All units front on a street.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Required to submit a Planned Unit Development application;
- (3) Shared walls must meet all national code regulations;

4.7.4 Mini-Home and Mobile Homes

(a) Mini-Home -Definition: Mini-home means a sectional prefabricated dwelling designed for transportation after fabrication to a site, typically transported by means of flat-bed trucks, and coupled together mechanically and electrically to form a single structure situated on a concrete foundation, either a full basement or crawlspace, but does not include a mobile home. Mini homes do not have axles or a chassis.

(b) Mobile Home - Definition: Mobile home means a transportable factory-built single detached family dwelling unit which:(a) which complies with space standards substantially equal to those laid down in the Canadian Code for Residential Construction and is in accordance with the construction standards laid down and all other applicable provincial and;(b) which is designed to be transported on its own wheels and chassis and subsequently supported on its own wheels, jacks, posts or piers;

Mobile Home or Mini Home Park: means a development under single or joint ownership, and cared for and controlled by an operator where individual mobile or mini home lots are rented or leased and where ownership and responsibility for the maintenance and development of site facilities including underground services, access roads, communal areas, snow clearing and garbage collection, or any of the, are the responsibility of the operator/owner. It does not include travel trailer park, campground or group dwellings.

Mobile Home or Mini-Home Subdivision: means a development requiring the subdivision of land whether in single or joint ownership into two or more pieces or parcels of land for the purpose of mobile home or mini-home lots and where the maintenance of streets and services is the responsibility of a municipality or public

authority. A mobile home may not be located within a mini home subdivision; however, a mini home may be located within a mobile home subdivision.

Conditions:

- (1) A mobile home may be located outside a mobile home park or subdivision provided that the structure meets the following conditions:
 - a. The home is placed on a permanent foundation or otherwise permanently supported and fixed, with wheels and axles removed, and shall be provided with a visible foundation or skirting acceptably similar in appearance to foundations of dwellings in the immediate area;
 - b. The lot otherwise meets the standards of a residential lot.
- (2) Mini-home may be located outside a mini-home park or subdivision provided that the design is compatible with housing design of existing homes in the neighbourhood.
- (3) A mobile/mini home subdivision/park is required to submit a Planned Unit Development Application (2.2.2 & 2.2.4);

4.7.5 Apartment Building

Definition: Apartment building means a building containing three or more dwelling units which have a shared entrance and hallway but does not include a row dwelling or a subsidiary apartment.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Required to submit a Planned Unit Development application;

4.7.6 Cottage (or Cabin)

Definition: Cottage or cabin means a detached dwelling unit designed or intended for seasonal or recreational use and it is not intended for use as permanent living quarters and it does not include a vehicle as defined under the *Highway Traffic Act, 1990*.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) Must meet building requirements under these Development Regulations, including the National Building Code, etc.
- (3) Remote or accessible (recreational) cottages will not be eligible for municipal services if such service would be a burden to taxpayers;
- (4) If a home in a residential area is used as a seasonal residence, it must be maintained to the standard of the neighbourhood as a full-time residence;
- (5) Recreational cottage subdivisions of greater than 4 lots are subject to the Groundwater Assessment by the Water Resources Management Division (see 8.2.3);

(6) In the Rural zone, cottages are a discretionary use that may only be permitted if the Town is satisfied that it will not create an obligation to provide municipal services and that it will not have a negative impact on resource exploration and development within the Rural zone.

4.7.7 Supportive Housing

Definition: Housing that provides on-site supports & services to residents (regardless of age) who cannot live independently for the following reasons: Are homeless or at risk of homelessness; Require supports with mental health and/or addictions, and multiple complex needs; Recent release from incarceration. This can include a group home is a Single Detached Dwelling used for children or young people who cannot live with their families, people of any age with chronic disabilities including be adults or seniors, or people with dementia. Typically, there are no more than six residents. There is at least one trained care-giver onsite 24-hours a day.

Conditions:

- (1) Must meet Use Zone Site Development Standards and conditions;
- (2) A personal care or group home is permitted in a dwelling unit that is adequate in size to accommodate the number of persons living in the group, inclusive of staff.

4.7.8 Tiny Homes

Definitions:

Tiny house means a residential single dwelling unit intended for year-round use designed to be used with a permanent foundation and has permanent provisions for living, sleeping, eating, cooking and sanitation, typically with a maximum floor area of <50 m².

Tiny House Subdivision means a concept proposal, approved by Council to subdivide property into a minimum of eight (8) or more tiny house residential lots subject to conditions outlined in a development agreement. It generally shows topographic information and natural features, such as waterways and vegetation. The concept proposal will also identify proposed residential lots which may typically require infrastructure such as streets drainage, culverts, pavement, sidewalks and curbs.

Conditions:

- (1) Tiny houses shall be constructed to the requirements of the National Building Code;
- (2) Must meet Use Zone Site Development Standards and conditions; that is, all other siting requirements of the residential land use zone shall apply;

- (3) Tiny houses shall have permanent provisions for living, sleeping, eating, cooking and sanitation;
- (4) An accessory building in the Tiny House Subdivision shall not exceed the size of the tiny house.

4.7.9 Hostel

Definition: A hostel is typically where an individual may occupy a single room in a building with shared bathrooms and kitchens, and may include other amenity areas, such as a gym. The rooms may be offered to the travelling public or may be used as a staff residence.

Conditions:

- 1. A hostel must meet Use Zone requirements for a commercial development in the zone in which it is located;
- 2. Must meet Digital Services and Service NL requirements for commercial residential use;

4.8 PUBLIC INFRASTRUCTURE AND UTILITIES

4.8.1 Communications

Definition: Communications means a television, radio, cell phone, or transmission tower or antenna, as well other communications transmitting or receiving building or infrastructure and includes wireless communications facilities, such as, infrastructure regulated by the federal government that enables wireless communications including broadcast antennas, cellular phone towers including private antenna systems for ham radio and citizen band radio, mounted on the ground or on another structure such as a rooftop.

Conditions:

- (1) Council may, within any zone, permit land or a building to be used in conjunction with telecommunications structures or antennas subject to the following standards:
 - a. must meet Industry Canada standards;
 - b. where it is deemed feasible, a new telecommunications structure or antenna will share existing telecommunications structure or antenna infrastructure or will modify or replace an existing telecommunications structure or antenna to accommodate the new and existing telecommunications structure or antenna provided the changes to the existing telecommunications structure or antenna

- do not detract from the appearance and character of the surrounding properties;
- c. the colour, location, and design of a new telecommunications structure or antenna will not detract from the appearance and character of the surrounding properties and do not negatively impact aesthetically on adjacent lands and uses; and,

(2) The site or the building on which the telecommunications structure or antenna is erected or situated may be required to be landscaped or treated in such a manner to minimize the visual impact on the surrounding area.

4.8.2 Easement

Definition: Easement means the right to use land, most commonly for access to other property, or as a right-of-way for utility service.

Conditions:

(1) No permanent building shall be constructed over any known easement, whether that easement has been assigned to the Town, a department of the provincial or federal government, or any utility company (i.e.: Newfoundland Power, telephone, cable television, Crown Land). Permanent buildings include, but are not limited to, all dwellings and accessory buildings.

4.8.3 Utilities

Definition: Utilities means a development that comprises a system or works including municipal services used to provide one or more of the following for public consumption, benefit, convenience or use:

- a. water;
- b. sewage disposal;
- c. drainage;
- d. fuel;
- e. electric power;
- f. waste management;
- g. street lighting;
- h. telecommunications,
- i. and includes minor buildings and the thing that is provided for public consumption, benefit, convenience or use but does not include a water treatment plant, sewage treatment plant, solid waste landfill, or power plant (including energy generating facilities in 4.4.4).

Conditions:

(1) Must meet Use Zone Site Development Standards and conditions;

- (2) Water treatment plant, sewage treatment plant, solid waste landfill, or power plant will be reviewed as required by the development application process for the purposes of establishing conditions for development and ensuring appropriate referrals are made to agencies such as Environmental Assessment Division, Waste Management Division, etc.
- (3) No adverse effect on adjacent land uses is created.
- (4) The size and appearance of such works must be in keeping with adjacent uses; and,
- (5) Provision may be required to for buffering in the form of landscaped areas between uses;

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5.0 GENERAL DEVELOPMENT REGULATIONS

The general regulations apply to all development, as applicable, subject to site conditions, location, and specific type of proposed use or development.

5.1 NUISANCE PROHIBITION AND BUFFERS

5.1.1 Nuisance and Unsightly development

Definitions:

NUISANCE means activities that created a nuisance by causing or promoting fires or other hazards or which may emit noxious, offensive or dangerous fumes, smoke, gases, radiation, smells, ash, dust or grit, excessive noise or vibration, or create any nuisance that has an unpleasant effect on the senses unless its use is authorized by Council (for example, in the Industrial zones) and any other authority having jurisdiction.

DANGEROUS OR UNSIGHTLY means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing:

- a. ashes, junk, cleaning of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,
- b. an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material,
- c. an accumulation or collection of materials or refuse that is stockpiled, hidden, or stored away and is dangerous, unsightly, unhealthy, or offensive to a person, or
- d. any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property, a building or structure with or without structural deficiencies
 - i. that is in a ruinous or dilapidated condition,
 - ii. the condition of which seriously depreciates the value of land or buildings in the vicinity,
 - iii. that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
 - iv. that is an allurement to children who may play there to their danger,
 - v. constituting a hazard to the health or safety of the public,
 - vi. that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure is not maintained,
 - vii. that is a fire hazard to itself or to surrounding lands or buildings,
 - viii. that has been excavated or had fill placed on it in a manner that results in a hazard, or
 - ix. that is in a poor state of hygiene or cleanliness;

Condition:

(1) No building or land shall be used for any purpose which may be a nuisance, dangerous or unsightly.

5.1.2 Buffers

Definition: Buffer means a berm, wall or opaque fence, row of trees or shrubs, hedge, fence, or distance separation that provides a barrier between incompatible uses intended to obstruct or reduce the noise, lighting glare, unsightly views or any other nuisance of one land use or property onto another. Council may require landscaping and screening buffers for a proposed development in order to provide:

- a. an acoustic barrier;
- b. an attractive visual continuity and appearance between developments or on an individual site;
- c. delineation of an area; and
- d. protection for the natural environment.

Conditions

(1) A screen or separation between different or incompatible uses, principally between residential and non-residential uses, will consist of either a screen of a minimum height of 2.4 metres and a buffer of 10 m between residential and industrial and 3 metres between residential and commercial.

(2) Where an industrial, commercial or public institutional development permitted in any Use Zone abuts a street that is used as an access into a residential area or zone, a structural barrier or fence may be required in the flanking street side yard by Council and the structure or barrier shall be maintained by the owner or occupier of the property to the satisfaction of Council

(3) The following standards shall apply to development in the vicinity of waterbodies and in forested areas, as practicable:

- a. a riparian buffer of 30 metres 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. indicate a minimum percentage of forests to be maintained during lot clearing;
- d. Vegetation clearing will be done outside the May 01 to July 31 period, to minimize disturbance during that sensitive breeding/ young rearing, whenever possible;

5.2 LOT SITING AND BUILDING ENVELOPE

5.2.1 Lot Area Integrity

- (1) No lot shall be reduced in area, either by the conveyance or alienation of any portion thereof, such that,
 - a. the lot area, frontage, front yard, rear yard, and side yards are less than the minimums permitted by these Development Regulations for the zone in which such lot is located, and
 - b. the lot coverage of all buildings exceeds the maximum permitted by these Development Regulations for the zone in which such lot is located.
- (2) Where any part of a lot is required by these Development Regulations to be reserved as a yard, it shall continue to be so used regardless of any change in the ownership of the lot or any part thereof and shall not be deemed to form part of an adjacent lot for the purpose of computing the area thereof available for building purposes.
- (3) Unsubdivided Land: Development is not permitted on unsubdivided land unless sufficient area is reserved to satisfy the yard and other allowances required in the Use Zone in which the property is located. These requirements must be retained when the adjacent land is developed.

5.2.2 Lot Fronting on to a Public Street

No residential, commercial or public building shall be erected on a lot that does not front directly onto a public street unless the subject lot forms part of a comprehensive development.

5.2.3 Building Line and Setbacks

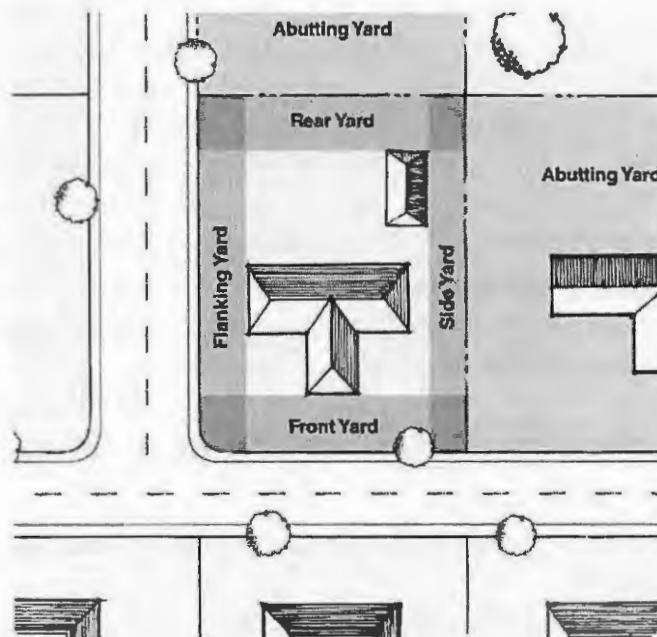
Definitions for setbacks can be found in Schedule B; regulations regarding setback are as follows:

- (1) The building line setback is measured from the street right of way at the front of the property;
- (2) Adequate building setback from roads shall be required in order to maintain road standards, consider public safety requirements for side/back/front yards; and conform to the existing development pattern; and, ensure adequate provision is made for light, privacy, and amenity.
- (3) Setbacks may be required that are sufficient to allow for landscaping of front yards, vehicle off-street parking and take into consideration Town service obligations, such as, snow clearing;
- (4) To encourage a more interesting streetscape Council can allow staggered building line setbacks;

- (5) Council, at its discretion, may allow development to complement existing building setbacks of adjoining properties by varying the yard requirements up to 10% after notification of the proposed variance is given to neighbouring property owners in accordance with section 2.3.1.
- (6) If required, the building line as set out in the provincial *Building Near Highways Regulation* along any provincial highway, must be adhered to.

5.2.4 Flanking or Corner lots and double fronting lots

In the case of a corner lot, the shortest lot line facing the street shall be the front lot line; therefore, the other lot line is the flanking side yard, and in the case of double fronting lots or where the lot lines are equal in length, the front lot line shall be determined by the orientation direction of the majority of adjacent neighbourhood buildings, and the other lot line is the flanking side yard.



5.2.5 Side Yards

An unobstructed side yard shall be provided on the exposed sides of every building in order to provide access for the maintenance of that building.

5.2.6 Multiple Uses on One Lot

Where two or more different uses may exist in a single building, more than one main building may be permitted on a single lot, or a single lot may contain more than one permitted use, provided that each use shall conform to all requirements in these Development Regulations that are applicable to that use. **EXCEPTION:** This does not apply to a single detached dwelling that is not part of a comprehensive development.

Multiple use may not be permitted where the Authority determines that the proposed use would not be compatible with existing uses on or adjacent to the lot by reason of safety, amenity, appearance, or nuisance.

Where more than one main building is developed on a single lot, sufficient area shall be reserved to satisfy the yard requirements and other allowances outlined in the Use Zone Table applicable to the lot. These allowances shall be maintained when the adjacent land is developed.

5.2.7 Outdoor Storage

- (1) Outdoor storage shall not be located in front yards, unless specified in the zone.
- (2) The Council may require screening from street and other surrounding development which could include fencing or landscaping.
- (3) Outdoor storage shall be maintained with a stable surface to prevent raising or movement of dust, clay, mud or loose particles.
- (4) The Council may, where a development is unsightly or dangerous to health or safety, order the owner or occupier of the site to remove and dispose of unsightly or dangerous materials or buildings, or restore the unsightly or dangerous materials or buildings to a more acceptable and pleasing condition.

5.2.8 Civic Numbering Siting Conditions

- (1) All structures shall have a civic number easily visible for fire and emergency services

5.2.9 Building Orientation and Quality

- (1) Taking into consideration 4.7.1 regarding building orientation to the street, it is recommended that wherever possible, development or the siting of a building on a lot be configured to optimize winter solar exposure and shall take into consideration street/building layout, shading, landscaping, and on-site parking.
- (2) Building Materials: All building materials for exterior finish will be subject to approval of Council in respect to acceptable visual quality and design appearance. Any outside elements including exposed ductwork, outside air conditioning units, cooling towers and tanks are subject to the approval of Council in respect to acceptable visual quality.

5.2.10 Heritage Building or Structure

- (1) Where Council designates a building, structure or land, as a heritage building or structure, no person shall pull down or demolish the designated heritage building or structure except for life safety reasons or to carry out a public work, nor shall the exterior of the heritage building or structure be repaired or altered without the written approval of Council.

5.3 LANDSCAPING

5.3.1 General Requirements – Residential, Commercial and Industrial zones

- 2) No site work (clearing or grubbing) shall commence until a development permit is issued including conditions regarding existing site vegetation and proposed landscaping treatment.
- 3) The provision of adequate and suitable landscaping or screening may be made a condition of any development permit for a new development or the renovation of an existing building that includes site work, where, in the opinion of the Town, the landscaping or screening is desirable to preserve amenity and/or protect the environment.
- 4) Proposed landscaping or a minimum of suitable ground cover must be achieved within 18 months of completion of the work approved in the development permit.
- 5) The Council may require a landscape deposit or a financial guarantee (refer to subsection 2.5.3) in the amount to cover the costs of the landscaping of the lot or area as a condition of the Development Permit:
- 6) The deposit shall be paid prior to the issuance of the applicable permit by the Town.
- 7) The deposit shall be returned upon the successful completion of the landscaping to the satisfaction of the Town.
- 8) The amount of the landscape deposit may be set at the amount required to meet minimum suitable ground cover to prevent soil erosion.
- 9) A landscape plan accompanying a permit application may be required to include, over and above the requirements set out in 2.2.2, the following:
 - a. height and width of required buffers and/or separation distances, fencing or retaining walls;
 - b. location and dimensions of driveway(s), parking areas, hard-surfaced walkways in relation to landscaping;
 - c. location and dimensions of existing vegetation to be preserved or removed;
 - d. any proposed vegetative landscaping, grass or other flower beds, shrubs, trees and other landscaping elements, such as mulch, ornamental stone, etc., that are part of a landscaping plan;
- 10) The landscaped area shall comprise a minimum of soil and grass cover and may also include flower beds, trees, shrubs, and/or other materials in a design approved by the Town. Note that mulch or pebbles alone are not considered landscaping unless they are part of an overall landscape plan.
- 11) Wherever grass is a requirement for the development of a lot or space, a minimum topsoil depth of 100 mm will be required for the planting of grass or the laying of grass sods.
- 12) To preserve existing natural vegetation on a new site, at the direction of Council, the limits of new development will be delineated in the field and site work will be located

in such a manner to minimize disruption on the existing and surrounding natural vegetation.

- 13) All areas that are disrupted by construction shall be reinstated by the developer using natural landscaping with a minimum of topsoil (100 mm) and grass.
- 14) Whenever an alternate landscaping treatment is approved by Council and the treatment includes ornamental gravel, the developer or property owner shall ensure that an appropriate retaining wall or border is constructed to contain the gravel within the lot boundaries and along hard-surfaced driveways, vehicular circulation areas, and parking areas;
- 15) Landscaping of the Town road right of ways adjacent the property shall be the responsibility of the property owner. All areas between the curb/sidewalk and the property may be required to be landscaped.
- 16) Council may require the planting of trees as a condition of a development permit approval.
- 17) All landscaping must be maintained in good condition, not create a nuisance, and provide sufficient cover to prevent soil erosion.

5.3.2 Subdivisions

- (1) Wherever possible, natural areas shall be maintained in their natural state and the destruction of these natural areas by development minimized. If the natural area is a part of a public open space area, the developer shall prepare a landscape plan integrating the natural areas with the portions of the open space area that is to be developed for recreational purposes. The plan will illustrate the grading relationships between developed and natural areas of the park.
- (2) Minimum landscaping of the recreational open space area shall be topsoil and grass seed, as determined by the Town. Note that mulch or pebbles alone are not considered landscaping unless they are part of an overall landscape plan.
- (3) Where it is determined by Council that berming or a swale is required, or that major sloping occurs within, or outside, the normal boundaries of a lot, it shall be the developer's responsibility to landscape the berm, swale or slope with a minimum of grass.
- (4) A landscape deposit may be required as part of the Development agreement to be returned upon the acceptance of the area by Engineering Services.

5.4 MUNICIPAL SERVICES AND PUBLIC UTILITIES

Within any Use Zone Council may permit land to be used for the provision of public services and public utilities if the use of that land is necessary to the proper operation of the public service or public utility concerned, provided that the design and landscaping of any development of any land so used is, in the opinion of Council, adequate to protect the character and appearance of the area.

5.4.1 Access And Streets

- 1) All development must front on to a publicly maintained road (Provincial or Municipal) and have independent, approved access. Exceptions include: (1) a development within a Planned Unit Development where there may be an internal road plan (which will be set out in the Development Regulations); however, the PUB must front onto a publicly maintained road; and (2) natural resource uses and associated industries, i.e., agriculture, forestry, mineral working, etc
- 2) An access on a municipal road shall be located as specified by the Council; Access(es) shall be located to the specification of Council so as to ensure the greatest possible convenience and safety of the street system and Council may prescribe the construction of service streets to reduce the number of accesses to collector and arterial streets.
- 3) All access to a provincial highway is determined by the Department of Transportation and Works (Note: access permits are administered by Service NL).
- 4) No vehicular access shall be closer than 10 m to the street line of a street intersection of a local road, or 20 m to the street line of a street intersection in the case of a collector or arterial road.
- 5) The Council may require the provision of service streets to reduce the number of individual accesses to an adjacent street.
- 6) Details regarding off-street loading and parking can be found in Chapter 7.
- 7) Notwithstanding subsection 1, the following types of development may be allowed on lots that front on to a private road provided that arrangements are made for the maintenance of the on-site road, but that the road is not maintained by a Council at public expense:
 - a. commercial rental cottages;
 - b. seasonal commercial uses related to tourism;
 - c. resort developments;
 - d. seasonal cottage developments not intended for permanent residential use; and,
 - e. vacant land condominium subdivisions.
- 8) A new street may not be constructed except in accordance with and to the design and specifications established by Council.
- 9) Where Council has adopted an access plan, the location of accesses to existing and new developments shall be in accordance with that plan.
- 10) Access shall be located so that there is no visual obstruction for drivers of vehicles entering or exiting the development; therefore, to protect sightlines (view) of motorists and pedestrians:
- 11) All occupied lands within 7 m of a street intersection shall be kept free of any shrubs, plants, and trees that will impede the line of vision clear for motorists and pedestrians, and

- 12) No building or structure shall be permitted to be erected, moved, enlarged, or reconstructed on any land that is within 7 m of a street intersection.
- 13) In order to control access to streets, Council may, by the adoption of an Access Plan:
 - a. determine the number, location and layout of accesses to a street;
 - b. require an access to a service street, where direct access to an arterial street is not desirable;
 - c. require two or more properties to share a joint access to an arterial street where individual accesses would not be desirable; and,
- 14) Where Council has adopted an access plan, the location of accesses to existing and new developments shall be in accordance with that plan.

5.4.2 Shared Driveway

Definition: A Shared Driveway means a roadway within private property that is privately owned, maintained and used for vehicular travel by the owner and those having express or implied permission from the owner, but not other persons. Their main function is to provide access to the private land.

Conditions:

- (1) A shared driveway is considered a private road and it shall not be maintained by Council;
- (2) No more than four properties are allowed to have a shared driveway (private road);
- (3) All primary buildings accessed by a shared driveway must have a street number visible from the street in order to meet public safety and emergency requirements

5.4.3 Storm Water Management

- (1) Land shall be used and graded in such a manner that run-off from the land or development does not negatively impact adjoining properties, and that all surface drainage shall be captured in accordance with the requirements of Council.
- (2) Development of land will be undertaken with the objective of wherever possible achieving zero net run off with respect to on-site storm water runoff.
- (3) Where development results in the discharge of storm water into a wetland, waterbody, or watercourse, such discharge shall be designed to minimize any environmentally detrimental effects on the receiving water or watercourse and designed and constructed in accordance with the requirements and conditions of Council.
- (4) Consideration may be given to green approaches to storm water management.

5.4.4 Effluents

- (1) Liquid or Semi-Solid Industrial Drainage: No liquid or semi-solid industrial waste or effluent shall be discharged on the surface or into the ground and no water borne industrial waste or effluent shall be discharged on the surface or into the ground, into the surface drainage ditches or sanitary sewers unless the chemical and/or biological content is acceptable to Council or authorities having jurisdiction.
- (2) Any effluent or runoff leaving the site will be required to conform to the requirements of the *Environmental Control Water and Sewage Regulations, 2003*.

5.4.5 On-Site Services (Wells and onsite sanitary sewer systems)

Approvals for installation of on-site water and sewer systems must be obtained from Service NL.

5.4.6 Environmental Investigations

Approvals for any development that may have an environmental impact must be referred to Environmental Investigations, Service NL, and/or the Pollution Prevention Division, Department of Municipal and Provincial Affairs.

5.5 OFF-STREET LOADING, PARKING AND SIGNS

5.5.1 Off-Street Loading Requirements

1. Where Council deems necessary, for every building, structure or use requiring the shipping, loading or unloading of animals, goods, wares or merchandise, one or more loading spaces will be provided and maintained on the lot measuring at least 15 metres long and 4 metres wide with a vertical clearance of at least 4 metres. The space will have direct access to a public street or to a driveway of a minimum width of 6 metres that connects to a public street.
2. The number of loading spaces to be provided will be determined by Council during application review.
3. The loading spaces required by this Development Regulation will be designed so that vehicles can maneuver clear of any street and so that it would not be necessary for any vehicle to reverse onto or from a street.

5.5.2 Parking

5.5.2.1 Parking requirements

1. For every building, structure or use to be erected or enlarged, there shall be provided and maintained a quantity of off-street parking spaces sufficient to ensure that the flow of traffic on adjacent streets is not impeded by on-street parking of vehicles associated with that building, structure or use
2. Each parking space, except in the case of a single detached, semi-detached or attached dwelling, will be made accessible by means of a right-of-way at least 3 m wide.
3. Residential parking spaces shall be provided on the same lot as the dwelling or dwellings.
4. No regular parking of commercial vehicles or trailers except for vehicles with a gross weight of no greater than one tonne will be permitted in a residential zone unless specific provision has been made for this type of parking with the approval of Council.
5. Parking space for apartment buildings may be provided in the rear yard where possible.
6. Non-residential parking spaces shall be provided not more than 200 m from the use for which the parking is required.
7. The parking facilities required by this Development Regulation will, except in the case of single detached, semi-detached or attached dwellings, be arranged so that it is not necessary for any vehicle to reverse onto or from a street.
8. Where Council permits parking perpendicular to the curb, the minimum dimensions of each parking stall will be as follows:

• Parking stall width	2.75 m
• Parking stall length or depth	5.5 m
• Aisle width separating opposite parking stalls	7.3 m
• Aisle width separating a stall from another obstruction	7.3 m
• Driveway width	7.0 m

9. Other requirements for parking areas are as follows:
 - a. The parking area will be constructed and maintained to the specifications of Council,
 - b. Lights for illumination of the parking area will be arranged so as to divert the light away from adjacent development,
 - c. Except on a service station or industrial lot, no gasoline pump or other service station equipment will be located or maintained in a parking area,
 - d. No part of any off-street parking area will be closer than 1.5 metres from the front lot line in any zone,
 - e. Where Council deems that strict application of the parking requirements is impractical or undesirable, Council may as a condition of a permit require the developer to pay a service levy in lieu of the provision of a parking area, and Council will use the full amount of the levy for the provision and upkeep of alternative parking facilities within the vicinity of the development.
10. Where, in the opinion of Council, strict application of the above parking requirements is impractical or undesirable, Council may, as a condition of a permit, require the developer to pay a service levy in accordance with these Development Regulations in lieu of the provision of a parking area, and the full amount of the levy charged may be used by Council for the provision and upkeep of alternative parking facilities within the general vicinity of the development.

5.5.2.2 Parking Development Plans

Council may exempt or change all the off-street parking required under this section for a designated area, provided the development within the designated area is controlled as a Planned Unit Development.

5.5.2.3 Off-Street Parking Requirements

1. The off-street parking requirements for are set out in the following table, and for those uses not indicated, then the parking and off-loading requirements are at the discretion of Council. In the case of developments that include more than one use or development, these standards shall be regarded as cumulative.
2. Adequate off-street provision for the drop-off and pick-up of persons will be provided on the same lot as the development unless otherwise stipulated by Council.
3. The number of spaces to be provided for off-street parking will be in accordance with the following table.

USE/DEVELOPMENT	MINIMUM OFF-STREET PARKING REQUIREMENT
Amusement	One space for every 15 m ² of gross floor area
Animal Grooming	One parking space for every 20 m ² of gross floor area
Apartment Building	Three spaces for every two dwelling units
Automotive Sales	In addition to the parking spaces required for the principal building, one parking space for every 20 vehicles of capacity for sales display at the automotive sales lot
Bakery	One parking space per 15 m ² of net floor area
Bank	One parking space per 15 m ² of net floor area
Bank – Drive through	One parking space per 15 m ² of net floor area
Bar (night club)	One parking space for every 5 m ² of seating area
Bed and Breakfast	One parking space per guest room in addition to the two spaces for the dwelling unit
Car Wash	One parking space per washing bay and one parking space for each 30 m ² of office space
Clinic	Three parking spaces per examining room
Club and Lodge	One space for every 3 persons that may be accommodated at one time
Commercial Garage	One parking space per 30 m ² of net floor area (parking provision for the storage of new & used vehicles for sale shall not be counted towards this requirement)
Convenience Store	One space for every 20 m ² of gross floor area
Public Gathering Places	One space for every 60 m ² of gross floor areas
Day Care-non-residential	One space for every 30 m ² of gross floor area
Day Care-residential	One parking space per 30 m ² of net floor area
Semi-Detached (Double) Dwelling	Two spaces for every dwelling unit
Dry Cleaning	One parking space per 30 m ² of net floor area
Educational	Schools - 2 spaces for every classroom; Further education - 1 space for every 5 persons using the facilities (students, faculty and staff)
Funeral Home	One parking space for every 5 m ² of gross floor area used by visitors
Furniture & Appliance Showroom	One parking space for every 50 m ² of gross floor area
General Industry	One parking space for every employee
General Service	One space for every 25 m ² of gross floor area
Hazardous Industry	One parking space for every employee
Health Club	One parking space for every 20 m ² of gross floor area

USE/DEVELOPMENT	MINIMUM OFF-STREET PARKING REQUIREMENT
Hotel	One parking space for every 3 sleeping units plus one parking space for every 15 m ² of banquet seating area
Light Industry	As specified by Council but not less than one space per 50 m ² of gross floor area or 5 parking spaces, whichever is greater
Medical and Professional	One space for every 25 m ² of gross floor area
Medical Treatment and Special Care	One space per 22 m ² of suite or ward area
Mobile & Mini Homes	Two spaces for every dwelling unit
Office	One space for every 30 m ² of gross floor area
Personal Service	One space for every 25 m ² of gross floor area
Public Gathering Place- Indoor	One space for every 6 seats; or one space for every 15 m ² of gross floor area
Regional Institutional Use	One parking space for every 10 spectators that may be accommodated at one time
Restaurant	One parking space for every 5 m ² of seating area
Restaurant – Drive Through	One parking space per 5 m ² of seating space
Restaurant -Take-out	One space for every 25 m ² of gross floor area
Retail	One space for every 20 m ² of gross floor area
Row Dwelling	Two spaces for every dwelling unit
Service Station	One space for every 20 m ² of gross floor area
Shopping Centre	One space for every 20 m ² of gross floor area
Single Detached Dwelling	Two spaces for every dwelling unit
Sport & Recreation facility	Three parking spaces for every 5 patrons of the facility at maximum capacity
Subsidiary Apartment	One parking space for every dwelling unit
Veterinary	One space for every 25 m ² of gross floor area

5.5.2.4 Designated Mobility Impaired Parking Spaces

For any development where parking spaces for person with disabilities are required pursuant to the *Buildings Accessibilities Regulations* under the *Building Accessibility Act, 1990* (Newfoundland and Labrador), such spaces shall be provided on the basis of one parking space per lot or four percent (4%) of the total number of required parking spaces provided on the lot, whichever is greater, according to the regulations, and such parking space or spaces may be required to be designated and marked in accordance with the *Highway Traffic Act, 1990* (Newfoundland and Labrador) and the *Buildings Accessibilities Act, 1990*.

5.6 SIGNS (ADVERTISEMENTS)

5.6.1 Permit Required

No sign or advertisement shall be erected or displayed in the Municipal Planning Area unless a permit for the advertisement is first obtained from the Authority, except for those signs that are exempt from control as listed in the following provision.

5.6.1.1 Signs/Advertisements Exempt from Permit Requirement

The following signs may be erected or displayed in the Municipal Planning Area without permit:

- a. on a dwelling or within the courtyard of a dwelling, one nameplate not exceeding 0.2 m² in area;
- b. on an agricultural holding or farm, a notice board not exceeding 1 m² in area and relating to the operations being conducted on the land;
- c. on land used for forestry purposes, signs or notices not exceeding 1 m² in area and relating to forestry operations or the location of logging operations conducted on the land;
- d. on land used for mining or quarrying operations, a notice board not exceeding 1 m² in area relating to the operation conducted on the land;
- e. on a dwelling or within the curtilage of a dwelling, one nameplate not exceeding 0.2 m² in area in connection with the practice of a professional person carried on in the premises;
- f. on any site occupied by a church, school, library, art gallery, museum, institution or cemetery, one notice board not exceeding 1 m² in area;
- g. on the principal facade of any commercial, industrial or public building, the name of the building or the name of the occupants of the building, in letters not exceeding one-tenth of the height of that facade or 3 m, whichever is the lesser;
- h. on any parking lot, directional signs and one sign not exceeding 1 m² in size, identifying the parking lot.

5.6.1.2 Application for Permit

Application for a permit to erect or display an advertisement shall be made to the authority in accordance with the requirements for a development permit as set out in the Administration Section. Approval may be subject to conditions as determined by Council.

5.6.1.3 Signs/Advertisements Prohibited in Street Reservation

No advertisement shall be permitted to be erected or displayed within, on or over any highway or street reservation.

5.6.1.4 Permit Valid for Limited Period

A permit granted under these Development Regulations for the erection or display of an advertisement shall be for a limited period, not exceeding two years, but may be renewed at the discretion of the Authority for similar periods.

5.6.1.5 Removal of Signs/Advertisements

Notwithstanding the provisions of these Development Regulations, the Authority may require the removal of any advertisement which, in its opinion, is:

- a. hazardous to road traffic by reason of its siting, colour, illumination, or structural condition, or;
- b. detrimental to the amenities of the surrounding area.

5.6.1.6 Non-Conforming Uses

A permit may be used for the erection or display of signs or advertisements on a building or within the courtyard of a building or on a parcel of land, the use of which is a non-conforming use, provided that the advertisement does not exceed the size and type of advertisement which could be permitted if the development was in a Use Zone appropriate to its use, and subject to any other conditions deemed appropriate by the Authority.

5.6.2 Sign Standards

5.6.2.1 Advertisements Relating to Onsite Uses

The conditions for the erection or display of a sign on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- a. The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- b. No advertisement shall exceed 1.5 m² in area.
- c. Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

5.6.2.2 Advertisements Relating to Offsite Uses on Local Roads

The conditions for the erection or display of a sign on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- a. No advertisement shall exceed 1.5 m² in area.
- b. When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.

5.6.2.3 *Highway Sign Regulations, 1999*

The *Highway Sign Regulations, 1999* apply within the Municipal Planning Area boundary of the Town of Cape Broyle. A permit is required for any sign erected within designated control lines of a highway. Government Service Centre, Service NL, is the authority for the Highway Sign Regulations.

According to section 5, the control lines extend 400 metres from the centreline of the road except within an incorporated municipality where the control line extends 100 metres from the centreline. Within this control line, corridor 1 is reserved for regulatory, directional and fingerboard information signs. Off-site promotional signs are restricted to those associated with uses listed in the schedule and are restricted to corridor 2. The Highway Sign Regulations do not provide for other types of off-site signage including digital signs.

The Highway Sign Regulations provide an opportunity for municipalities to apply for an exemption. This exemption only applies where the speed limit is less than 60 km

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6.0 SUBDIVISION OF LAND

6.1 SUBDIVISION APPLICATION

6.1.1 Permit Required

- 1) No land in the Municipal Planning Area shall be subdivided unless a permit for the development of the subdivision is first obtained from Council.
- 2) No provision in a will that purports to subdivide land is of any effect to subdivide that land contrary to these Development Regulations
- 3) 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;
- 4) Each dwelling unit is entirely comprised within the new title and self-contained within the new lot with no common spaces or shared services,
- 5) The fire separation for each dwelling unit is confirmed,
- 6) The subdivision must fully comply with all aspects of the Town's Development Regulations including, but not limited to, definitions and land use zone requirements;
- 7) A subsidiary apartment cannot be subdivided from the self-contained dwelling that it is constructed within.

6.1.2 Subdivision Standards apply

The provisions in this Section of the Development Regulations apply each of the following:

- a. The subdivision of land under single ownership into two or more lots, including the residual lot,
- b. Construction, upgrading, or extension of a public street, and
- c. Extension or upgrading of the municipal water and sewer system.

6.1.3 Subdivisions standards do not apply

The subdivision standards in 6.3 of this Chapter shall not apply to the following, but a permit is required:

- (1) Where the parcel being created is to be used solely for the unattended equipment necessary for:
 - a. the operation of community water, storm or sanitary sewer systems;
 - b. public utilities, including electrical substations or generating stations;
 - c. air or marine navigational aids;
 - d. any other similar public service or utility (including wind turbine 'farms');
- (2) Public institutional uses, including cemeteries;
- (3) Resource uses set out in the Rural zone;
- (4) Conservation, open space, park uses;

(5) Minor subdivisions of four (4) or fewer lots which do not require new public or private road construction or the installation of utility infrastructure or water and sewer services (other than private connections; these must comply with the development standards of the Use Zone.

6.1.4 Public Notice

Council shall, at the applicant's expense, publish a notice in a newspaper circulating in the area of the application, or by any other appropriate public notification, including social media, and consider any representations or submissions received in response to that public notification.

6.1.5 Subdivision Subject to Zoning

The subdivision of land shall be permitted only in conformity with the Use Zones delineated on the Zoning Maps.

6.1.6 Subdivision Permit Subject to Considerations

- (1) A permit shall not be issued when, in the opinion of Council, the development of a subdivision does not contribute to the orderly growth of the Town or does not demonstrate sound design principles.
- (2) In considering an application, Council shall, without limiting the generality of the foregoing, consider:
 - a. the location of the land;
 - b. the availability of and the demand created for schools, services, and utilities;
 - c. the provisions of the Municipal Plan and Development Regulations affecting the site;
 - d. the land use, physical form, and character of adjacent developments;
 - e. the transportation network and traffic densities affecting the site;
 - f. the relationship of the project to existing or potential sources of nuisance;
 - g. soil and subsoil characteristics;
 - h. the topography of the site and its drainage;
 - i. natural features such as lakes, streams, topsoil, trees and shrubs and potential environmental effects with respect to watercourses, wetlands, steep slopes, drainage patterns, storm water generation and control, and loss or fragmentation of habitat;
 - j. prevailing winds;
 - k. visual quality;
 - l. community facilities;

- m. municipal costs related to the provision and maintenance of roads, other infrastructure, and municipal services;
- n. energy conservation; and,
- o. such other matters as may affect the proposed development.

6.1.7 Restriction on Sale of Lots

The developer shall not develop or dispose of any lot within a subdivision for the purposes of development and no building permit shall be issued until Council is satisfied that:

the lot can be serviced with satisfactory water supply and sewage disposal systems, satisfactory access to a street is provided for the lots, and
the lot meets the minimum development standards for the Use Zone in which the lot is located.

6.1.8 Building Permits Required

Notwithstanding the approval of a subdivision and a permit to subdivide land by Council, a separate building permit shall be obtained for each building proposed to be erected in the area of the subdivision, and no building permit for any building in the area shall be issued until the developer has complied with all the provisions of these Development Regulations with respect to the development of the subdivision.

6.2 SUBDIVISION APPLICATION REQUIREMENTS

6.2.1 Subdivision Development Agreement

Where Council has determined that a subdivision development agreement is a condition of a permit for the subdivision development, the subdivision development agreement shall meet the conditions of Development Agreements as set out in the Administration chapter.

6.2.2 Municipal Services to be Provided

No permit shall be issued for the development of a subdivision unless provisions satisfactory to Council have been made in the application for a supply of drinking water, a properly designed sewage disposal system, and a properly designed storm drainage system so as not to affect adjoining and nearby properties.

6.2.3 Private Well water source: Groundwater Supply Assessment and Reporting

- (1) A groundwater assessment report shall be required to be completed and submitted by the subdivision applicant to the Water Resources Management Division (and copied to the Town) as part of the subdivision approval process where a minimum sized subdivision is to be serviced by individual wells. This applies to both residential and cottage subdivisions. The Groundwater Assessment Report must be prepared in accordance with the Department of Municipal and Provincial Affairs Groundwater Supply Assessment and Reporting Guidelines for Subdivisions Serviced by Individual Private Wells. Requirements to complete a Groundwater Assessment Report shall be based upon the following criterion:
- (2) A groundwater assessment study will not be required for subdivisions less than five (5) lots, each having a minimum 2,203m² (1/2 acre) size, unless the area has documented drinking water quality and/or quantity problems.
- (3) A proposed subdivision from five (5) to fifteen (15) lots will require a Level I assessment, as defined in the Groundwater Supply Assessment and Reporting Guidelines.
- (4) A proposed subdivision greater than fifteen (15) lots will require a Level II assessment, as defined in the Groundwater Supply Assessment and Reporting Guidelines.

Number of Lots	Groundwater Assessment Requirement		Number of Test Wells
	Level 1	Level 2	
1-4	No-but may be required if site has history of ground water quality and quantity issues	No	0
5-15	Yes	may be required if site has history of ground water quality and quantity issues	
16-30	Yes	Yes	1
31-45	Yes	Yes	2
46-60	Yes	Yes	3
61-75	Yes	Yes	4
75-90	Yes	Yes	5
91-105	Yes	Yes	6

6.2.4 Fees, Service Levies and Land for Open Space

6.2.4.1 Subdivision Fees

The applicant shall pay a subdivision application fee as determined by Council at the time of submitting a Development Application to subdivide. The subdivision application fee may be calculated on a per-lot basis for every lot created by the subdivision of land. This fee may be calculated in addition to any other fee or charge required under the regulation addressing Development Charges.

6.2.4.2 Service Levies and Local Improvement Assessments

- (1) The applicant shall be required to pay all service levies and local improvement assessments identified by Council for connection to services, utilities, streets, and for the construction or improving of capital works funded by Council or under Council's direction which benefit and accommodate the development or subdivision. The service levies or local improvements assessments will be paid in such amount and in such form as determined by Council as a condition of permit or as a condition of a Development Agreement to subdivide land and such payment will be agreed upon prior to construction occurring on the land.
- (2) This section shall not affect any outstanding levies and/or assessments that were determined prior to the enactment of these Development Regulations.
- (3) The applicant shall pay the cost of all capital works necessary to serve the proposed development or subdivision.

6.2.4.3 Deposit of Securities

As a condition of a permit to develop a subdivision and as part of a Development Agreement to subdivide, the Town shall require an applicant to deposit with the Town a security to cover the cost of all the subdivision improvements and completion thereof. These securities shall be payable after approval by Council and before issuance of a construction permit under these Development Regulations.

6.2.4.4 Land for Public Open Space

- (1) Before a development commences, the developer shall, if required, dedicate to Council, at no cost to the Town, an area of land equivalent to not more than ten percent (10%) of the gross area of the residential subdivision for public recreational open spaces, subject to the following requirements:
 - a. where land is subdivided for any purpose other than residential use, Council shall determine the percentage of land to be dedicated;
 - b. if, in the opinion of Council, no public open space is required, the land may be used for such other public use as Council may determine;
 - c. the location and suitability of any land dedicated under the provisions of this Development Regulation shall be subject to the approval of Council but in any

case, Council shall not accept land which, in its opinion, is incapable of development for any purpose;

- d. Council may accept from the developer, in lieu of such area or areas of land, the payment of a sum of money equal to the value of the land which would otherwise be required to be dedicated; and,
- e. this money received by the Authority (above), shall be reserved by the Town for the purpose of the acquisition or development of land for public open space or other public purpose.

(2) Land dedicated for public use in accordance with this Development Regulation shall be conveyed to the Town and may be sold or leased by Council for the purposes of any development that conforms with the requirements of these Development Regulations, and the proceeds of any sale or other disposition of land shall be applied against the cost of acquisition or development of any other land for the purposes of public open space or other public purposes.

(3) Council may require a strip of land to be reserved and remain undeveloped along the banks of any river, brook or pond, and this land may, at the discretion of Council, constitute the requirement of land for public use.

6.3 SUBDIVISION DESIGN STANDARDS

No permit shall be issued for the development of a subdivision under these Development Regulations unless the design of the subdivision conforms to the following standards.

- 1) The finished grade of streets shall not exceed ten percent (10%).
- 2) The plan shall indicate which streets are classified as arterial, collector or service (local) roads.
- 3) Every cul-de-sac may be required to provide a turning circle of a diameter of not less than 30 m.
- 4) The maximum length of any cul-de-sac (or dead-end street) shall be:
 - a. 200 metres in areas served by, or planned to be served by, municipal piped water and sewer services;
 - b. 300 metres in areas not served by, or planned to be served by, municipal piped water and sewer services;
 - c. all cul de sac water mains will be connected to a water main on an adjoining street or will be looped back to ensure continuous water flow and prevent stagnant water at the end of dead-end pipes.
- 5) Emergency vehicle access to a cul-de-sac shall be not less than 3 m wide and shall connect the head of the cul-de-sac with an adjacent street.
- 6) No cul-de-sac shall be located so as to appear to terminate a collector street.
- 7) New subdivisions shall have street connections with an existing street or streets.

- 8) All street intersections shall be constructed within 5° of a right angle and this alignment shall be maintained for 30 m from the intersection.
- 9) No street intersection may be required not to be closer than 40 metres to any other street intersection.
- 10) No more than four streets shall join at any street intersection.
- 11) No residential street block shall be longer than 490 metres between street intersections.
- 12) No lot intended for residential purposes shall have a depth exceeding four times the frontage.
- 13) Residential lots shall not be permitted which abut a local street at both front and rear lot lines.
- 14) Council may require any existing natural, historical or architectural feature or part thereof to be retained when a subdivision is developed.
- 15) Land shall not be subdivided in such a manner as to prejudice the development of adjoining land.
- 16) Front Yard/Building Lines: Council may establish front yard/building lines for any subdivision street and require any new building to be located on such building lines.
- 17) Streets in residential subdivisions shall be designed in accordance with the approved standards of Council, but in the absence of such standards, shall conform to the following minimum standards:

Type of Street	Street Reservation	Carriageway or Pavement Width	Sidewalk Width	Sidewalk Number
Arterial Streets	30 m	15 m	1.5 m	Council Discretion
Collector Streets	20 m	15 m	1.5 m	2
Local Residential Streets				
Where more than 50% of the units are single detached or semi-detached (double) dwellings	12 m	7 m	1.5 m	Council Discretion
Where 50% or more of the units are row houses or apartments	18-20 m	9 m	1.5	Council Discretion
Service Streets	12 m	7 m	1.5	Council Discretion

6.4 SUBDIVISION ENGINEERING STANDARDS

No permit shall be issued for the development of a subdivision under these Development Regulations unless the design of the subdivision conforms to the requirements established by Council and any "Municipal Engineering Subdivision Standards" as approved by Council.

6.4.1 Engineer to Design Works and Certify Construction Layout

Plans and specifications for all water mains, hydrants, sanitary sewers, storm sewers, and all appurtenances thereto and all streets, paving, curbs, gutters and catch basins, and all other utilities deemed necessary by Council to service the area proposed to be developed or subdivided shall be designed and prepared by or approved by the Town's Engineer. Such designs and specifications shall, upon approval by Council, be incorporated in the plan of subdivision.

Upon approval by Council of the proposed subdivision, the Engineering Consultant retained by the Town shall certify all work of construction layout preliminary to the construction of the works and thereupon the developer shall proceed to the construction and installation, at the developer's own cost and in accordance with the approved designs and specifications and the construction layout certified by the Engineering Consultant retained by the Town, of all such water mains, hydrants, sanitary sewers, and all appurtenances and of all such streets and other works deemed necessary by Council to service the said area.

6.4.2 Developer to Pay Engineer's Fees and Charges

The developer shall pay to Council all the Engineer's fees and charges for the preparation of designs and specifications and for the layout and supervision of construction; such fees and charges being percentages of the total cost of materials and labour for the construction and installation of all works calculated in accordance with the Schedule of Fees recommended by the Association of Professional Engineers & Geoscientists of Newfoundland & Labrador and in effect at the time the work is carried out.

6.4.3 Street Works May Be Deferred

The construction and installation of all curbs and gutters, catch basins, sidewalks, and paving specified by Council as being necessary, may, at Council's discretion, be deferred until a later stage of the work on the development of the subdivision but the developer shall deposit with Council, before approval of the application, an amount estimated by

the Town's Engineer to be reasonably sufficient to cover the cost of construction and installation of the works. In the later stage of the development, Council shall call for tenders for the construction and installation of the works, and the amount so deposited by the developer shall be applied towards payment of the contract cost. If the contract cost exceeds the deposit, the developer shall pay to the Town the amount of the excess. If the contract price is less than the deposit, the Town shall refund the amount by which the deposit exceeds the contract price. Any amount so deposited with the Town by the developer shall be placed in a separate savings account in a bank and all interest earned thereon shall be credited to the developer.

6.4.4 Construction of Utilities

Within any street reservation, the placing of any utility structure or service such as a hydro pole, telephone pole, underground hydro service boxes, internet or cable services, Canada Post group mail boxes, fire hydrant, fire alarm or sign post, shall receive the prior approval of the Authority with regard to the proposed location of utilities, safe construction, required easements and the relationship to other structures within the street reservation and to adjoining buildings.

6.4.5 Structures in Street Reservation

No structures shall be placed within any street reservation of any structure (e.g., a utility pole, bus shelter, fire hydrant, mail box, fire alarm, school bus shelter, sign post) without prior approval of Council which shall take into consideration safety considerations, such as, sight lines, obstructions, safe construction, and the relationship of the structure to the adjoining buildings and other structures within the street reservation, and relationship to the movement of vehicles and pedestrians.

6.4.6 Transfer of Streets and Utilities to Council

The developer shall, following the approval of the subdivision of land and upon request of Council, transfer to the Town, at no cost to the Town, and clear of all liens and encumbrances:

- a. all lands in the area proposed to be developed or subdivided which are approved and designated by Council for public uses as streets, or other rights-of-way, or for other public use; and
- b. all services or public works including streets, water supply and distribution, and sanitary and storm drainage systems installed in the subdivision that are normally owned and operated by Council.

Before Council shall accept the transfer of lands, services, or public works of any subdivision, the Manager of Engineering Services shall, at the cost to the developer, test the streets, services and public works installed in the subdivision and certify satisfaction with their installation.

Council shall not provide maintenance for any street, service, or public work in any subdivision until such time as such street, service, or public work has been transferred to and accepted by Council.

6.4.7 Mini/mobile home park subdivision

- (1) The minimum size of parcel for a Mini/mobile home subdivision/park is 2 hectares.
- (2) Where municipal services are not provided, the maintenance of the services is the shared responsibility of the members of the park.
- (3) A development application for a mini/mobile home subdivision/park shall provide the same information as a set out this Part for major subdivisions.

SCHEDULES

SCHEDULE A: FEDERAL AND PROVINCIAL GOVERNMENT REQUIREMENTS

Council shall ensure compliance with the following federal and provincial government requirements, as applicable, throughout the Municipal Planning area:

A.1 Removal of Quarry materials, site grading, soil deposit

- (1) No development permit for removal or deposit of soil, topsoil, sods, or the excavation and removal of excavated material or grading is required if it is part of an approved development project or affects less than 125 m³ of soil, sand, gravel, rock or other substance down to and including bedrock. All other cut or fill work, excavation and removal and deposit of material or grading requires a development permit under these Development Regulations, and must meet the following conditions:
 - a. resulting slopes are stable and without hazards;
 - b. when the work is completed, the area affected shall be covered with topsoil and other necessary material for vigorous plant growth and planted with appropriate vegetation;
 - c. drainage must be provided to the satisfaction of Council and will be designed so as not to impair existing surface drainage nor to create erosion either on the site or on adjacent sites.
- (2) Restrict development in environmentally sensitive areas such as steep slopes and areas prone to landslides and rockfall;
- (3) For approved developments where the extraction of quarry materials is occurring or may be expected occur, the Town will send a copy of the development permit to the Quarry Materials Section, Mineral Lands Division, at quarries@gov.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 have 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 will assist greatly in making this distinction.

A.2 Crown land

Definition: Crown land has the meaning as set out in the *Lands Act, 1991*.

Conditions:

- (1) The use of Crown land is subject to the Town of Cape Broyle Municipal Plan and Development Regulations, including zoning and permitting requirements.

- (2) Approvals must be obtained from the appropriate Regional Lands Office, Government of Newfoundland and Labrador; applications are made to the Regional Lands Office.
- (3) 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 of the Government of Newfoundland and Labrador.

A.3 Surveys Control Markers

- (1) Control Survey markers are Identified for protection by the GIS & Mapping Division and are shown on the Land Use zoning map; Council must ensure that these are not disturbed by development. Council will inform the Surveys and Mapping Division when a proposed development is proposed in the vicinity of a Survey Control Monument. There are 4 monuments in the Municipal Planning Area as shown on the Land Use Zoning map.

A.4 Archaeology

If an archaeological site or artefact is discovered during development of a property, the development shall stop and Council will consult with the Provincial Archaeology Office. Development shall not proceed until the Provincial Archaeology Office has evaluated the site or authorized the development to proceed.

Before approval is granted for a major development such as a subdivision or a new commercial or public building, the application will be referred to the Provincial Archaeology Office for comments.

Any accidental discoveries of historic resources shall also be reported by the Town to the Provincial Archaeology Office.

A.5 Water Resources (watercourses, shorelines, and wetland)

Definition: (From the *Water Resources Act, 2002*) "body of water" means a surface or subterranean source of fresh or salt water within the jurisdiction of the province, whether that source usually contains liquid or frozen water or not, and includes water above the bed of the sea that is within the jurisdiction of the province, a river, stream, brook, creek, watercourse, lake, pond, spring, lagoon, ravine, gully, canal, wetland and other flowing or standing water and the land occupied by that body of water;

Conditions:

To 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:

- (1) For all portions of a lot that are located *within 15 metres* of the edge of a wetland or the top of the stream bank of a watercourse, no building or structure will be permitted, except for:
 - a. reconstruction of a building that was in existence on the date of approval of this Municipal Plan;
 - b. an accessory building or structure to the above reconstructed building;
 - c. a passive recreational use;
 - d. wharves, boathouses, slipways and breakwaters that conform to the guidelines provided by the Water Resources Management Division; and/or,
 - e. uses that require direct access to a body of water in buffers.
- (2) A Section 48 permit under the *Water Resources Act, 2002* administered by the Water Resource Management Division of the Department of Municipal and Provincial Affairs, and compliance with departmental policy is required, for:
 - a. Any *infilling work* within 15 metres of a body of water (W.R.91-1-Infilling Bodies of Water); ,
 - b. Any work in *Shore Water zones* where a "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 (W.R. 97-1-Development in Shore Water Zones);
 - c. Development in wetlands (W.R. 97-2-Development in Wetlands);
- (3) A Non-Domestic Water Use Permit from the Water Resource Management Division of the Department of Municipal and Provincial Affairs is required before construction and for all existing, new or planned water use from any water source;
- (4) The *Environmental Control Water and Sewage Regulations, 2003* apply regarding for any effluent or runoff from a site and on-site sewerage disposal systems are prohibited within 30 metres from a waterbody or watercourse;
- (5) Where fish habitat is affected, Fisheries and Oceans Canada must be consulted.

A.6. Forestry and Wildlife

- (1) To protect general wildlife habitat and landscape connectivity, require the Protection 'on following conditions on applications in the vicinity of waterbodies, as practicable:
 - i. a riparian buffer of 30 m minimum undisturbed natural vegetated along wetlands and waterbodies (ponds, rivers, creeks etc.) or more for riparian areas near agricultural areas;
 - ii. green belts connected to forested areas or other habitat patches to create wildlife travel corridors;
 - iii. indicate a minimum percentage of forests to be maintained during lot clearing;

- (2) Vegetation clearing will be done outside the May 01 to July 31 period, to minimize disturbance during that sensitive breeding/ young rearing, whenever possible;
- (3) Areas identified for Domestic harvesting are included in the Rural zone where harvesting activities are a Permitted Use.

A.7 Climate Change Impacts

Council shall take into consideration available data regarding provincial climate change projections for Comfort Cove and Gander (nearest regional sites) 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 32%. 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.

A.8 Easements

Consult with Newfoundland Power and Newfoundland and Labrador Hydro regarding any applications for development near overhead distribution lines and a main transmission line that fall within the Municipal Planning Area boundary.

A.9 Provincial Government permits from Digital Government and Service NL

A.9.1 General requirements

Council shall require compliance with Service NL requirements, before issuing approvals. These include, but are not limited to: on-site services, highway signs; electrical permits; building accessibility; access to highways; tanning salon and/or Personal services establishment; Food establishment licence; public markets/farmer's markets; meat plant; pool; wastewater or water system approval; tobacco sales; water supply testing; cemetery; waste management; fuel storage and handling; asphalt, boiler; pressure vessel and compressed gas installation. The Development Regulations will provide greater detail on: on-site services, highway signs; building accessibility; access to highways.

A.9.2 Provincial Highway Sign Regulations, 1996

- (1) A permit for erection or display of advertisement on Provincial Highways shall be obtained from the Government Service Centre. This requirement applies within a control line established on each side of every highway, as follows:
 - a. Every control line shall be 400 m distant, measured horizontally, from the centre line of the roadway or the centre line of the nearest lane of a divided highway.
 - b. Notwithstanding subsection (1), within the boundaries of each incorporated municipality or the built-up established areas of unincorporated communities,

the control line shall be 100 m distant, measured horizontally, from the centre line of the roadway or the centre line of the nearest lane of a divided highway.

A.10 Pollution Prevention

All activities associated with this project are subject to the *Environmental Protection Act, 2002* and regulations. Official copies of these may be obtained from the Queen's Printer. Unofficial versions are available through the Government of Newfoundland and Labrador website (www.gov.nl.ca). These comments highlight the pertinent issues of these acts and regulations and the Pollution Prevention Division's policies and guidelines.

a. Part IV - Waste Disposal and Litter

- Waste receptacles shall be installed at all active areas for use by workers.
- Waste material shall be considered, prior to disposal, for reuse, resale or recycling.
- Waste materials not reused, resold or recycled, shall be disposed at an approved waste disposal site, provided the owner/operator is willing to accept such waste and the local service Newfoundland and Labrador (SNL) has agreed with the disposal of the waste materials at the site.

b. Part VI - Air Quality Management

- All activities associated with this proposal are subject to Air Pollution Control Regulations, 2004,
- Schedule E of the regulations prohibits the open burning of tires; plastics; treated lumber; asphalt and asphalt products; drywall; demolition waste; hazardous waste; biomedical waste; domestic waste; trash, garbage, or other waste from commercial, industrial or municipal operations; manure; rubber; tar paper; railway ties; paint and paint products; fuel and lubricant containers; used oil; animal cadavers; hazardous substances; materials disposed of as part of the removal or decontamination of equipment, buildings or other structures.

c. Part IX - Pesticides

- All pesticide purchase, storage, and use are subject to compliance with the Pesticides Control Regulations, 2012. The regulations stipulate that an applicator must be licensed for the class of pesticide which is intended to be applied. Also, the regulations stipulate that an operator cannot purchase pesticides without the appropriate license(s).
- If the use of a pesticide(s) is required (e.g., for the control of insects, diseases, weeds, vegetation), the Pesticides Control Section of the Department must be notified.

d. Storage and Handling of Gasoline and Associated Products Regulations

Petroleum storage and handling, associated with construction and operation of this project/facility, shall be in compliance with these regulations as follows:

- All petroleum storage tanks shall be registered with Service NL in accordance with the GAP Regulations and all leaks/spills must be reported to the 24-Hour Environmental Emergency Spill Line at 709-772-2083 or 1-800-563-9089.
- Oils, greases, diesel, gasoline, hydraulic and transmission fluids should be stored at least 100 m from any body of water. Re-fuelling and maintenance activities should also occur at least 100 m from any body of water and on level terrain.
- An environmental emergency contingency plan must be developed for all storage tank systems. This plan details information regarding the location of spill response equipment and a trained contractor, in the event of a spill

e. Used Oil Control Regulations

- Waste oils and used lubricating oil shall be retained in a tank or closed container, and disposed of by a company licensed for handling and disposing of used oil products.

f. Halocarbon Regulations

- Any use of regulated substances, for example in fire suppression systems, associated with the proposed activity is subject to the Halocarbon Regulations.

A.11 National Codes and Regulations

The National Building Code, and associated codes, such as the Plumbing Code, the Fire Code, the Electrical Code, the Life Safety Code, and any other ancillary code and other municipal regulations or bylaws regulating or controlling the development, conservation, and use of land shall, under these Development Regulations apply to the entire Municipal Planning Area.

SCHEDULE B

INTERPRETATION

This section contains definitions of the technical terms used in the Municipal Plan and Development Regulations in order to ensure that they are correctly interpreted.

Terms and words in this Development Regulation which are defined in the *Urban and Rural Planning Act, 2000* and *Development Regulations, 2000*, have the meaning expressed in that Act and cannot be amended by the Council; these are identified by a logo, as noted below:



= Definitions from the *Urban and Rural Planning Act, 2000* (the Act); these cannot be amended by Council; and,



= Definitions from the *Minister's Development Regulations* under the *Urban and Rural Planning Act, 2000*; these cannot be amended by Council.

Additional definitions have been provided for interpretive guidance. These words and phrases shall otherwise have the meanings as set out in the following definitions and can be amended by the Council; They can be identified by the absence of a logo. These terms and words have the meaning as generally understood in the English language..

ACCESS means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street;

ACCESSORY BUILDING includes:

(i) a detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory and which has a use that is customarily incidental or complementary to the main use of the building or land,

(ii) for residential uses, domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetables storage cellars, shelters for domestic pets or radio and television antennae,

(iii) for commercial uses, workshops or garages, and

(iv) for industrial uses, garages, offices, raised ramps and docks;

ACCESSORY USE  means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use;

ACT  unless the context indicate otherwise, means the *Urban and Rural Planning Act, 2000*;

ADJACENT LAND means land that is contiguous to, physically touching or shares a boundary with, the parcel of land that is the subject of an application and includes land that would be contiguous if not for a highway, road, river or stream.

ADJUDICATOR  means an adjudicator appointed under section 40;

APPEAL BOARD  means the appropriate Appeal Board established under the Act.

APPEAL OFFICER  means an employee of the department designated under subsection 40(5);

APPLICANT means a person who has applied to an authority for an approval or permit to carry out a development;

AUTHORITY  means a council, authorized administrator or regional authority;

AUTHORIZED ADMINISTRATOR  means an authorized administrator appointed under subsection 31(4)

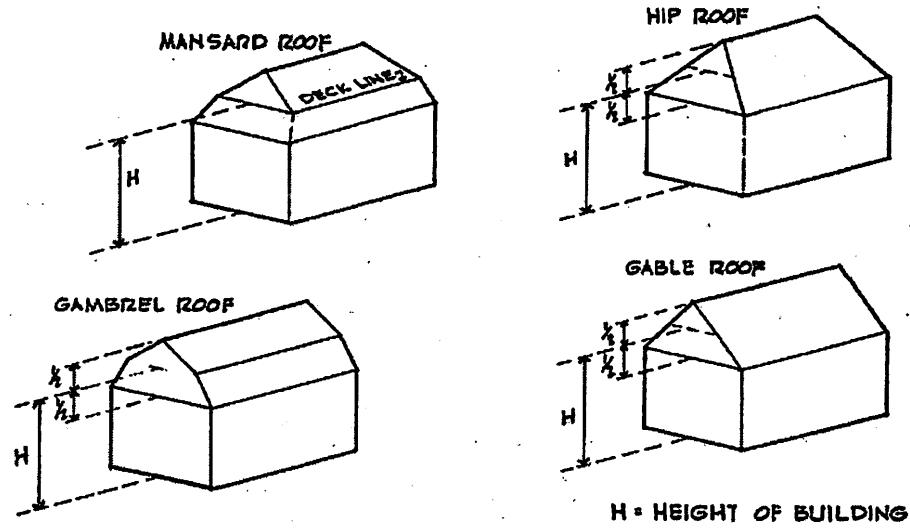
BUILDING  means

- (i) a structure, erection, alteration or improvement placed on, over or under land or attached, anchored or moored to land,
- (ii) mobile structures, vehicles and marine vessels industrial and other similar uses,
- (iii) a part of and fixtures on buildings referred to in subparagraphs (i) and (ii), and
- (iv) an excavation of land whether or not that excavation is associated with the intended or actual construction of a building or thing referred to in subparagraphs (i) to (iii);

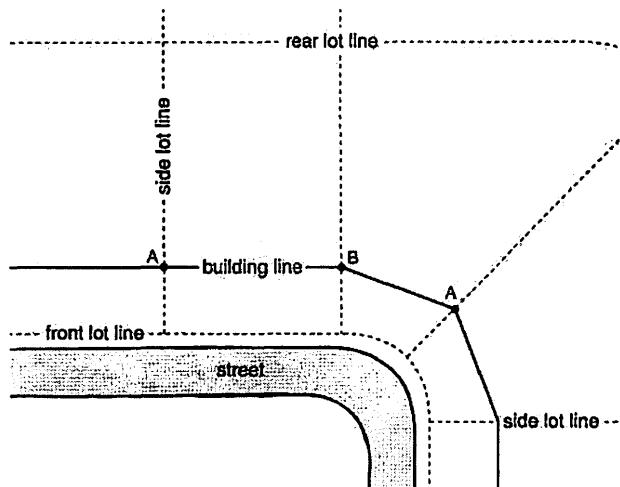
BUILDING HEIGHT  means the vertical distance, measured in metres from the established grade to the

- (i) highest point of the roof surface of a flat roof,
- (ii) deck line of a mansard roof, and

(ii) mean height level between the eave and the ridge of a gable, hip or gambrel roof, and in any case, a building height shall not include mechanical structure, smokestacks, steeples and purely ornamental structures above a roof;



BUILDING LINE  means a line established by an authority that runs parallel to a street line and is set at the closest point to a street that a building may be placed;



BUILDING CONTROL LINE means a conceptual line paralleling the centre line of a Protected Road at a distance perpendicular to the road in order to delineate the area for the application of these regulations; a Protected Road is a road designated under the *Protected Road Zoning Regulations, 1996* under the *Urban and Rural Planning Act, 2000*;

COUNCIL  means a council as defined in the City of Corner Brook Act, City of Mount Pearl Act, Municipalities Act, 1999 and the Town council as defined in the City of St. John's Act;

COURT  "court" unless the context indicates otherwise, means the Supreme Court of Newfoundland and Labrador

DECK means a raised structure that has a walking surface within one storey of the established grade at the ground level of that face of the building, which may or may not be attached to a main building, which does not have a permanent roof.

DEPARTMENT  means the department presided over by the minister;

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;

DEVELOPMENT REGULATIONS  means these regulations made under sections 34 to 38;

DISCRETIONARY USE  means a use that is listed within the discretionary use classes established in the use zone tables of an authority's development regulations;

DWELLING UNIT: means a self-contained unit consisting of one or more habitable rooms used or designed as an independent and separate housekeeping establishment or living quarters for one household, including kitchen and sitting, sleeping and sanitary facilities, and does not include a coach or rail car, mobile home, or any vehicle.

ESTABLISHED GRADE  means,

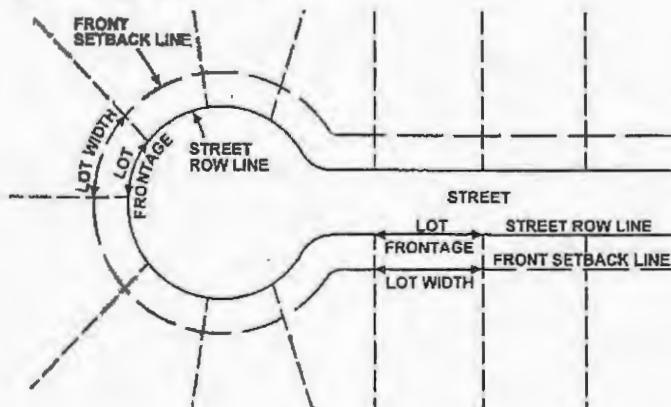
- (i) where used in reference to a building, the average elevation of the finished surface of the ground where it meets the exterior or the front of that building exclusive of any artificial embankment or entrenchment, or
- (ii) where used in reference to a structure that is not a building, the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment;



FLOOR AREA means the total area of all floors in a building measured to the outside face of exterior walls;

FRONTAGE means the horizontal distance between side lot lines measured at the building line;

Lot Frontage and Lot Width



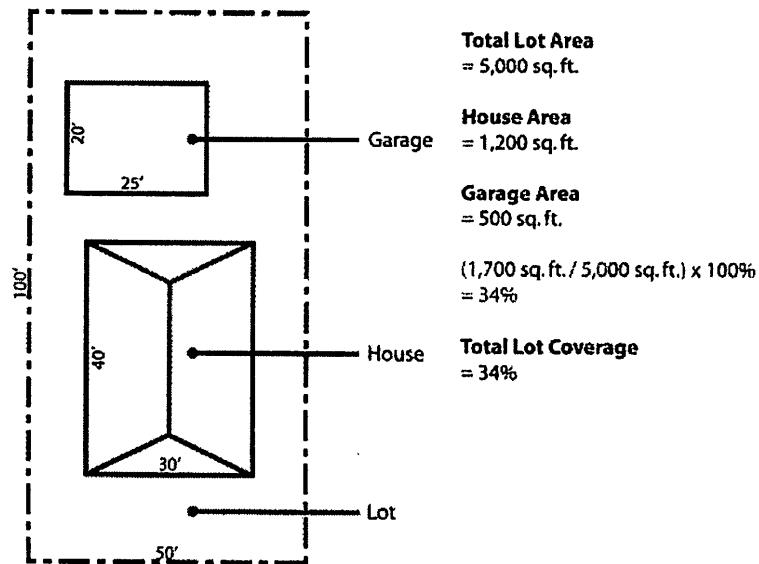
HOUSEHOLD PET means a companion animal that is kept primarily for a person's company or entertainment rather than as a working animal, livestock or a laboratory animal. The most popular pets are dogs and cats; other animals commonly kept include, but are not limited to, rabbits; ferrets; rodents, such as gerbils, hamsters, chinchillas, rats, mice, and guinea pigs; avian pets, such as parrots, passerines; reptile pets, such as turtles, lizards, and snakes; aquatic pets, such as fish, amphibians like frogs and salamanders; for the Town of Cape Broyle this does not include livestock.

LAND includes land covered by water and buildings and structures on, over, under the soil and fixtures that form part of those buildings and structures;

LOT  means a plot, tract or parcel of land which can be considered as a unit of land for a particular use or building;

LOT AREA  means the total horizontal area within the lines of the lot;

LOT COVERAGE  means the combined area of all buildings on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot;



MINISTER  means the minister appointed under the *Executive Council Act* to administer this Act;

MUNICIPALITY  includes a Town incorporated under the *City of Corner Brook Act*, *City of Mount Pearl Act* and the *City of St. John's Act* and a municipality as defined in the *Municipalities Act, 1999*;

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;

NUISANCE means anything that is obnoxious, offensive or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. This could include that which creates or is liable to create a nuisance through emission of noise, smoke, dust, odour, heat, light, fumes, fire or explosive hazard; results in the unsightly or unsafe storage of goods, salvage, junk, waste or other materials; poses a hazard to health and safety; or adversely affects the amenities of the

neighbourhood or interferes with the rights of neighbours to the normal use and enjoyment of any land or building;

OWNER  means a person or an organization of persons owning or having the legal right to use the land under consideration;

PERMITTED USE  means a use that is listed within the permitted use classes set out in the use zone tables of an authority's development regulations;

PLAN,  unless the context indicates otherwise, means a regional plan and a municipal plan established under section 8 or 10; (regional plan or municipal plan);

PLANNING AREA  , unless the context indicates otherwise, means a regional planning area and a municipal planning area established under sections 6 and 11;

PROHIBITED USE  means a use that is not listed in a use zone within the permitted use classes or discretionary use classes or a use that an authority specifies as not permitted within a use zone;

RECREATION VEHICLE OR RECREATIONAL TRAILER means a vehicle or portable structure designed to provide temporary living accommodation which is either self-propelled or mounted on, or pulled by another vehicle, and includes a travel/holiday trailer, camper trailer, truck camper, motorhome, fifth wheel trailer, tent trailer, travel trailer, camper van or recreational trailer or other similar vehicle, but not a mobile home or mini-home. A converted bus is not a recreation vehicle;

REGION  means a region as defined in the *Municipalities Act, 1999*;

REGIONAL AUTHORITY  means a regional authority established under section 7 of the Act; **scheme** means a scheme established under section 29 of the Act;

SCHEME  means a scheme established under section 29;

SIGN  means a word, letter, model, placard, board, device or representation, whether illuminated or not, in the nature of or employed wholly or in part for the purpose of advertisement, announcement or direction and excludes those things employed wholly as a memorial, advertisements of local government, utilities and boarding or similar structures used for the display of advertisements;

STREET  means a street, road, highway or other way designed for the passage of vehicles and pedestrians and which is accessible by fire department and other emergency vehicles;

STREET LINE  means the edge of a street reservation as defined by the authority having jurisdiction;

SUBDIVISION  means the dividing of land, whether in single or joint ownership into 2 or more pieces for the purpose of development;

TOWN  means a town as defined in the *Municipalities Act, 1999*;

USE  means a building or activity situated on a lot or a development permitted on a lot;

USE ZONE OR ZONE  means an area of land including buildings and water designated on the zoning map to which the uses, standards and conditions of a particular use zone table apply;

VARIANCE  means a departure, to a maximum of 10% from the yard, area, lot coverage, setback, size, height, frontage or any other numeric requirement of the applicable Use Zone Table of the authority's regulations;

YARDS – (sometimes called lot lines) refer to the diagram below for an illustration of the following definitions:

FRONT YARD DEPTH otherwise called the building line or front yard setback, means setback from the property line on the street that the building is fronting on, shown as the front yard setback in the drawing below; note that the yard setbacks from the boundaries of the property;

REAR YARD DEPTH  means the distance between the rear lot line and the rear wall of the main building on a lot;

SIDE YARD DEPTH  means the distance between the side lot line and the nearest side wall of a building on the lot;

ZONING MAP  means the map or maps attached to and forming a part of the authority's regulations.

**SCHEDULE C: MINISTER'S DEVELOPMENT REGULATIONS
UNDER THE URBAN AND RURAL PLANNING ACT, 2000**

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Important Information

(Includes details about the availability of printed and electronic versions of the Statutes.)

<u>Table of Regulations</u>	<u>Main Site</u>	<u>How current is this regulation?</u>
<hr/>		

**NEWFOUNDLAND AND LABRADOR
REGULATION 3/01**

*Development Regulations
under the
Urban and Rural Planning Act, 2000*

(Filed January 2, 2001)

Under the authority of section 36 of the *Urban and Rural Planning Act, 2000*, I make the following regulations.

Dated at St. Johns , January 2, 2001 .

Joan Marie Aylward
Minister of Municipal and Provincial Affairs

REGULATIONS

Analysis

1. Short title
2. Definitions
3. Application
4. Interpretation
5. Notice of right to appeal
6. Appeal requirements
7. Appeal registration
8. Development prohibited
9. Hearing notice and meetings
10. Hearing of evidence
11. Board decision
12. Variances
13. Notice of variance
14. Residential non conformity
15. Notice and hearings on change of use
16. Non-conformance with standards
17. Discontinuance of non-conforming use
18. Delegation of powers
19. Commencement

Short title

1. These regulations may be cited as the *Development Regulations*.

[Back to Top](#)

Definitions

2. In these regulations,
 - (a) "Act", unless the context indicate otherwise, means the *Urban and Rural Planning Act, 2000*;
 - (b) "applicant" means a person who has applied to an authority for an approval or permit to carry out a development;

- (c) "authority" means a council, authorized administrator or regional authority; and
- (d) "development regulations" means these regulations and regulations and by-laws respecting development that have been enacted by the relevant authority.

[Back to Top](#)

Application

- 3. (1) These regulations shall be included in the development regulations of an authority and shall apply to all planning areas.
- (2) Where there is a conflict between these regulations and development regulations or other regulations of an authority, these regulations shall apply.
- (3) Where another Act of the province provides a right of appeal to the board, these regulations shall apply to that appeal.

[Back to Top](#)

Interpretation

- 4. (1) In development regulations and other regulations made with respect to a planning area the following terms shall have the meanings indicated in this section
 - (a) "access" means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street;
 - (b) "accessory building" includes
 - (i) a detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory and which has a use that is customarily incidental or complementary to the main use of the building or land,
 - (ii) for residential uses, domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetables storage cellars, shelters for domestic pets or radio and television antennae,
 - (iii) for commercial uses, workshops or garages, and
 - (iv) for industrial uses, garages, offices, raised ramps and docks;
 - (c) "accessory use" means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use;
 - (d) "building height" means the vertical distance, measured in metres from the established grade to the
 - (i) highest point of the roof surface of a flat roof,

- (ii) deck line of a mansard roof, and
- (iii) mean height level between the eave and the ridge of a gable, hip or gambrel roof, and in any case, a building height shall not include mechanical structure, smokestacks, steeples and purely ornamental structures above a roof;

(e) "building line" means a line established by an authority that runs parallel to a street line and is set at the closest point to a street that a building may be placed;

(f) "discretionary use" means a use that is listed within the discretionary use classes established in the use zone tables of an authority's development regulations;

(g) "established grade" means,

- (i) where used in reference to a building, the average elevation of the finished surface of the ground where it meets the exterior or the front of that building exclusive of any artificial embankment or entrenchment, or
- (ii) where used in reference to a structure that is not a building, the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment;

(h) "floor area" means the total area of all floors in a building measured to the outside face of exterior walls;

(i) "frontage" means the horizontal distance between side lot lines measured at the building line;

(j) "lot" means a plot, tract or parcel of land which can be considered as a unit of land for a particular use or building;

(k) "lot area" means the total horizontal area within the lines of the lot;

(l) "lot coverage" means the combined area of all building on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot;

(m) "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;

(n) "owner" means a person or an organization of persons owning or having the legal right to use the land under consideration;

(o) "permitted use" means a use that is listed within the permitted use classes set out in the use zone tables of an authority's development regulations;

- (p) "prohibited use" means a use that is not listed in a use zone within the permitted use classes or discretionary use classes or a use that an authority specifies as not permitted within a use zone;
- (q) "sign" means a word, letter, model, placard, board, device or representation, whether illuminated or not, in the nature of or employed wholly or in part for the purpose of advertisement, announcement or direction and excludes those things employed wholly as a memorial, advertisements of local government, utilities and boarding or similar structures used for the display of advertisements;
- (r) "rear yard depth" means the distance between the rear lot line and the rear wall of the main building on a lot;
- (s) "side yard depth" means the distance between the side lot line and the nearest side wall of a building on the lot;
- (t) "street" means a street, road, highway or other way designed for the passage of vehicles and pedestrians and which is accessible by fire department and other emergency vehicles;
- (u) "street line" means the edge of a street reservation as defined by the authority having jurisdiction;
- (v) "use" means a building or activity situated on a lot or a development permitted on a lot;
- (w) "use zone" or "zone" means an area of land including buildings and water designated on the zoning map to which the uses, standards and conditions of a particular use zone table apply;
- (x) "variance" means a departure, to a maximum of 10% from the yard, area, lot coverage, setback, size, height, frontage or any other numeric requirement of the applicable Use Zone Table of the authority's regulations; and
- (y) "zoning map" means the map or maps attached to and forming a part of the authority's regulations.

(2) An authority may, in its discretion, determine the uses that may or may not be developed in a use zone and those uses shall be listed in the authority's regulations as discretionary, permitted or prohibited uses for that area.

[Back to Top](#)

Notice of right to appeal

5. Where an authority makes a decision that may be appealed under section 42 of the Act, that authority shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the

- (a) persons right to appeal the decision to the board;
- (b) time by which an appeal is to be made;

- (c) right of other interested persons to appeal the decision; and
- (d) manner of making an appeal and the address for the filing of the appeal.

[Back to Top](#)

Appeal requirements

6. (1) The secretary of the board at the Department of Municipal and Provincial Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. Johns, Nfld., A1B 4J6 is the secretary to all boards in the province and an appeal filed with that secretary within the time period referred to in subsection 42(4) of the Act shall be considered to have been filed with the appropriate board.
- (2) Notwithstanding subsection (1), where the City of Corner Brook, City of Mount Pearl or City of St. Johns appoints an appeal board under subsection 40(2) of the Act, an appeal shall be filed with the secretary of that appointed board.
- (3) The fee required under section 44 of the Act shall be paid to the board that hears the decision being appealed by filing it with the secretary referred to in subsection (1) or (2) within the 14 days referred to in subsection 42(4) of the Act.
- (4) The board that hears the decision being appealed shall, subject to subsection 44(3) of the Act, retain the fee paid to the board.
- (5) Where an appeal of a decision and the required fee is not received by a board in accordance with this section and Part VI of the Act, the right to appeal that decision shall be considered to have been forfeited.

[Back to Top](#)

Appeal registration

7. (1) Upon receipt of an appeal and fee as required under the Act and these regulations, the secretary of the board as referred to in subsections 6(1) and (2), shall immediately register the appeal.
- (2) Where an appeal has been registered the secretary of the board shall notify the appropriate authority of the appeal and shall provide to the authority a copy of the appeal and the documentation related to the appeal.
- (3) Where an authority has been notified of an appeal that authority shall forward to the appropriate board a copy of the application being appealed, all correspondence, council minutes, plans and other relevant information relating to the appeal including the names and addresses of the applicant and other interested persons of whom the authority has knowledge.
- (4) Upon receipt of the information under subsection (3), the secretary of the board shall publish in a newspaper circulated in the area of the appropriate authority, a notice that the appeal has been registered.

(5) A notice published under subsection (4) shall be published not fewer than 2 weeks before the date upon which the appeal is to be heard by the board.

[Back to Top](#)

Development prohibited

8. (1) Immediately upon notice of the registration of an appeal the appropriate authority shall ensure that any development upon the property that is the subject of the appeal ceases.

(2) Sections 102 and 104 of the Act apply to an authority acting under subsection (1).

(3) Upon receipt of a notification of the registration of an appeal with respect to an order under section 102 of the Act, an authority shall not carry out work related to the matter being appealed.

[Back to Top](#)

Hearing notice and meetings

9. (1) A board shall notify the appellant, applicant, authority and other persons affected by the subject of an appeal of the date, time and place for the appeal not fewer than 7 days before the date scheduled for the hearing of the appeal.

(2) A board may meet as often as is necessary to conduct its work in an expeditious manner.

[Back to Top](#)

Hearing of evidence

10. (1) A board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under subsection 9(1) or their representative may appear before the board and make representations with respect to the matter being appealed.

(2) A board shall hear an appeal in accordance with section 43 of the Act and these regulations.

(3) A written report submitted under subsection 43(2) of the Act respecting a visit to and viewing of a property shall be considered to have been provided in the same manner as evidence directly provided at the hearing of the board.

(4) In the conduct of an appeal hearing, the board is not bound by the rules of evidence.

[Back to Top](#)

Board decision

11. A decision of the board must comply with the plan, scheme or development regulations that apply to the matter that has been appealed to that board.

[Back to Top](#)

Variances

12. (1) Where an approval or permit cannot be given by an authority because a proposed development does not comply with development standards set out in development regulations, an authority may, in its discretion, vary the applicable development standards to a maximum of 10% if, in the authority'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.

(2) An authority shall not allow a variance from development standards set out in 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 10% variance even though the individual variances are separately no more than 10%.

(3) An authority shall not permit a variance from development standards where the proposed development would increase the non conformity of an existing development.

[Back to Top](#)

Notice of variance

13. Where an authority is to consider a proposed variance, that authority 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.

[Back to Top](#)

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.

[Back to Top](#)

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.

[Back to Top](#)

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.

[Back to Top](#)

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.

[Back to Top](#)

Delegation of powers

18. An authority shall, where designating employees to whom a power is to be delegated under subsection 109(3) of the Act, make that designation in writing.

[Back to Top](#)

Commencement

19. These regulations shall be considered to have come into force on January 1, 2001 .

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SCHEDULE D – NON-CONFORMING USES AND NON-CONFORMING DEVELOPMENT

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 14-17 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.”

SCHEDULE E: LAND USE ZONING MAP

