

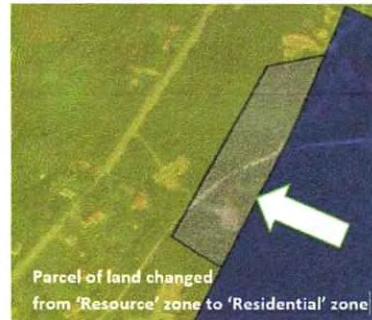
URBAN AND RURAL PLANNING ACT, 2000  
RESOLUTION TO APPROVE  
THE TOWN OF AVONDALE  
DEVELOPMENT REGULATIONS, 2019-2029

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

- a) Adopted the Town of Avondale Municipal Plan (2019-2029) on the 21st day of April, 2020;
- b) Gave notice of the adoption of Municipal Plan (2019-2029) by advertisement inserted on the 30th day of April and the 7th day of May, 2020 in the newspaper, The Shoreline News; and,
- c) Scheduled the 19th day of May, 2020 at the Avondale Town Hall, for the holding of a public hearing to consider objections and submissions to the Municipal Plan (2019-2029).

Now under the authority of Section 23 of the *Urban and Rural Planning Act 2000*, the Town Council of Avondale approves the Development Regulations for the Town of Avondale as amended as follows according to the recommendation of the Commissioner:

“...that the parcel currently zoned as “Resource” be zoned as “Residential” to be consistent with adjacent Parcels located outside the protected water supply designation.” (shown below)



SIGNED AND SEALED this 6<sup>th</sup> day of August, 2020.

Mayor: Owen Mahoney

Town Clerk: Karen McGrath

Development Regulations/Amendment	
<b>REGISTERED</b>	
Number	0125-2020-001
Date	December 16, 2020
Signature	<u>Mary O'Dea</u>



(Council Seal)



URBAN AND RURAL PLANNING ACT, 2000  
RESOLUTION TO ADOPT  
TOWN OF AVONDALE  
DEVELOPMENT REGULATIONS, 2019-2029

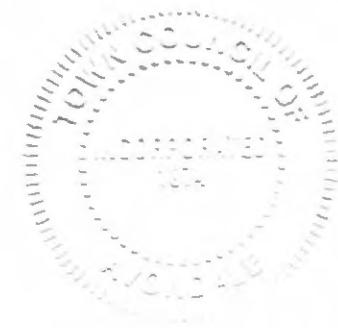
Under the authority of Section 16 of the *Urban and Rural Planning Act, 2000*, the Town Council of Avondale adopts the Avondale Development Regulations (2019-2029).

The Development Regulations (2019-2029) were adopted by the Town Council of Avondale on the 21<sup>st</sup> day of April, 2020.

Signed and sealed this 6<sup>th</sup> day of August, 2020.

Mayor: Owen Mahoney

Municipal Clerk: Karen McGrath



Town of Avondale seal

**CANADIAN INSTITUTE OF PLANNERS (CIP) CERTIFICATION**

I certify that the Town of Avondale Development Regulations (2019-2029) have been prepared in accordance with the requirements of the *Urban and Rural Planning Act, 2000* of the Province of Newfoundland and Labrador.

A handwritten signature in black ink that reads "Anna Myers".

Member of Canadian Institute of Planners (MCIP)



A circular seal with a decorative border of small dots. The center features a stylized floral or leafy emblem.

## TABLE OF CONTENTS

<b>1.0</b>	<b>AUTHORITIES AND RESPONSIBILITIES .....</b>	<b>1</b>
1.1	APPLICATION .....	1
1.2	PERMIT RESPONSIBILITIES .....	1
1.3	AMENDMENT TO PLANNING DOCUMENTS .....	1
1.4	LEGAL EFFECT .....	1
<b>2.0</b>	<b>ADMINISTRATION OF THE REGULATIONS .....</b>	<b>2</b>
2.1	WHEN IS A PERMIT REQUIRED .....	2
2.2	APPLICATION FOR A PERMIT .....	3
2.2.1	<i>Who can apply and how .....</i>	3
2.2.2	<i>Information Requirements for All Applications .....</i>	3
2.2.3	<i>Application Information Requirements for Discretionary Uses .....</i>	4
2.2.4	<i>Application Information Requirements for Comprehensive Development .....</i>	4
2.3	OPTIONS IF YOUR PROPOSAL DOES NOT FIT THE LAND USE ZONES OR DEVELOPMENT CONDITIONS/STANDARDS .....	5
2.3.1	<i>Variances .....</i>	5
2.3.2	<i>Infill Development .....</i>	6
2.3.3	<i>Non-Conforming Uses .....</i>	6
2.3.4	<i>Amendment to Development Regulations .....</i>	7
2.4	COUNCIL DECISION-MAKING .....	7
2.4.1	<i>Timely Decision-making .....</i>	7
2.4.2	<i>Deferment of Application: .....</i>	7
2.4.3	<i>Public Notice .....</i>	7
2.4.4	<i>Briefing Sessions .....</i>	8
2.4.5	<i>Approval in Principle .....</i>	8
2.4.6	<i>Approval of Development Permit .....</i>	9
2.4.7	<i>Temporary Use Permit .....</i>	9
2.4.8	<i>Correction of Errors and Remedial Work .....</i>	10
2.4.9	<i>Revoke Permit .....</i>	10
2.4.10	<i>Fee for Permit .....</i>	10
2.4.11	<i>Written Reasons for Refusing or Setting Conditions on a Permit .....</i>	10
2.4.12	<i>Refusal: Premature development .....</i>	10
2.4.13	<i>Discretionary Decision-making Powers of Council .....</i>	10
2.4.14	<i>Register .....</i>	11
2.5	SPECIAL CONDITIONS FOR DEVELOPMENT .....	11
2.5.1	<i>Development Agreement .....</i>	11
2.5.2	<i>Planning Impact Analysis .....</i>	11
2.5.3	<i>Financial Guarantees by Developer .....</i>	12
2.5.4	<i>Service Levy .....</i>	13
2.5.5	<i>Require Land Conveyed for Public Work Purpose .....</i>	13
2.5.6	<i>Land for Park/Public Use in Subdivisions .....</i>	13
2.5.7	<i>Restoration of Land .....</i>	13
2.6	APPEALS .....	14
2.7	ENFORCEMENT AUTHORITY .....	18
2.7.1	<i>Delegation of Authority .....</i>	18

2.7.2 <i>Right of Entry</i> .....	18
2.7.3 <i>Enforcement Authorities</i> .....	18
2.8 NATIONAL CODES AND REGULATIONS .....	18
<b>3.0 LAND USE ZONES .....</b>	<b>19</b>
3.1 LAND USE ZONING AND DEVELOPMENT STANDARDS .....	19
3.1.1 <i>Land Use Zones</i> .....	19
3.1.2 <i>Land Use Zone Tables: Permitted and Discretionary uses</i> .....	19
3.1.2.1 <i>Permitted Uses</i> .....	20
3.1.2.2 <i>Discretionary Uses</i> .....	20
3.1.3 <i>Accessory Uses and Accessory Building</i> .....	20
3.1.4 <i>Uses Not Permitted</i> .....	20
3.1.5 <i>Uses Permitted in All Land Use Zones</i> .....	20
3.1.6 <i>Development Conditions and Standards</i> .....	20
3.2 RESIDENTIAL ZONE.....	22
3.3 COMMERCIAL ZONE.....	25
3.4 MIXED DEVELOPMENT ZONE .....	26
3.5 INDUSTRIAL ZONE .....	27
3.6 PUBLIC/INSTITUTIONAL ZONE.....	28
3.7 CONSERVATION LAND USE CLASS .....	29
3.7.1 <i>Environmental Protection Zone</i> .....	29
3.7.2 <i>Open Space, Parks and Trails Zone</i> .....	30
3.7.3 <i>Protected Water Supply Zone</i> .....	31
3.8 RESOURCE ZONE .....	35
<b>4.0 LAND USE DEFINITIONS AND DEVELOPMENT CONDITIONS .....</b>	<b>37</b>
4.1 GENERAL CONDITIONS APPLICABLE TO ALL DEVELOPMENT .....	37
4.1.1 <i>Access and Driveways</i> .....	37
4.1.2 <i>Archaeological Sites</i> .....	38
4.1.3 <i>Buffers and Separation Distances Between Land Uses:</i> .....	38
4.1.4 <i>Comprehensive Development</i> .....	40
4.1.5 <i>Crown Land</i> .....	40
4.1.6 <i>Land Use Zoning Map Overlays: Other Government Designations</i> .....	40
4.1.7 <i>Nuisance</i> .....	41
4.1.8 <i>Soil or Quarry Material Removal, Soil Deposit and Site Grading</i> .....	41
4.1.9 <i>Water Body Protection (watercourse or wetland)</i> .....	42
4.2 AGRICULTURE LAND USE CLASS .....	43
4.2.1 <i>Commercial Agriculture:</i> .....	43
4.2.2 <i>Urban Agriculture</i> .....	44
4.2.2.1 <i>Community Garden</i> .....	44
4.2.2.2 <i>Livestock and Poultry Standards</i> .....	44
4.2.2.3 <i>Kennel</i> .....	44
4.3 COMMERCIAL LAND USE CLASS .....	45
4.3.1 <i>Amusement Establishment/Use</i> .....	45
4.3.2 <i>Amusement Park/Attraction</i> .....	45
4.3.3 <i>Auto Body Shop:</i> .....	46
4.3.4 <i>Automotive Repair Shop</i> .....	46
4.3.5 <i>Bar</i> .....	47
4.3.6 <i>Building Supply Store</i> .....	47

4.3.7	<i>Business Support Service</i> .....	47
4.3.8	<i>Campground, including RV campgrounds</i> .....	47
4.3.9	<i>Child Care – Non-residential (not a home business)</i> .....	48
4.3.10	<i>Club and Lodge</i> .....	49
4.3.11	<i>Contractor, Limited (Small)</i> .....	49
4.3.12	<i>Convenience Store</i> .....	49
4.3.13	<i>Custom Manufacturing Service (small/artisan)</i> .....	50
4.3.14	<i>Garage, Public (parking lot/taxi stand)</i> .....	50
4.3.15	<i>General Service/Repair</i> .....	50
4.3.16	<i>Hotel or Inn</i> .....	51
4.3.17	<i>Marina</i> .....	51
4.3.18	<i>Medical or Dental Clinic/Office</i> .....	52
4.3.19	<i>Motel</i> .....	52
4.3.20	<i>Outdoor Commercial Patio</i> .....	53
4.3.21	<i>Outdoor Market</i> .....	53
4.3.22	<i>Personal Service</i> .....	54
4.3.23	<i>Offices: Professional, Financial and Associated Support Services</i> .....	54
4.3.24	<i>Resort</i> .....	54
4.3.25	<i>Restaurants</i> .....	55
4.3.25.1	<i>Drive-Through and Take-Out</i> .....	55
4.3.25.2	<i>Full-Service Restaurant</i> .....	56
4.3.25.3	<i>Mobile Take-Out or Street Vendor</i> .....	56
4.3.26	<i>Retail</i> .....	56
4.3.27	<i>Service Station</i> .....	57
4.3.27.1	<i>Service Station – Residential</i> .....	58
4.3.27.2	<i>Service Station – Highway</i> .....	58
4.3.28	<i>Veterinarian Clinic</i> .....	58
4.4	<b>INDUSTRIAL LAND USE CLASS</b> .....	58
4.4.1	<i>Composting Facility</i> .....	58
4.4.2	<i>Contractor, General</i> .....	59
4.4.3	<i>Forestry Activities</i> .....	59
4.4.4	<i>Industrial - General</i> .....	59
4.4.6	<i>Mineral Exploration</i> .....	61
4.4.7	<i>Mineral Working</i> .....	62
4.4.8	<i>Natural Resource Use</i> .....	63
4.4.9	<i>Natural Resource-Related Uses</i> .....	63
4.4.10	<i>Salvage/Scrap Yard</i> .....	63
4.4.11	<i>Solid Waste Recycling/Disposal and Composting Site</i> .....	64
4.5	<b>CONSERVATION LAND USE CLASS</b> .....	65
4.5.1	<i>Environmental Protection Area</i> .....	65
4.5.2	<i>Open Space, Parks and Trails</i> .....	66
4.6	<b>PUBLIC/INSTITUTIONAL LAND USE CLASS</b> .....	66
4.6.1	<i>Cemetery</i> .....	66
4.6.2	<i>Institutional Use</i> .....	67
4.6.3	<i>Protective and Emergency Services</i> .....	68
4.6.4	<i>Public Gathering Places - Indoor</i> .....	68
4.6.5	<i>Public Gathering Places - Outdoor</i> .....	69
4.6.6	<i>Sports and Recreation Facilities</i> .....	70
4.7	<b>RESIDENTIAL LAND USE CLASS</b> .....	70
4.7.1	<i>Single Detached Dwellings</i> .....	71

4.7.2	<i>Tiny Homes</i> .....	71
4.7.3	<i>Semi-Detached Dwelling (Double)</i> .....	72
4.7.4	<i>Townhouses</i> .....	72
4.7.5	<i>Mini-Home and Mobile Homes</i> .....	72
4.7.6	<i>Apartment Building</i> .....	73
4.7.7	<i>Cottage or Cabin</i> .....	73
4.7.8	<i>Personal Care Home, Residential (including Group Home)</i> .....	74
4.7.9	<i>Infill residential</i> .....	74
4.8	<b>PUBLIC INFRASTRUCTURE AND UTILITIES</b> .....	75
4.8.1	<i>Communications</i> .....	75
4.8.2	<i>Easement</i> .....	75
4.8.3	<i>Utilities</i> .....	76
<b>5.0</b>	<b>ACCESSORY USES &amp; BUILDINGS, ANCILLARY USES, AND HOME BUSINESSES</b> .....	<b>77</b>
5.1	<b>ACCESSORY USES</b> .....	77
5.1.1	<i>General Accessory Uses</i> .....	77
5.1.2	<i>Subsidiary Apartments (including 'Granny suite')</i> .....	77
5.2	<b>ACCESSORY BUILDINGS</b> .....	78
5.2.1	<i>Accessory Buildings – General</i> .....	78
5.2.2	<i>Additional conditions related to Accessory Buildings in Residential zones</i> .....	79
5.2.3	<i>Trailer in Non-Residential zone</i> .....	80
5.3	<b>HOME BUSINESS IN THE RESIDENTIAL LAND USE CLASS</b> .....	80
5.3.1	<i>General Home Business Definition and General Conditions</i> .....	81
5.3.2	<i>General Development Conditions for Home Businesses</i> : .....	82
5.3.3	<i>Development Conditions for Specific Home Businesses</i> .....	83
5.3.3.1	<i>Bed and Breakfast</i> .....	83
5.3.3.2	<i>Boarding House</i> .....	83
5.3.3.3	<i>Day Care in a residence</i> .....	84
5.3.3.4	<i>Parking for Home Business</i> .....	84
<b>6.0</b>	<b>BUILDINGS, LOT SITING AND LANDSCAPING AND SERVICES</b> .....	<b>85</b>
6.1	<b>BUILDINGS</b> .....	85
6.1.1	<i>Building Orientation</i> .....	85
6.1.2	<i>Building Quality</i> .....	85
6.1.4	<i>Heritage Building or Structure</i> .....	85
6.2	<b>LOT SITING</b> .....	85
6.2.1	<i>Lot Area</i> .....	85
6.2.2	<i>Unsubdivided Land</i> .....	85
6.2.3	<i>Lot Fronting on to a Public Street</i> .....	86
6.2.4	<i>Building Line and Setbacks (refer to Appendix 1)</i> .....	86
6.2.5	<i>Flanking or Corner lots and double fronting lots</i> .....	86
6.2.6	<i>Side Yards</i> .....	86
6.2.7	<i>Multiple uses on one Lot</i> .....	86
6.2.8	<i>Backlots</i> .....	87
6.2.9	<i>Outdoor Storage</i> .....	88
6.3	<b>LANDSCAPING</b> .....	88
6.3.1	<i>General</i> .....	88
6.3.2	<i>Subdivisions</i> .....	89
6.3.3	<i>Residential</i> .....	89

6.3.4	Commercial and Public Use/Institutional .....	90
6.3.5	Industrial .....	90
6.3.6	Screening and Landscaping .....	90
<b>6.4</b>	<b>SERVICES .....</b>	<b>91</b>
6.4.1	<i>Streets and access to streets .....</i>	91
6.4.2	<i>Municipal Services and Public Utilities .....</i>	91
6.4.3	<i>Storm Water Management .....</i>	91
6.4.4	<i>Effluents:.....</i>	91
6.4.5	<i>On-Site Services (Wells and onsite sanitary sewer systems).....</i>	92
6.4.6	<i>Environmental Investigations .....</i>	92
<b>7.0</b>	<b>OFF-STREET LOADING, PARKING, DRIVEWAYS AND SIGNS .....</b>	<b>93</b>
7.1	OFF-STREET LOADING REQUIREMENTS.....	93
7.2	PARKING .....	93
7.2.1	<i>Parking Area Standards .....</i>	93
7.2.2	<i>Parking Development Plans.....</i>	94
7.2.3	<i>Off-Street Parking Requirements.....</i>	94
7.2.4	<i>Designated Mobility Impaired Parking Spaces .....</i>	97
7.3.	SIGNS (ADVERTISEMENTS) .....	97
7.3.1	<i>Permit Required .....</i>	97
7.3.1.1	<i>Signs/Advertisements Exempt from Control.....</i>	97
7.3.1.2	<i>Provincial Highway Sign Regulations, 1996 (under the <i>Urban and Rural Planning Act, 2000</i>).....</i>	98
7.3.1.3	<i>Application for Permit .....</i>	98
7.3.1.4	<i>Signs/Advertisements Prohibited in Street Reservation .....</i>	98
7.3.1.5	<i>Permit Valid for Limited Period .....</i>	98
7.3.1.6	<i>Removal of Signs/Advertisements .....</i>	98
7.3.1.7	<i>Approval Subject to Conditions.....</i>	98
7.3.1.8	<i>Non-Conforming Uses .....</i>	98
7.3.2	<i>Sign Standards for Specific Zones .....</i>	98
7.3.2.1	<i>Advertisements Relating to Onsite Uses .....</i>	99
7.3.2.2	<i>Advertisements Relating to Offsite Uses on Local Roads .....</i>	99
<b>8.0</b>	<b>SUBDIVISION OF LAND .....</b>	<b>100</b>
8.1	SUBDIVISION STANDARDS .....	100
8.1.1	<i>Subdivision Standards apply .....</i>	100
8.1.2	<i>Subdivisions standards do not apply .....</i>	100
8.1.3	<i>Permit Required .....</i>	100
8.1.4	<i>Form of Application .....</i>	100
8.1.5	<i>Subdivision Subject to Zoning .....</i>	100
8.1.6	<i>Subdivision Permit Subject to Considerations.....</i>	101
8.1.7	<i>Building Permits Required .....</i>	101
8.2	SUBDIVISION PERMIT REQUIREMENTS .....	101
8.2.1	<i>Subdivision Development Agreement.....</i>	101
8.2.2	<i>Municipal Services to be Provided .....</i>	101
8.2.3	<i>Private Well water source: Groundwater Supply Assessment and Reporting .....</i>	102
8.2.4	<i>Fees, Service Levies and Land for Open Space .....</i>	102
8.2.4.1	<i>Subdivision Fees .....</i>	102
8.2.4.2	<i>Service Levies and Local Improvement Assessments .....</i>	103
8.2.4.3	<i>Deposit of Securities .....</i>	103
8.2.4.4	<i>Land for Public Open Space.....</i>	103

8.3	SUBDIVISION DESIGN STANDARDS .....	104
8.3.1	<i>General Subdivision Design Standards .....</i>	104
8.3.2	<i>Conservation Subdivision Design (Grouping of Buildings and Landscaping) .....</i>	105
8.4	SUBDIVISION ENGINEERING STANDARDS .....	106
8.4.1	<i>Engineer to Design Works and Certify Construction Layout .....</i>	106
8.4.2	<i>Developer to Pay Engineer's Fees and Charges .....</i>	106
8.4.3	<i>Street Works May Be Deferred .....</i>	106
8.4.4	<i>Construction of Utilities .....</i>	107
8.4.5	<i>Structures in Street Reservation .....</i>	107
8.4.6	<i>Transfer of Streets and Utilities to Council .....</i>	107
8.4.7	<i>Mini/mobile home park subdivision .....</i>	107
<b>APPENDICES .....</b>		<b>108</b>
	APPENDIX 1: INTERPRETATION .....	109
	APPENDIX 2: MINISTER'S DEVELOPMENT REGULATIONS .....	116
	APPENDIX 3: LAND USE ZONING MAP .....	125

## **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 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 Planning Area must have a permit issued by Council in accordance with the Plan and Development Regulations.

### **1.2 Permit responsibilities**

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.

### **1.3 Amendment to planning documents**

An amendment to the text of the Development Regulations (DR) or rezoning of 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* (Sections 14-25). An amendment may be requested by any person and the associated costs are borne by that person.

According to Section 35 (5) of the *Urban and Rural Planning Act, 2000*, a DR amendment which **does not** require an associated amendment to the Plan is not required to follow the process set out above; however, Section 14 public consultation is required. When submitted to the Department of Municipal Affairs and Environment for registration, the DR Amendment must include proof of public consultation and the Resolution of Council to adopt the amendment.

### **1.4 Legal effect**

Upon publication of the notice of registration of these Development Regulations in the Newfoundland and Labrador Gazette, the previous Development Regulations are hereby repealed and replaced.

Similarly, for amendments, publication in the Newfoundland and Labrador Gazette is required before they are in legal effect.

These Regulations may be cited as the “Town of Avondale Development Regulations 2019”, 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 Municipal Plan and Development Regulations, technical planning definitions are found in Appendix 1. Note that the definitions from the *Urban and Rural Planning Act, 2000* and the (Minister's) *Development Regulations, 2000* cannot be amended by the Council.

## **2.0 ADMINISTRATION OF THE REGULATIONS**

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

Under Section 109 (2) of the Act, Council may appoint/designate an employee of Council to approve or reject applications; that employee may outline the conditions applicable to that development application. Council shall make that appointment/designation in writing.

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

All development and all subdivision (severance) of land carried out within the 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:

#### **2.1.1 Development:**

“...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...”;

### **2.1.2 Subdivision:**

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

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

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

Note: A subsidiary apartment cannot be subdivided from the self-contained dwelling that it is constructed within.

## **2.2 APPLICATION FOR A PERMIT**

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

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

Where Approval in Principle is granted under these Regulations, it shall be subject to the subsequent approval by Council of the details and conditions as listed in the Approval in Principle, which shall be received not later than one year from the issuance of the Approval in Principle. If the details and conditions are not received, and there is no request for an extension (as per 2.5.5) then the Approval in Principle is void and the application is rejected.

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

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

### **2.2.2 Information 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;

- c. all information required to process the application in accordance with these Regulations, such information should include at least the following:
  - i. location of the site on a map;
  - ii. details of proposed use: type, size and scale of operation, landscaping;
  - iii. lot area, lot frontage, siting of structures;
  - iv. contours and significant natural features such as wetlands, watercourses, drainage channels, and slopes that exceed 15 percent, existing vegetation, trees;
  - v. existing streets, buildings, and land uses in the vicinity of the site;
  - vi. a conceptual layout of proposed streets, trails, and other major components of the development;
  - vii. proposed access/egress, parking, loading requirements;
  - viii. a landscaping plan including buffers and/or separation distances;
  - ix. proposed water supply, waste disposal and storm water drainage services;
  - x. a legal survey plan prepared by a registered Newfoundland and Labrador land surveyor;
- d. Where the application involves a building, the following information shall be added to the lot information, as appropriate:
  - i. siting of building on the lot, including building line setback and yards;
  - ii. bulk and height, in terms of floor area and building height;
  - iii. off-street parking, circulation, and loading, in terms of variables specified in Section 7.1.

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

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

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

In addition to the information requirements for lots and buildings in 2.2.1, an application for a Discretionary Use shall contain the following information relating to Discretionary Uses involving operation of a business/service:

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

### **2.2.4 Application Information Requirements for Comprehensive Development**

In addition to the information in 2.2.2, the following requirements will apply to proposed comprehensive developments involving development of large sites for commercial (including commercial recreational), industrial, residential and public institutional development.

Council may require the Comprehensive Development application to include the following information:

- a. Identification of Developable Area of site, indicating accommodation of site conditions such as poor drainage, steep slopes, flooding potential and rocky ground;
- b. Proposed siting of new buildings, or additions, including building square footage area size,

- building height, and setback distances to property lines;
- c. Building lot area coverage and floor area ratio where applicable;
- d. Total number of proposed multi-unit residential dwellings, or strata unit commercial and/or industrial units, and interior floor plans;
- e. Layout drawing of proposed parking area, total number and size of parking spaces and manoeuvring aisles, access and egress locations to parking area, provisions for bicycle parking where applicable, landscape screening for parking areas and storm water drainage management;
- f. Identification of outdoor amenity and open space improvement areas;
- g. Identification of unenclosed storage areas and area size; and,
- h. Overview of landscaping treatment and approach for the site development.
- i. phasing of the development;
- j. Street and servicing layout, including road pattern and traffic and relation to surrounding community in conformance with Town standards;
- k. Indicate any issues related to the long-term maintenance of streets and other services;
- l. Must meet the requirements of 4.1.4; and,
- m. if required, an amendment to the Municipal Plan and Development Regulations for adoption by the Council.

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

### **2.3.1    Variances**

Where the proposed development does not comply with the development standards set out in these Regulations, Council may, in its discretion, vary the applicable development standards 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. (Note that the 10% is stipulated in the Minister's Regulations in Appendix 2 and cannot be amended by Council)

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

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

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

### **2.3.2 Infill Development**

Council will encourage infill development in areas provided with municipal services, whether water only or both water and sewer, subject to the following requirements:

- a. the type, scale, massing, and design of the development is generally appropriate to the neighbourhood;
- b. preservation of side/back/front yards for public safety requirements; and,
- c. adequate provision is made for light, privacy, and amenity.

Where a proposed development constitutes infill between existing developments, Council may consider changes to the lot area, building line setback, and frontage based on the land capability to accommodate servicing requirements; and also ensure that the building line setback is consistent with adjacent properties and the general area.

Such infill proposals must be consistent with adjacent development and not compromise public safety, neighbouring services, or the general amenity of the area.

### **2.3.3 Non-Conforming Uses**

(Refer to Section 108 of the *Urban and Rural Planning Act 2000* and Sections 14, 15, and 16 of the *Ministerial Development Regulations* found in Appendix 2 and 3)

1. Any legal use of land or development at the date of the registration of these Regulations may, although not conforming with the new Regulations:
  - a. be continued, or;
  - b. be changed to another use if:
    - i. Council has, at the applicant's expense, published a notice in a newspaper circulating in the area of the application and considered any representations or submissions received in response to that advertisement; and,
    - ii. if it is Council's opinion that the new use is more compatible with the permitted use(s) in the Use Zone in which the building is located.
2. Conditions regarding a non-conforming use of land or development; the non-conforming use:
  - a. Shall not be internally or externally varied, extended or expanded unless otherwise approved by Council;
  - b. Council may approve that the interior or exterior of such building, structure, or development may be permitted by Council to be reconstructed or altered in order to render it more convenient or commodious for the same purpose for which such building is legally used;
  - c. Shall not be structurally modified except as required for the safety of the building, structure or development,
  - d. 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, except as provided for in Paragraph (g) below,
  - e. May have the existing building extended by Council where, in Council's opinion that extension is not more than 50% of the existing building,
  - f. Where the non-conformance is with respect to the standards in these Regulations, shall not be expanded if the expansion would increase the non-conformity,

3. A residential building or structure referred to in Paragraph (g) must be repaired or rebuilt in accordance with the plan and development regulations applicable to that building or structure.
4. If a non-conforming development or land use is discontinued after these Regulations came into legal effect, a right to resume a discontinued non-conforming use of land shall not exceed one year after the discontinuance occurred. For the purpose of this Regulation, discontinuance of a non-conforming use begins when any one of the following conditions is met:
  - a. The building or use of land is clearly vacated or the building is demolished,
  - b. The owner or tenant has ceased paying business taxes for that use, and
  - c. The owner or tenant has stated in writing that the use has ceased.

#### **2.3.4 Amendment to Development Regulations**

Where an application for an amendment involves private property, the application shall be made by the property owner or a person operating under the owner's written consent. A copy of this written consent must accompany the application for an amendment to the text of the Development Regulations or rezoning of the Land Use Zoning Map. The procedure is set out in sub-section 1.3.

### **2.4 COUNCIL DECISION-MAKING**

#### **2.4.1 Timely Decision-making**

1. 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 sixty (60) days of the application being received by Council, shall be deemed to be refused.

#### **2.4.2 Deferment of Application:**

1. Council may, with the written agreement of the applicant, defer consideration of an application.
2. An application properly submitted in accordance with these Regulations shall be determined within 60 (sixty) days of the receipt thereof by Council or shall be deferred.
3. Council may, without the agreement of the applicant, 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.
4. An application may be withdrawn only on receipt of a written request from the applicant.

#### **2.4.3 Public Notice**

Council must, at the applicant's expense, Section 35 (1) (i) 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, when an application is received when:

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 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.
3. A *Comprehensive 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;
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; and,
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.

Notification regarding a *variance* will be carried out as follows: Written notice of a variance application will be given directly to persons whose land is in the immediate vicinity of the land that is the subject of the variance who are likely to be affected (Minister's Development Regulations-see Appendix) and a minimum of seven (7) days will be provided for persons to respond.

#### **2.4.4 Briefing Sessions**

1. Council may require a public meeting to be held in respect of any matter arising under these Regulations.
2. Council may advertise or require the applicant to advertise the application by a minimum of one (1) advertisement in a newspaper circulating in the local area at least ten (10) calendar days prior to the holding of a briefing session where the application shall be discussed.
3. The newspaper notice shall: (a) contain a general description of the application; (b) specify the date set for the briefing session at which the application is to be discussed; (c) specify the date set for receipt of written representation on the application by the Town; (d) identify the place and time where the application can be viewed by the public; and (e) specify that Council shall cancel the briefing session if no written response is received by the deadline for the receipt of responses.
4. 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.
5. Notes of the proceedings of the briefing session shall be undertaken 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.
6. An elected member of Council shall act as Chairperson of the briefing session.

#### **2.4.5 Approval in Principle**

1. 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.
2. 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.
3. 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.

4. Where approval in principle is granted, approval of a final development permit will be subject to the subsequent approval by Council of any details and conditions that were outlined in the approval in principle.
5. *Approval in principle will not constitute permission to commence development.* No form of development will commence until Council has issued a proper development permit.
6. Council may revoke approval in principle if it determines that the applicant has changed the proposed development in a way that significantly alters the original intent of the application or has not adequately addressed conditions or details stipulated in the approval in principle.
7. A decision by Council on an application to undertake development can be appealed in accordance with Section 42 of the Act.

#### **2.4.6 Approval of Development Permit**

1. A written development 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 Section 7.2).
4. No person shall change the application for which a development permit was issued unless written approval of the change has been issued by Council.
5. A copy of the development permit, along with plans and specifications, shall be kept on the site until the development is completed.
6. A decision by Council on an application to undertake development can be appealed in accordance with Section 42 of the Act.

#### **2.4.7 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.

**Standards:** At its discretion, Council may issue a development permit for a temporary use, which must comply with the Municipal Plan and these Regulations. 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.

#### **2.4.8 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.

#### **2.4.9 Revoke Permit**

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

#### **2.4.10 Fee for Permit**

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

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

Council shall, when refusing to issue a permit or attaching conditions to a permit, state the reasons for so doing. The Council shall also advise the applicant of their right to appeal in accordance with Section 42 of the Act.

#### **2.4.12 Refusal: Premature development**

No permit shall be issued for development within the 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.

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 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, conditionally approve or refuse the application.

#### **2.4.14 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**

Where a Development Agreement is required as a condition of a Development Permit, the Development Agreement shall 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.

Planning Impact Analysis (PIA) will be used to evaluate applications to determine the appropriateness of a proposed change in land use, and to identify potential issues and provide proposals for mitigation. The PIA will document the criteria used by municipal staff through the application review process and depending upon the situation, other criteria relevant to the issue may also be considered.

The Terms of Reference for a Planning Impact Analysis shall be approved by Council prior to its execution and shall become an integral part of the report itself. The PIA shall be prepared by qualified individuals/consultants. The report and any supporting studies may be prepared at the expense of the applicant, at Council's discretion.

#### **2.5.2.1 General Proposals**

Where a Plan amendment and/or zone change application is for a general change in land use and does not relate to specific development proposal, or where site specific information on the future development of the site is not required, all or some of the following criteria may be considered:

- a. compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area;
- b. the size and shape of the parcel of land on which a proposal is to be located, and the ability of

- the site to accommodate the intensity of the proposed use;
- c. the supply of vacant land or vacant buildings in the area which is designated and/or zoned for the proposed uses;
- d. the potential traffic generated by the proposed change, considering the most intense land uses that could be permitted by such a change, and the likely impact of this additional traffic on Town streets, pedestrian and vehicular safety, and on surrounding properties.

#### **2.5.2.2 Site Specific Proposals**

Where a Plan amendment and/or zone change is for a specific development proposal, or where more site specific and detailed information on the type and nature of future development is required, all, or some, of the following criteria may be considered:

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

An applicant for a proposed change in land use may be required to provide information and details on the development and its likely impacts. The report shall identify significant impacts, evaluate their importance, and recommend a mitigation plan indicating measures of control or mitigation, where appropriate.

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

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

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

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

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

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

A Council may, for a development that is not a subdivision, require that the owner of the land being developed convey to the council or regional authority, for a public purpose, a portion of the land proposed for development.

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

Council may require the dedication of a percentage of the land area of any subdivision or other development for public use, and such land shall be conveyed to Council in accordance with Section 37 of the Act.

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

Council may require the restoration of land after a development or use is discontinued.

## 2.6 APPEALS

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*.

The following excerpts are provided from the *Urban and Rural Planning Act, 2000* with respect to Appeals:

### Appeal

**42.(1)** A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate board where the decision is with respect to

- (a) an application to undertake a development;
- (b) a revocation of an approval or a permit to undertake a development;
- (c) the issuance of a stop work order; and
- (d) decision permitted under this or another Act to be appealed to the board.

**(2)** A decision of a council, regional authority or authorized administrator to adopt, approve or proceed with a plan, scheme, development regulations and amendments and revisions of them is final and not subject to an appeal.

**(3)** An appeal board shall not make a decision that does not comply with a plan, scheme and development regulations that apply to the matter being appealed.

**(4)** An appeal made under this section shall be filed with the appropriate board not more than 14 days after the person who made the original application appealed from has received the decision being appealed.

**(5)** An appeal shall be made in writing and shall include

- (a) a summary of the decision appealed from;
- (b) the grounds for the appeal; and
- (c) the required fee.

**(6)** A board may meet as often as it considers necessary to conduct its work in an expeditious manner.

**(7)** A person or group of persons affected by the subject of an appeal or their representatives may appear before a board and make representations concerning the matter under appeal.

**(8)** A board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.

**(9)** A board shall consider and determine appeals in accordance with this Act and a plan, scheme and regulations that have been registered under section 24 and having regard to the circumstances and merits of the case.

**(10)** In determining an appeal, a board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have its decision implemented.

(11) Notwithstanding subsection (10), where a council, regional authority or authorized administrator may, in its discretion, make a decision, a board shall not make another decision that overrules the discretionary decision.

(12) The decision of a majority of the members of a board present at the hearing of an appeal shall be the decision of the board.

(13) A board shall, in writing, notify the appellant and the appropriate council, regional authority or authorized administrator of the decision of the board.

#### **Hearing of evidence**

**43.(1)** Notwithstanding subsection 42(7), where

(a) due to the isolation of an area that is the subject of an appeal, it would be difficult or costly for a board to hear representations from a council, regional authority, authorized administrator or other person; or

(b) the parties to an appeal agree in writing,

a council, regional authority, authorized administrator and other persons who are parties to the appeal may

(c) submits written arguments to the board; or

(d) present arguments by teleconference, telephone or other electronic means,

and the board may deliberate and make a determination on the matter based upon those written or other submissions.

(2) Where a board considers it necessary to visit and view a property that is the subject of an appeal, one member of that board or another person whom the board may authorize, may make that visit and, in writing, report to the board on the visit and viewing of the property.

(3) information provided to a board under subsections (1) and (2) shall be considered to have been provided in the same manner as evidence before a board during a hearing of an appeal under section 42.

#### **Fees**

**44.(1)** The minister may establish fees for the making of appeals under this Part.

(2) A fee paid under subsection (1) shall be paid to the board hearing the matter and shall be retained by that board.

(3) Where an appeal made under section 42 is successful, an amount of money equal to the fee paid by the appellant under subsection (1) shall be paid to the appellant by the council, regional authority or authorized administrator that made the appealed decision.

#### **Development may not proceed**

**45 (1)** Where an appeal is made under section 42, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out, pending a decision of the board.

(2) Where, on appeal, a permit to develop is confirmed or ordered to be issued, a council, regional authority or authorized administrator shall issue the permit as confirmed or ordered.

#### **Appeal to court**

**46 (1)** A decision of a board may be appealed to the court not later than 10 days after that decision has been received by the appellant.

(2) An appeal of a decision of a board under subsection (1) may be made on a question of law or jurisdiction.

(3) A board may be represented by counsel and heard on an appeal under this section.

(4) the court shall either confirm or vacate the order of the board and where vacated the court shall refer the matter back to the board with the opinion of the court as to the error in law or jurisdiction and the board shall deal with the matter in accordance with that opinion.

**- End of Excerpt -**

The following process consists of excerpts from Ministerial Development Regulations (including the numbering) which can be found in the Appendices.

#### **"Notice of Right to Appeal"**

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

#### **Appeal Requirements**

- 6 (1) The secretary of the Appeal Board at the Department of Municipal and Provincial Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. John's, NL, A1B 4J6 is the secretary to all Appeal 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 Appeal Board.  
(2) The fee required under section 44 of the Act shall be paid to the Appeal 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.  
(3) The Appeal Board that hears the decision being appealed shall, subject to subsection 44(3) of the Act, retain the fee paid to the Appeal Board.  
(4) Where an appeal of a decision and the required fee is not received by an Appeal 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.

#### **Appeal Registration**

7. (1) Upon receipt of an appeal and fee as required under the Act and these regulations, the secretary of the Appeal Board as referred to in subsections 24(1) and (2), shall immediately register the appeal.

(2) Where an appeal has been registered the secretary of the Appeal Board shall notify the Authority of the appeal and shall provide to the Authority a copy of the appeal and the documentation related to the appeal.

(3) Where the Authority has been notified of an appeal that Authority shall within one week of notification 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.

#### **Development Prohibited**

8. (1) Immediately upon notice of the registration of an appeal the 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 the 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, the Authority shall not carry out work related to the matter being appealed.

#### **Hearing Notice and Meetings**

9. (1) An Appeal 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) An Appeal Board may meet as often as is necessary to conduct its work in an expeditious manner.

#### **Hearing of Evidence**

- 10 (1) An Appeal Board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under regulation 29(1) or their representative may appear before the Appeal Board and make representations with respect to the matter being appealed.  
(2) An Appeal 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 Appeal Board.  
(4) In the conduct of an appeal hearing, the Appeal Board is not bound by the rules of evidence.

## **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."

**- End of excerpt -**

## **2.7 ENFORCEMENT AUTHORITY**

### **2.7.1 Delegation of Authority**

The *Urban and Rural Planning Act, 2000* provides for delegation of enforcement responsibilities under section 109, where, an employee of a council may issue an order under the section. 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.

### **2.7.2 Right of Entry**

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

### **2.7.3 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 Act.

## **2.8 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 regulating or controlling the development, conservation, and use of land shall, under these Regulations apply to the entire Planning Area.

## **3.0 LAND USE ZONES**

### **3.1 LAND USE ZONING AND DEVELOPMENT STANDARDS**

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

The Planning Area is divided into Land Use Zones which are shown on the Zoning Map attached to, and forming part of, these Regulations. For each zone, the intent and governing policies are set out in Section 3 of the Municipal Plan.

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 zoning amendment shall be required in order to accommodate minor adjustments of the Use Zone boundaries. 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.

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.

The following zones were developed to reflect the needs of the Town of Avondale. The Municipal Plan states the Intent and Policies for each of the land use classes. The Development Regulations enable the implementation of these policies through the following zones:

The Town of Avondale's Land Use Zones are as follows:

- Residential zone
- Commercial zone
- Mixed Development zone
- Industrial zone
- Public/ Institutional zone
- Conservation Land Use Class:
  - Environmental Protection zone
  - Open Space, Parks and Trails zone
  - Protected Water Supply zone
- Resource zone

The following sections explain how to interpret the Use Zone Table for each zone in Section 3.

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

The Use Zone Tables set 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 and also in more detail in Sections 4, 5, 6 and 7.

### **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 Sections 3, 4, 5, 6 and 7).

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

Council is required to provide public notice of the application in accordance with Provision 2.6.3 and has considered any objections or representations which may have been received on the matter

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

As set out in Section 5, Accessory means aiding or contributing in a secondary way to a principal use to carry out its function. The definitions and examples of an accessory use and accessory building is provided in Section 5.

A permit is required for accessory uses and accessory buildings.

### **3.1.4 Uses Not Permitted**

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

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

The following uses will be permitted in any land use zone:

- Environmental protection (4.5.1);
- Open space, Parks and Trails (4.5.2)
- Mineral exploration not classed as 'Development' - Refer to 4.4.6;
- Public utilities providing to a service to development;

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

All Development within the Planning Area must conform to:

1. Policies set out in the Municipal Plan;
2. Development standards and conditions set out in the Development Regulations in Chapters 1 – 8.

3. Standards set out in the National Building Code and ancillary codes (plumbing, electrical, etc.);
4. Any other municipal regulation in force in the Planning Area regulating or controlling development, conservation, heritage, fences, and use of land and buildings under the Municipalities Act, 1999;
5. Requirements of federal and provincial legislation, regulations, and policy and guidelines.

If Council is aware that a proposed development may not comply with a particular provincial or federal act or regulation, it may require the applicant to provide confirmation that necessary government approvals have been obtained before issuing a development permit.

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.

Where these Regulations are more stringent than a provincial or federal act of regulation, these Regulations will apply.

If the proposed development is not a use that is a permitted or discretionary use in the Zone where the land is located; then, the applicant may consider an application to rezone the property.

### 3.2 RESIDENTIAL ZONE

USE ZONE TABLE: RESIDENTIAL	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> <li>-Single Detached Dwelling (4.7.1)</li> <li>-Semi-Detached Dwelling (double) (4.7.3)</li> <li>-Personal Care Home, Residential (4.7.8)</li> <li>-Subsidiary apartment (5.1.2)</li> <li>-Uses set out in 3.1.5</li> </ul>	<ul style="list-style-type: none"> <li>-Townhouse (4.7.4)</li> <li>- Apartment building (4.7.6)</li> <li>-Convenience store (4.3.12)</li> <li>-Home business (5.3)</li> <li>-Urban agriculture (4.2.2)</li> <li>-Marina (4.3.17)</li> <li>-Outdoor Market (4.3.21)</li> <li>-Public Gathering Places-Indoor (4.6.4)</li> <li>- energy generation facilities-residential only</li> </ul>

SITE DEVELOPMENT STANDARDS: RESIDENTIAL					
	Single Detached Dwelling		Semi-Detached (Double)		Townhouse/ Apt
Standards:	No services provided	One service: water	No services provided	One service: water	See Condition below
Lot area (m <sup>2</sup> )	1860	1400	2400	1860	See condition below
Frontage (m)	30	23	30	30	n/a
Building Line Setback	6-8	6-8	6	6	8
Side yard Width (m)	5	5	3	3	5
Side yard, Flanking (m)	8	8	15	15	15
Rear yard Depth (m)	15	15	6	6	15
Height)	10	10	10	10	12

DEVELOPMENT STANDARDS MULTI-UNIT RESIDENTIAL BUILDING	
<b>Minimum</b>	
Lot area per unit (m <sup>2</sup> )	140
Lot Depth (m)	30
Frontage (m)	30
Building line setback (m)	8
Side Yard (m)	3
Rear yard (m)	10
<b>Maximum</b>	
Lot Coverage	45%
Height	14

**Conditions:**

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.
2. Where a residential development abuts a waterway reservation the minimum rear year shall be 5 m measured from the rear property line or reservation., whichever is greater.
3. Townhouse development would require a Comprehensive Development application (2.2.4) which would outline the servicing subject to Service NL requirements. Note that an un-serviced (without Town water and sewer connection) Townhouse development with greater than 5 units requires a groundwater assessment.
4. Site Development Standards for Discretionary Uses:
  - o Must meet standards for Single Detached Dwelling (as noted above) or Commercial Use (4.2), whichever is greater;
  - o Must comply with buffers/separation distances set out in 4.1.3.

*Examples of semi-detached homes that look like single detached dwellings and do not detract from the attractiveness of the residential neighbourhood*





*Example of Town Home plans that would be suitable in Avondale; note the landscaping and colours as well as the offset frontages.*

### 3.3 COMMERCIAL ZONE

USE ZONE TABLE : COMMERCIAL ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> <li>- <i>Commercial Land Use Class (4.3): All Uses, EXCEPT Amusement Park/Attraction, Campgrounds, Resort</i></li> <li>- <i>Institutional/Public Land Use Class-All Uses (4.6) EXCEPT Cemetery (4.6.1) &amp; Public Gathering-Indoor (4.6.4) &amp; Sports and Recreation Facilities (4.6.6)</i></li> <li>- <i>Uses set out in 3.1.5</i></li> </ul>	<ul style="list-style-type: none"> <li>- <i>Apartment building (4.7.6) with commercial on main floor</i></li> <li>- <i>Public Gathering – Indoor (4.6.4)</i></li> </ul>

DEVELOPMENT STANDARDS: COMMERCIAL USE	
<b>Minimum Standards:</b>	
Frontage (m)	30
Lot size	Application must indicate lot size according to Service NL standards for onsite services
Front yard (building line) (m)	8 -or Condition 1 below at the discretion of Council
Side yard (m):	1 and 5 at the discretion of Council
Flanking yard (m)	6
Rear yard (m):	10
<b>Maximum Standards</b>	
Height (m)	18

2.

3. Conditions:

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.
2. Notwithstanding the standards in the Use Zone Table, Council may require the building line setbacks (building line) of new building to complement the setbacks of existing conforming buildings on adjoining or nearby lots on the same street.

### 3.4 MIXED DEVELOPMENT ZONE

USE ZONE TABLE MIXED DEVELOPMENT ZONE	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"><li>-Residential (all) -see condition 4 regarding apartment buildings</li><li>-Personal Care Homes-Residential (4.7.7)</li><li>-Amusement establishment/use (4.3.1)</li><li>-Business support service (4.3.7)</li><li>-Club and Lodge (4.3.10)</li><li>-Convenience store (4.3.12)</li><li>-General Service/repair (4.3.15)</li><li>-Medical or Dental Clinic (4.3.18)</li><li>-Personal Service (4.3.22)</li><li>-Offices (4.3.23)</li><li>-Restaurant – all categories (4.3.25)</li><li>-Retail (4.3.26)</li><li>-Protective and Emergency Services (4.6.3)</li><li>-Public Gathering Place – indoor (4.6.4)</li><li>-Uses set out in 3.1.5</li></ul>	<ul style="list-style-type: none"><li>-Bar (4.3.5)</li><li>-Outdoor Market (4.3.21)</li><li>-Home business (5.3)</li></ul>

#### Conditions:

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.
2. Residential development shall conform to the Development Standards set out in the Residential Zone.
3. Non-residential uses shall conform to the standards set out in the Commercial zone.
4. The apartment building can be a stand-alone building or combined with commercial, with commercial on the ground floor.

### 3.5 INDUSTRIAL ZONE

USE ZONE TABLE INDUSTRIAL	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"> <li>-Industrial – Light (4.4.5)</li> <li>- Industrial – General (4.4.4)</li> <li>-Natural Resource-related Industries (4.4.9)</li> <li>-Contractor – General (4.4.2)</li> <li>-Composting Facility (4.4.1)</li> <li>-Protective and Emergency Services (4.6.3)</li> <li>-Solid Waste Recycling/Disposal/Composting Site (4.4.11)</li> <li>-Uses set out in 3.1.5</li> </ul>	<ul style="list-style-type: none"> <li>-Marina (4.3.17)</li> <li>-Mineral exploration-development (4.4.6)</li> </ul>

INDUSTRIAL USE CLASS DEVELOPMENT STANDARDS	
<b>Minimum Standards</b>	
Front yard (building line) (m)	8
Side yard. (m)	3
Flanking yard (m)	8
Rear yard (m)	10
<b>Maximum Standards</b>	
Height (m)	18

#### Conditions:

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.

### 3.6 PUBLIC/INSTITUTIONAL ZONE

USE ZONE TABLE PUBLIC/INSTITUTIONAL	
PERMITTED USES	DISCRETIONARY USES
<p><i>-Institutional/Public Land Use Class – All Uses (4.6) EXCEPT Crematoria (discretionary use associated with funeral home) including but not limited to: hospitals, government offices, educational facilities, convention centres or major cultural centres, such as Provincial arts and culture centres, recreation complex, such as an arena, multi-use sports and entertainment centres, swimming pools; and, personal care facilities (larger than residential home), such as nursing or senior's homes, family and group care centres;</i></p> <p><i>-Protective and Emergency Services (4.6.3)</i></p> <p><i>-Uses set out in 3.1.5</i></p>	<p><i>-Club and lodge (4.3.10)</i></p> <p><i>-Outdoor Market (4.3.21)</i></p> <p><i>-Marina (4.3.17)</i></p> <p><i>-Resort (4.3.24)</i></p>

DEVELOPMENT STANDARDS: PUBLIC/INSTITUTIONAL	
<b>Minimum Standards in Metres (m):</b>	
Frontage	30
Front yard (building line)	8
Side yard	5 or 2.4 at the discretion of Council
Flanking yard	8
Rear yard	15
<b>Maximum Standards</b>	
Height (m)	18
Coverage (%)	45%

#### Conditions:

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.
2. Public/Institutional uses shall be encouraged to locate on arterial and collector roads.
3. All Public/Institutional developments shall provide information regarding access/egress and on-site parking and loading details as part of a traffic plan.

### 3.7 CONSERVATION LAND USE CLASS

#### 3.7.1 Environmental Protection Zone

USE ZONE TABLE	
ENVIRONMENTAL PROTECTION	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"><li>- <i>Environmental Protection (4.5.1)</i></li><li>- <i>Forest activities (4.4.3)</i></li><li>- <i>Uses set out in 3.1.5</i></li></ul>	<ul style="list-style-type: none"><li>- <i>Open space, Parks and Trails (4.5.2)</i></li><li>- <i>Marina</i></li></ul>

**Conditions:**

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.
2. Any development within a specified distance 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.

### 3.7.2 Open Space, Parks and Trails Zone

USE ZONE TABLE: OPEN SPACE, PARKS AND TRAILS	
PERMITTED USES	DISCRETIONARY USES
<ul style="list-style-type: none"><li>-Open space, Parks and Trails (4.5.2)</li><li>-Environmental Protection (4.1.5)</li><li>-Uses set out in 3.1.5</li></ul>	<ul style="list-style-type: none"><li>- Public gathering places-outdoor (4.6.5)</li><li>-Restaurant – Mobile Take Out, Street Vendor only (4.3.25.3)</li><li>-Outdoor Market (4.3.21)</li></ul>

#### Conditions:

1. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations;
2. Development standards for Open Space, Parks and Trails are at the discretion of Council;

### 3.7.3 Protected Water Supply Zone

PROTECTED WATER SUPPLY	
PERMITTED USE CLASSES	DISCRETIONARY USE CLASSES
<ul style="list-style-type: none"><li>-Environmental Protection (4.5.1)</li><li>-Open Space, Parks, and Trails (4.5.2)</li><li>-Uses set out in 2.3.2.5</li></ul>	<ul style="list-style-type: none"><li>-Forestry (4.4.3)</li><li>-Commercial Agriculture (4.2.1)</li><li>-Mineral exploration-development (4.4.6)</li><li>-Communications (4.8.1)</li><li>-Cottage (4.7.7)</li></ul>

#### Conditions:

1. All land use and development activities adjacent to or within a designated Protected Water Supply under the *Water Resources Act, 2002* must be referred to the Water Resources Management Division (WRMD) of the provincial government for review and approval – Refer to Land Use provisions in the WRMD Guidelines below;
2. No development is allowed without Water Resources approval (Section 39 permit);
3. Existing uses will continue as non-conforming uses (see section 2.4.3).
2. Where cottages are approved by both Council and the Water Resources Management Division, the development must be self-sufficient for water and sanitary sewer according the Service NL standards; no municipal services will be provided.
3. Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.

#### LAND USE EXCERPTS from the Water Resources Management Division Guidelines for Protected Public Water Supply Areas:

#### 1.0 OBJECTIVES

The policy will establish a mechanism for issuing a certificate of environmental approval under Section 39 of the Water Resources Act, SNL 2002 cW-4.01 for all development activities in a designated water supply area. The implementation of the policy guidelines will ensure sustainable development of natural resources without adversely affecting water quality.

- 5.1 This policy shall apply to public water supply areas designated under Section 39 of the Act.
- 5.2 Existing resource development and other activities will be allowed to continue unless it is established that these are impairing water quality or have potential to impair water quality.
- 5.3 If it is established that a particular activity is a source of pollution, then appropriate measures as outlined in Sections 11, 12 and 13 of this policy directive will apply.

5.4 The Minister may require proponents of existing activities, which have potential to impair water quality, to obtain his/her approval.

5.5 No development shall be carried out in a designated area except in accordance with this policy.

5.6 No person shall carry out any development in a designated area without obtaining prior approval in writing from the Minister.

## 6.0 ACTIVITIES NOT PERMITTED IN A DESIGNATED AREA

6.1 Placing, depositing or discharging or permitting the placing, depositing or discharging into a body of water any sewage, refuse, chemicals, municipal and industrial wastes or any other material which impairs or has potential to impair water quality.

6.2 Using an intake pond, lake or specified buffer zones for any activity detrimental to water quality and not permitted in the Act.

6.3 Using ice covered water body for transporting logs, riding skidoos/motor vehicles/all-terrain vehicles, leading of animals, or any other activity which impairs or has potential to impair water quality.

6.4 Using or operating existing facilities in such a manner which impairs or has potential to impair water quality.

6.5 Residential development (a sub-division of four or more lots), vehicle maintenance facilities, warehouses, service stations, industries, and chemicals and salt storage depots.

6.6 Storage and disposal of pesticides and manure, application of manure and chemicals in specified buffer zones, extensive land clearing, and peat land drainage without adequate treatment.

6.7 Clear cutting of forest in sensitive areas, establishment of camps and camp facilities, storage of chemicals, application of pesticides, drainage of peat land for afforestation, and application of toxic fire retardants.

6.8 Resorts, hotels/motels, and golf courses.

6.9 Activities, operations or facilities associated with aggregate extraction and mineral exploration such as work camps, vehicle parking and maintenance facilities, washing of aggregates, asphalt plants, discharge or deposit of waste material into a body of water, and significant disturbance to land for mineral exploration purposes.

6.10 Application of herbicides in the right-of-way, and use of chemically treated utility poles and other related structures.

6.11 Aquaculture development and associated activities having potential to impair water quality.

6.12 Processing and manufacturing plants having potential to impair water quality.

6.13 Cemetery, waste disposal facilities, and any other storage or disposal facilities that the Minister considers environmentally unacceptable.

## 7.0 ACTIVITIES REGULATED IN A DESIGNATED AREA

In a designated area, no person shall undertake any of the following activities without obtaining prior written approval from the Minister:

7.1 Expansion and upgrading of the existing activities, operations or facilities.

7.2 Construction of residential, commercial, industrial and institutional facilities or any other related activity including land clearing or drainage, construction of access roads, servicing of lands for subsequent use, or extension and upgrading of existing buildings or facilities.

7.3 Development of farm lands for crop production, forage production, vegetable production, and blueberry and other fruit production.

7.4 Forest logging, resource road construction and use, stream crossing for controlled access, preparation of skid trails and landing areas, silvicultural activities, tree farming, and other environmentally acceptable forestry operations.

7.5 Recreational activities or facilities including cottage development, fishing, swimming, boating, hiking, camp grounds, or canoe routes, vacation or other camps, or recreational facilities.

7.6 Mineral exploration related activities and aggregate extraction, or any other construction activity incidental to mining and quarrying including access roads, stream crossings, land drainage with adequate treatment, land clearing and excavation.

7.7 Installation of storm or sanitary sewer pipelines, pipelines for transmission of water for hydroelectric generation, agriculture uses, or any other purposes.

7.8 Construction of roads, bridges, culverts, and other stream crossings, and installation of power and telecommunication transmission lines.

7.9 Modification to intake structures, pumphouse, reservoir, etc. will require approval under Section 37 of Act.

7.10 Any other development or activity which, in the opinion of the Minister, has caused impairment or has potential to impair water quality.

## 9.0 BUFFER ZONES

9.1 The proponents shall provide the following widths of buffer zones along and around water bodies from the high-water mark in a designated area:

Watercourse (Body of water)	Buffer- Minimum width
• Intake pond or lake	150 m
• Intake river	150 m for 1 kilometre upstream and 100 m downstream of a water supply intake
• Main river channel	75 m
• Major tributaries, lakes or ponds	50 m
• Other watercourses	30 m (See condition (a.) below)

9.2 No development activity shall be permitted in buffer zones except those which are intended to promote vegetation.

## 10.0 RESPONSIBILITIES OF MUNICIPAL AUTHORITY

The municipal authority or person responsible for the operation and maintenance of a waterworks shall:

10.1 Ensure that no development activities are undertaken in a designated area without approval from the Minister.

10.2 Ensure that approved development activities are undertaken in strict compliance with the terms and conditions of the approval.

10.3 Where an approval or this policy is violated, serve a stopping order on the violator after obtaining prior approval from the Minister for stopping any work or operation either permanently or temporarily which is not carried out according to the terms and conditions of the approval and has impaired or has potential to impair water quality.

10.4 Request the Minister for the appointment of a Watershed Monitoring Committee and the development of a watershed management plan, if the designated area is under increasing pressure for multiple development activities.

--- END OF EXCERPT ---

### 3.8 RESOURCE ZONE

USE ZONE TABLE RESOURCE ZONE	
PERMITTED USES	DISCRETIONARY USES
<p>-Commercial Agriculture (4.2.1)</p> <p>-Forestry Activities (4.4.3)</p> <p>-Mineral Working (4.4.7)</p> <p>-Environmental Protection (4.5.1)</p> <p>Open Space, Park and Trails (4.5.2)</p> <p>-Uses set out in 3.1.5</p>	<p>-Veterinary Clinic (4.3.28)</p> <p>-Outdoor Market (4.3.21)</p> <p>-Natural Resource Use (4.4.8)</p> <p>-Natural Resource-Related Uses (4.4.9)</p> <p>-Industrial – General (4.4.4)</p> <p>-Cemetery (4.6.1)</p> <p>-Campground (4.3.8)</p> <p>-Contractor- General (4.4.2)</p> <p>-Mineral exploration-development (4.4.6)</p> <p>-Public Gathering – Indoor (4.6.4)</p> <p>-Public Gathering – Outdoor (4.6.5)</p> <p>-Amusement Park/Attraction (4.3.1)</p> <p>-Salvage/scrap yard (4.4.10)</p> <p>-Service Station (4.3.27)</p> <p>-Kennel (4.2.2.4)</p> <p>-Protective and Emergency Services (4.6.3)</p> <p>-Resort (4.3.24)</p> <p>-Marina (4.3.17)</p> <p>-Residential: (1) Single detached dwelling only in association with a permitted use</p> <p>-Cottage (4.7.7 and See Conditions 4 &amp; 5)</p>

#### Conditions:

1. A Subject to all other applicable requirements in Chapters 1, 2, 4, 5, 6, 7, 8, and Appendices of the Development Regulations.
2. Any applications within the Agricultural Development Area must be referred to the Land Resource Stewardship Division of the Department of Fisheries and Lands Resources;
3. Agricultural development standards are subject to approval of the Land Resource Stewardship Division of the Department of Fisheries and Lands Resources and the Government Service Centre.
4. Remote cottages and cottage developments or subdivisions are permitted in the Resource zone outside of the Eastern Region Cottage Development Freeze Directive 0019-99-E (established by a Minute in Council).

5. In the Resource 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 Resource zone.
6. For developments requiring tree removal, Council will consider measures to maintain landscape connectivity, green belts should be connected to forested areas or other habitat patches to create travel corridors for various wildlife species.
7. Council will encourage vegetation clearing to be done outside the May 01 to July 31 period (note that some raptors start breeding in March) as disturbance can be most detrimental during that sensitive breeding/ young rearing period.
8. Sites shall be carefully considered with regard to access and potential future demand for Municipal services or illegal conversion to permanent homes.
9. In the Resource zone, a single dwelling may be permitted only as accessory to an agricultural use. A dwelling is subject to the approval of the Land Resource Stewardship Division of the Department of Fisheries and Lands Resources and the Government Service Centre before a permit is issued by the Town.
10. Recreational cottages with road access (usually a resource road) allocated on Crown land should preferably be located within a designated cottage development area by the Lands Branch, Government of Newfoundland and Labrador.

## 4.0 LAND USE DEFINITIONS AND DEVELOPMENT CONDITIONS

### 4.1 GENERAL CONDITIONS APPLICABLE TO ALL DEVELOPMENT

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

#### 4.1.1 Access and Driveways

##### ACCESS

**Definition:** 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 (*definition from the Minister's Development Regulations*).

##### Conditions

1. All development shall front on a publicly maintained road.
2. An access to a municipal road shall be located as specified by the Council (see Chapter 8)
3. All access on 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 Section 7.
7. Notwithstanding subsection 1, the following types of development may be allowed to front on to a private road only if they are part of a Comprehensive Development (that is, 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.

##### SHARED DRIVEWAY (ACCESS)

**Definition:** A Shared Driveway (Access) 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. Most private roads are not designed to the same standards as public streets.

##### Conditions:

1. A shared driveway is considered a private road and it shall not be maintained by Council;
2. No more than three 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.

#### **4.1.2 Archaeological Sites**

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 of the Department of Tourism, Culture Industry and Innovation. 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

Before any development proceeds in the vicinity of a known archaeological site, the application shall be referred to the Provincial Archaeology Office.

#### **4.1.3 Buffers and Separation Distances Between Land Uses:**

**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 sites, uses or districts intended to obstruct or reduce the noise, lighting glare, unsightly views or any other nuisance of one land use or property onto another.

**Conditions:**

1. The 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.
2. 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 1.8 m, or a buffer of 10 m between residential and industrial, and 3 m between residential and commercial.
3. 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.

The following tables provide recommended and mandatory separation distances between various types of land uses that may not be compatible, depending upon location and site conditions. The first table deals with Non-Residential uses adjacent to or near Residential uses; and the second table deals with non-residential uses and roads and other non-residential uses and roads.

Separation Between Non-Residential Uses and Residential Uses (minimum)		
Non-residential uses:	Buffer (m)	Mandatory (M) or Recommended ((R)
Agriculture – farm operation for livestock	600	M
Amusement establishment	45	R
Auto repair, body repair, car wash	20	R
Bar, club, lodge,	100	R
Cottage	-	At discretion of Council
Industrial – general and hazardous	100	R
Industrial – light	10	R
Kennel - > 4 dog runs	215	R
Kennel – four or fewer dog runs	100	R
Mineral working	300	M
Public institutional	3	R
Restaurant – drive through	3	R
Salvage/scrap yard	200	M
Solid waste recycling/disposal &composting sites	300	R

Separation Between Non-Residential Uses (minimum)		
Uses	Separation distance in metres	Mandatory (M) or Recommended (R)
<b>Agriculture farm operation</b>	45 from Centerline of Street	M
<b>Cottage</b>	30 m from Watercourse	M
<b>Mineral working</b>	150 m from proposed development	M
	90 m from Designated Protected Road	M
	50 m from Local public roads	M
	50 m Commercial, public &institutional uses	M
<b>Salvage/scrap yard</b>	100 m from Existing/future commercial areas	M
	25 m Public highway or street	M
	50 m from Watercourse/water body	M
<b>Solid waste recycling/disposal and composting sites</b>	150 m from Potential development areas	R
	50 m from Watercourse/ water body	M
	90 m Class I and II Protected Roads	M
	50 m from Class III and IV Protected Roads & local roads	M

#### **4.1.4 Comprehensive Development**

**Definition:** Comprehensive Development means an integrated development which may involve a single use class or a mix of use classes or a mix of uses that responds to a unique market opportunity and involves special development standards not otherwise permitted in the zone.

**Conditions:**

Subject to the following conditions:

1. When a Comprehensive Development is proposed, a Comprehensive Development application (2.2.2 & 2.2.4) must be submitted.
2. A comprehensive development must front on to a public road and comply with use requirements of the Zone within which it is located. 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 Resources Management Division and Service NL;
3. Roads and services provided in a comprehensive development will be treated as if they were public roads, public services and public utilities for the purpose of approvals by the Authority and other agencies.
4. The most common example of a comprehensive 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 comprehensive 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:
5. 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,
6. a Development Agreement having a Comprehensive 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.

#### **4.1.5 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 Avondale Municipal Plan and Development Regulations, including zoning and permitting requirements.

#### **4.1.6 Land Use Zoning Map Overlays: Other Government Designations**

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

Where available, the Land Use zoning mapping will show the boundaries of land use designations and buffers required by provincial or federal legislation. For the Town of Avondale, the designations include:

- a. the *T'Railway Provincial Park (Parks Act, 1990)* managed by the Parks and Natural Areas Division, Department of Tourism, Culture, Industry and Innovation;
- b. the *Agricultural Development Area (ADA) (Lands Act, 1990)*: development applications within the non-urban area of the community overlapping Avondale ADA must be referred to the Land Resource Stewardship Division for appropriate review according to provincial legislation and regulation;
- c. *Blueberry Management Areas (Lands Act, 1990)*: Any application for development or use in an area identified as either a Blueberry Management Unit or Area will be referred to the Land Resource Stewardship Division, Department of Fisheries and Lands Resources for review to consider whether the proposed development would compromise future commercially viable operation of the area as a blueberry production site;
- d. *Protected Road Building Control Line (Protected Road Zoning Regulations under the Urban and Rural Planning Act, 2000)*: The Municipal Plan and Development Regulation land use policies, designations, zoning and development regulations apply along Protected Roads within the Planning Area boundary. A Development Permit is required from Service NL for development occurring along a Protected Road within the Planning Area boundary as follows:
  - a. 150 m from the centreline of the provincial highway on either side - from the Planning Area to the Municipal Area boundary; and,
  - b. 100 m from the centreline of the provincial highway within the Municipal Area boundary.
- e. the 300 m *Quarry Buffer* (refer to Section 4.4.13);
- f. the *Nalcor Easement* for the Lower Churchill Transmission Line (refer to Section 4.8.2);
- g. the buffer for the former dump site, where proposals for new development would need to be referred to the Waste Management Division, Department of Municipal Affairs and Environment.

#### **4.1.7 Nuisance**

No building or land shall be used for any purpose which may be dangerous 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 and any other authority having jurisdiction.

#### **4.1.8 Soil or Quarry Material Removal, Soil Deposit and Site Grading**

1. No development permit for removal or deposit of soil, 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 m<sup>3</sup> 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 Regulations.
2. Removal or deposit of soil, topsoil, sods, or the excavation and removal of excavated material or grading requiring a development permit must meet the following conditions:
  - a. land intended for the activity or grading has a slope of less than 25%;
  - b. resulting slopes are stable and without hazards;
  - c. 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;

- d. 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.
3. Restrict development in environmentally sensitive areas such as steep slopes and areas prone to landslides and rockfall;
4. 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, Department of Natural Resources, at [quarries@gov.nl.ca](mailto:quarries@gov.nl.ca). Note that quarry materials include but are not limited to aggregate, fill, rock, stone, gravel, sand, clay, borrow material, topsoil, overburden, subsoil, peat.

#### **4.1.9 Water Body Protection (watercourse or 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 m** 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 from the Water Resources Management Division of the Department of Municipal Affairs and Environment is required for:
  - a. Any infilling work within 15 m of a body of water; and,
  - b. 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);
3. A Non-Domestic Water Use Permit from the Water Resources Management Division of the Department of Municipal Affairs and Environment is required before construction and for all existing, new or planned water use from any water source;
4. On-site sewerage disposal systems are prohibited within 30 m from a waterbody or watercourse;
5. Where fish habitat is affected, Fisheries and Oceans Canada must be consulted;

## 4.2 AGRICULTURE LAND USE CLASS

### 4.2.1 Commercial Agriculture:

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

... "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 following conditions. (Environmental Farm Practices Guidelines for Livestock Producers in Newfoundland and Labrador and Environmental Farm Practices Guidelines for Poultry Producers in Newfoundland and Labrador);
2. The structure shall be at least 600 m from:
  - a. a residence (except a farm residence or a residence which is a nonconforming use in any zone in which agriculture is a permitted use class in the Use Zone Schedules of these Regulations),
  - b. an area designated for residential use in an approved Plan, and
  - c. a Provincial or Federal Park.
3. The structure shall be at least 45 m from the boundary of the property on which it is to be erected.
4. The structure shall be at least 90 m from the centre line of a street.
5. The erection of the structure shall be approved by the Land Resource Stewardship Division, Government of Newfoundland and Labrador.
6. Manure storage must be located a minimum of 100 m from the boundary of the property;
7. Service NL must approve all manure systems
8. 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 Resource Stewardship Division, Government of Newfoundland and Labrador.

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

#### **4.2.2 Urban Agriculture**

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

**General Conditions:**

1. Urban agricultural uses must meet the requirements for a home business (refer to section 5.3 below)
2. A permit is not required for any residential garden or home gardening that does not involve permanent structures, on-site sales, or keeping of animals.

##### **4.2.2.1 Community Garden**

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

##### **4.2.2.2 Livestock and Poultry Standards**

The following standards apply to livestock and poultry:

1. For every 0.4 hectare (with a minimum of 0.4 hectares), one of the following shall be allowed:
  - 2 of these livestock species: cow, bull, horse, mule, ass, swine or llama, and includes their young;
  - 6 sheep/goats;
  - 12 head of poultry (excluding roosters);
  - 12 rabbits;
2. On lots smaller than 0.4 hectares, but greater than  $669 \text{ m}^2 = 6$  chickens, no roosters shall be allowed.

##### **4.2.2.3 Kennel**

**Definition:** Kennel means a building or portion thereof used for the keeping or boarding of more than eight (8) domestic animals, 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 (3 inches) 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 m from any property line, and 90 m 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: examples include 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 use conditions;

##### **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; examples include 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 Comprehensive Development application (2.2.2 & 2.2.4);
2. Must meet Use Zone Site Development Standards and use conditions or except for temporary amusement operations;

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

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

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

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. Recommend a separation distance of 20 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. 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.

#### **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 use 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. 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;
5. A minimum buffer between residential use and vehicle repair, body repair, car wash shall not be located closer than 20m from residential use is recommended; and,
6. A parking area abutting a residential lot should be appropriately screened by a fence, wall, or hedge of height of about 2.4 m and located a minimum distance of 1 m from the edge of the parking area.

#### **4.3.5 Bar**

**Definition:** 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, beverage rooms, private clubs, cocktail lounges, and similar uses.

**Conditions:**

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

#### **4.3.7 Business Support Service**

**Definition:** 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 use 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 Comprehensive 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
  - c. Parking areas for proposed campground, i.e., on individual sites, for visitors, etc.
  - 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 for proposed campground
  - f. Landscaping for proposed campground: between sites and different uses on the site;
  - 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 bylaws and 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 (not a home business)**

**Definition:** Child care 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. (Note: child care - residential is found in section 5.3.3.3)

**Conditions:**

1. A Child Care Centre shall be duly licensed and approved, staffed, equipped and operated in accordance with the requirements of the agencies having jurisdiction or authority;
2. The section of the street on which the use is located allows sufficient area and sight distance for the safe and convenient drop off and pick up of children without hindering the safety and convenience

of vehicular and pedestrian traffic on the street, or the development provides adequate off-street drop off or pick up spaces satisfactory to Council; and,

3. The use must be compatible with nearby uses.

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

**Definition:** Club or lodge means a building or structure used by an association or organization for fraternal, social, or recreational purposes.

**Conditions:**

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

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

**Definition:** Contractor, limited (small) means a building or part thereof providing services for electrical, plumbing, heating, painting and similar contractor services to individual households including accessory sale of goods associated with this service where all materials are within an enclosed building 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 use conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;

#### **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.

**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. Adequate provision for on-site parking, loading, buffering and landscaping must be provided;
4. The hours of operation are appropriate to the nature of the building and surrounding neighbourhood and the operation does not create a nuisance.
5. A buffer consisting of a sound-proof fence and landscaping may be required between convenience store and adjacent to residential uses, as determined by Council. 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.
6. A Take Out associated with a convenience store shall be subject to the following standards:

- a. A Take-Out Food Use shall have a parking area or stacking lane with a minimum length before the pick-up window, as determined by Council during the review of the application based on the anticipated on the level of traffic to be generated as indicated in the application;
- b. Order boards and signage shall be designed to minimize impact on adjacent residential or institutional uses.

#### **4.3.13 Custom Manufacturing Service (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 use 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 lot/taxi stand)**

**Definition:** Garage, public 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 use conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties; recommend 20 m buffer from residential uses;

#### **4.3.15 General Service/Repair**

**Definition:** General Service/repair 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 use 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 (rather than 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. Must meet Use Zone Site Development Standards and use conditions;
2. The establishment must be registered with and receive a rating with Canada Select and approved by the Department of Tourism, Culture, Industry and Innovation.
3. Units may be rented on a temporary basis but not as an open-ended monthly apartment.
4. A commercial residential 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 commercial-residential establishment for more than three months out of every calendar year.
5. The commercial-residence shall contain a lobby with a front desk and office, along with a maintenance, housekeeping and laundry room(s) large enough to accommodate the needs of the commercial-residence;
6. Housekeeping services including cleaning, provision of clean linen and towels (daily or weekly) will be provided. Hostels may additionally offer organized and managed cooperative cleaning and cooperative kitchen;
7. 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;
8. 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;
9. The commercial-residence 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; and,
10. 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 Comprehensive Development application (2.2.2 & 2.2.4);
2. Must meet Use Zone Site Development Standards and use 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 shall be landscaped and screened to the requirements of the Council;

6. Marinas shall be serviced with a supply of potable water and facilities for the collection and disposal of wastewater in a manner acceptable to the Council;
7. Wharf/Boathouse/Slipway/Breakwater structures shall follow the guidelines for the *Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses* which are available at:  
[http://www.env.gov.nl.ca/env/waterres/regulations/appforms/Guidelines\\_for\\_Wharves.pdf](http://www.env.gov.nl.ca/env/waterres/regulations/appforms/Guidelines_for_Wharves.pdf)  
The Applicant must obtain a permit under of the Water Resources Act, 2002 under Section 48 (<http://assembly.nl.ca/Legislation/sr/statutes/w04-01.htm>) for any infilling or dredging work associated with these structures or other works near or in any body of water prior to the start of construction.

#### **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 use 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. Must meet Use Zone Site Development Standards and use conditions;
2. The establishment must be registered with and receive a rating with Canada Select and approved by the Department of Tourism, Culture, Industry and Innovation;
3. Units may be rented on a temporary basis but not as an open-ended monthly apartment;
4. A commercial residential 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 commercial-residential establishment for more than three months out of every calendar year;
5. The commercial-residence shall contain a lobby with a front desk and office, along with a maintenance, housekeeping and laundry room(s) large enough to accommodate the needs of the commercial-residence;
6. Housekeeping services including cleaning, provision of clean linen and towels (daily or weekly) will be provided. Hostels may additionally offer organized and managed cooperative cleaning and cooperative kitchen;
7. 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;
8. 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;

9. The commercial-residence 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; and,
10. 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 License Act, 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 with which the patio is associated, or 50 persons, whichever is the greater;
2. It is recommended that outdoor commercial patio in any yard facing or abutting a residential zone or abutting a yard or lane facing or abutting a residential zone should be:
  - a. located a minimum of 30 m from the residential zone; and
  - b. 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 shall have a minimum setback of one decimal 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 shall be so 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. No loading space shall be required for an outdoor patio restaurant;
10. No music (whether performed live or recorded), dancing or other forms of entertainment shall be permitted;
11. 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 not limited to, farmers markets, fish market, flea markets or other types of goods.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use 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 use 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. Typical Uses include: 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 use 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.

**Conditions:**

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

#### 4.3.25 Restaurants

##### 4.3.25.1 Drive-Through and Take-Out

**Definition:** Restaurant -drive-through and 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. A Drive-Through Restaurant shall have a stacking lane with a minimum length before the pick-up window, as determined by Council based on the projected the level of traffic to be generated by the drive-through.
2. A minimum of 6 m after the pick-up window to on-site aisle or parking area;
3. It is recommended that a Drive-Through Use related to a shop or bank use shall have a stacking lane with a minimum length of 18 m) from the pick-up window or automated teller machine and a minimum of 6 m after the pick-up window or automated teller machine to the on-site aisle or parking area;
4. Drive-through stacking lanes shall not be located between the street and the building;
5. Drive-through stacking lanes shall be located away from adjacent residential and institutional uses whenever possible;
6. Drive-through stacking lanes should be separated by raised islands, be well signed to provide for ease of use and located so as to avoid crisscrossing of lanes;
7. Order boards with an intercom shall be designed to minimize noise impact on adjacent residential or institutional uses. Council may require the applicant to undertake a Land Use Impact Assessment to assess the impact of the proposed Drive-Through Use and mitigation measures where the Drive-Through Use is in close proximity to residential uses;
8. No drive-through stacking lane, order window, or order board shall be located within 3 m of a lot line abutting a residential use;
9. A buffer consisting of a sound-proof fence and landscaping shall be provided adjacent to residential uses. A fence, berm, and landscaping or a combination of these elements shall be used to reduce headlight glare, order board lighting, and noise from the Drive-Through Use. Garbage receptacles shall be placed either before the pick-up window or after the pickup window as determined by Council;
10. If the use of any land, building or structure is composed of a combination of Drive-Through 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; and,
11. Must meet Use Zone Site Development Standards and use 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 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 use conditions; and,
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*.

**Conditions:**

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

1. The parking of a vehicle or trailer for vending or office purposes shall only be permitted as a subsidiary use on a lot with an existing principal building.
2. The parking of a vehicle or trailer shall not be located on any required landscaped yards.
3. The parking of a vehicle or trailer shall only be permitted if the lot has a sufficient parking area to accommodate the parking requirements of the principal building or use on the lot and the subsidiary vehicle or trailer use with its associated parking.
4. The parking of a vehicle or trailer shall not hinder lot access or egress or create an obstruction to vehicles entering or exiting the lot.
5. If a vehicle or trailer is used for the purpose of the preparation, cooking, and/or sale of food and/or refreshments, the following approvals are required prior to the placement of a vehicle or trailer on the lot:
  - a. approval from the Regional Fire Department regarding the appliances to be used and the required fire suppression measures, and
  - b. approval from the Provincial Department of Health regarding the storage and preparation of food and/or refreshments.
6. A vehicle or trailer will be required to provide, or have access to, washroom facilities as determined by Council.
7. Council shall limit the length of the Development Permit to a maximum of one year and the permit may be renewed on an annual basis if the applicant wishes to continue the use.

#### **4.3.26 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 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 conditions;

#### **4.3.27 Service Station**

**Definition:** Service Station means land or building used exclusively for the sale/installation of petroleum products 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 that apply to both Residential and Highway Service Stations:**

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 shall 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;
  - a. Lot Area (minimum) 900 m<sup>2</sup>
  - b. Lot frontage (minimum) 48 m; or 35 m along each street at intersection
  - c. Building Height (maximum) 1 storey
  - d. Building Line (minimum) 6 m
  - e. Building Line – Canopies (minimum) 3 m
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.

#### **4.3.27.1 Service Station – Residential**

**Definition:** Service Station-Residential is a Service Station as defined above which may have a convenience store, snack bar or drive-through or take-out restaurant subordinate to the main use but is not a truck stop (as in a Service Station – Highway).

**Condition:**

1. All Service station requirements apply;

#### **4.3.27.2 Service Station –Highway**

**Definition:** Service Station-Highway includes a full restaurant, convenience store and other services for the travelling public; and may include a truck stop and services for transport trucks.

**Conditions:**

1. All Service station requirements apply;
2. Required to submit a Comprehensive Development application (2.2.2 & 2.2.4); and,
3. Provide adequate separation of areas intended primarily for trucks from areas for cars, buses, recreational vehicles, vehicle washes, repair areas, trash enclosure areas and other traveler services waste dumping, passive recreation and structures such as a visitor information centre.

#### **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. Facilities for the overnight care of animals undergoing treatment may be permitted indoors and is considered incidental to the hospital use. A kennel is not permitted in association with a veterinarian clinic.

**Condition:**

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

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

#### **4.4.1 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.

**Condition:**

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

#### **4.4.2 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.

**Condition:**

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

#### **4.4.3 Forestry Activities**

**Definition:** Forestry activities have the meaning as defined in the *Forestry Act, 1990* as set out below:

“.... “forestry activities” include but are not limited to forest access road construction, maintenance and decommissioning of forest access roads, timber harvesting, silviculture treatment, forest protection, forest management research and monitoring, conservation activities for the maintenance of ecosystems and other activities carried out in accordance with sustained yield forest management practices under a sustainable forest management plan;....”

**Conditions:**

1. Required to submit a Comprehensive 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 use 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.

#### **4.4.4 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, 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 Comprehensive Development application (2.2.2 & 2.2.4)
2. Must meet Use Zone Site Development Standards and use 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.

#### 4.4.5 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 Comprehensive Development application (2.2.2 & 2.2.4);
2. Must meet Use Zone Site Development Standards and use 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.

#### 4.4.6 Mineral Exploration

**Definition:** Mineral exploration refers to the search for mineral deposits. Mineral exploration ranges from hobby prospecting to advanced techniques such as trenching and diamond drilling. Mineral exploration activities may include traditional prospecting, geochemical sampling, airborne and ground-based geophysical surveys, line cutting, test pitting, stripping of bedrock, trenching, and diamond drilling, and may be accompanied by the creation of new (temporary) access trails, equipment laydown areas, campsites, or, less commonly, constructed access roads. For the purposes of municipal planning, exploration for quarry materials (e.g. sand, gravel) should be considered a form of mineral exploration and included in the definition of mineral exploration.

The Mineral Lands Division, Mines Branch, Department of Natural Resources, administers the Mineral Act 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 use conditions;
2. ***Mineral exploration that does not meet the definition of 'Development':*** Mineral exploration that does not meet the definition of 'Development' and does 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) will be permitted anywhere in the Planning Area, provided that adequate notification is provided to Council.
3. ***Mineral exploration, which is classed as 'Development', may be permitted provided that:***
  - 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 Departments of Natural Resources, Government Services, and Environment and Conservation, and any other relevant Provincial agency.
  - d. Basic environmental requirements for mineral exploration are already set out in the Mineral Regulations under the Mineral Act, 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. Should a town have concerns about any mineral exploration activity, whether before or after the issuance of an exploration approval from the Department of Natural Resources to conduct the work, the town should 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. According to the Mineral Lands Branch, mineral exploration that is classed as development should 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.

#### **4.4.7 Mineral Working**

**Definition:** Mineral Working means land or buildings used for the working, stockpiling or extraction of quarry materials as defined under the *Quarry Materials Act, 1998*, including peat extraction.

##### **Conditions**

- 1. 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, Department of Natural Resources. Note that there are 5 sites currently in operation in the Planning area. Quarry materials include but are not limited to aggregate, fill, rock, stone, gravel, sand, clay, borrow material, topsoil, overburden, subsoil, peat. Quarry materials produced as a by-product of an approved development may be removed from the development site provided that 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 Department of Natural Resources be made aware of approved developments where the removal of quarry materials is taking place or may take place.
- 2. The environmental standards in the Mineral Regulations under the Mineral Act will apply.
- 3. Council shall be satisfied that the mineral working areas will not create a nuisance and will not adversely affect the amenity of the specified development or natural feature. Currently there are five quarries within the Planning Area boundary. No mineral working shall be located closer than the minimum distances set out below to the specified development or natural feature:

4. Minimum Buffer Distance of Pit and Quarry Workings from:

1. Existing or proposed Residential Development to:
  - where no blasting is involved.....300 m
  - where blasting is involved.....1000 m
2. Any other developed area or area likely to be developed during the life of the pit or quarry working.....150 m
3. Public highway or street.....50 m
4. Protected Road.....90 m
5. Waterbody or watercourse.....50 m

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

#### 4.4.8 Natural Resource Use

**Definition:** Natural resource use means the use of land or buildings for the production and harvesting or extraction of natural resources such as, agriculture, forestry, fisheries us or mineral working activities.

**Conditions:**

1. Required to submit the equivalent of an 'Comprehensive Development application (2.2.2 & 2.2.4) which in could consist of a Farm Business Plan for agriculture proposals, Forestry Management and annual operating plans for forestry, a proposal for aquaculture, the detailed quarry permit submission including operation and rehabilitation plans for mineral working activities; and, the Environmental registration documents of each as required under the Environmental Assessment Regulations;
2. Must meet Use Zone Site Development Standards and use conditions;

#### 4.4.9 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 use conditions;

#### 4.4.10 Salvage/Scrap Yard

**Definition:** Salvage/scrap yard means an area of land or lot including any building or structure used for the receipt, storage, sale, re-sale and processing of waste or surplus automobile, transportation vehicles

or industrial equipment, including any parts or pieces that have been removed, but does not include a solid waste recycling/disposal and composting site.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. A scrap yard or solid waste storage or disposal site shall be screened in the following manner where it is visible from a public street or highway, developed area, or area likely to be developed during the life of the use:
  - a. Where tree screens exist between the use and adjacent public highways and streets or other land uses (excepting forestry and agriculture), the tree screens shall be retained in a 30-m-wide strip of vegetation so that visibility of any part of the use from the surrounding uses or streets will be prevented. The tree screens must be maintained by the owner or occupier of the use to retain 30 m in a forested appearance.
  - b. Where vegetation dies or is removed from the 30 m strip, the Council may require new trees of a minimum height of 1 m be planted to fill in the areas affected to the satisfaction of the Council or, at the discretion of the Council, where no tree screens exist of sufficient width and density to constitute a visual screen, earthen berm shall be constructed to a height sufficient to prevent visibility of any part of the use from adjacent uses (exception forestry and agriculture) or adjacent public highways and streets. The berm shall be landscaped to the Council's satisfaction.
3. It is recommended that a screen fence satisfactory to the Town of at least 2.4 m height is erected around the area used for open storage;
4. Where it is located within or adjacent to a commercial, residential or institutional area or development, there is no outdoor storage;
5. Unless the Council is satisfied that the use will not create a nuisance and will not adversely affect the amenity of the specified development or natural feature, no scrap yard or solid waste storage or disposal site shall be located closer than the minimum distances set out below to the specified development or natural features:
  - a. Existing or proposed Residential Development - 300 m
  - b. Any other developed area or area likely to be developed during the life of the scrap yard or solid waste storage or disposal site- 150 m
  - c. Public highway or street- 50 m
  - d. Protected road - 90 m
  - e. Water body or watercourse- 50 m

#### **4.4.11 Solid Waste Recycling/Disposal and Composting Site**

**Definition:** Solid waste recycling/disposal and composting means a waste disposal site as defined by the guidelines established under the *Environmental Protection Act, 2002*, such as waste transfer stations, composting or recycling.

**Conditions:**

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

2. A vegetated or landscaped buffer zone of at least 15 m around the perimeter of the use, in order to minimize any potential nuisance associated with noise, dust, or odors, or any objections based on visual aesthetics is provided;
3. There is adequate availability of utilities, including water, sewer, and electricity, to provide water for firefighting and wash down of floors, electrical power for machinery and lighting, and for staff amenities;
4. The volume of material to be handled and/or stored is provided and the facility designed with sufficient capacity to handle peak material volumes;
5. Measures to prevent storm water and runoff from contacting waste materials will be required and all waste containers used shall be leak proof or provide for the collection and treatment of contaminated water and other liquids. Proper disposal of contaminated water shall be ensured;
6. Fencing shall be provided around the perimeter of the site, with a lockable gate at any entrance point. The type of fencing may vary with the natural site features;
7. Containers intended to receive organic waste will be required to have lids, screens, or covers that will prevent access by bears and other predators, rodents, and birds, or be placed inside predator-proof enclosures;
8. Where organic wastes are involved, buildings shall be specifically designed to prevent infestation by rats and other small mammals, and to be predator-proof.
9. If the solid waste recycling/disposal or composting site is visible from a public street or highway or a developed area, then the visual buffer is required to a height sufficient to prevent visibility;
10. No solid waste disposal site shall be located closer than 1.6 km from a residential development.

## **4.5 CONSERVATION LAND USE CLASS**

### **4.5.1 Environmental Protection Area**

**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.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. Nothing in these 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. Provide public access to identified environmentally significant areas in appropriate locations where there is no danger to public safety, and where significant natural features and ecological functions can be protected;
5. Require that development of 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,

6. 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 and development are limited to trails, picnic areas, playgrounds.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. Nothing in these 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. 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.
5. In the Resource zone: Recreational 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. A landscape plan shall be submitted as part of the Development Application. The landscape plan should 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. A minimum six 6 m wide buffer should 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 should 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 Affairs and Environment and shall be developed in accordance with the requirements 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, daycare, shall 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 shall 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, swimming pools; and,
- f. Personal Care Facilities (larger than residential home), such as nursing or senior's homes, family and group care centres.

**Conditions:**

1. Required to submit a Comprehensive Development Application (2.2.2 & 2.2.4)
2. Must meet Use Zone Site Development Standards and use conditions;
3. For Personal Care facilities, the following standards apply:
  - a. The development will be treated as a single Comprehensive Development as set out in Part II of these 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. The total lot coverage of all buildings will not exceed 35%.
- g. adequate noise separation shall be maintained between the use and adjoining dwelling units in an apartment building,
- h. adequate noise separation shall be maintained between the use and adjoining commercial uses,
- i. a fire exit for the exclusive use of the facility use shall be provided,
- j. 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,
- k. parking as required in these Regulations shall be provided and reserved for the exclusive use of the facility use and identified as such on the parking lot,
- l. a minimum of 5 m<sup>2</sup> of net floor space per person shall be provided for use by the facility users, this aggregate floor space shall be utilized for the purpose of group amenity areas and individual rest areas, and

#### **4.6.3 Protective and Emergency Services**

**Definition:** Protective and emergency services means 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 use conditions;
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise 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 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 of onsite use and traffic.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions, except, 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.
2. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
3. Crematory facilities may be allowed as an 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, daycare 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, informal outdoor recreation, such as 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 Comprehensive Development Application (2.2.2 & 2.2.4)
2. Must meet Use Zone Site Development Standards and use 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 main or primary use of the property and its 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, cycle, walking or jogging track; but does not include a recreation complex.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use 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**

**General Conditions**

1. The front wall of a dwelling shall face the street on which it is located and shall have a civic number easily visible for fire and emergency services (see 6.1.2).
2. All residential structures shall front on a publicly maintained road. (refer to Provision 4.1.1 for additional details).

• *Minor Front Yard Projections on a Residential Lot*

1. No portion of a dwelling shall project into the minimum building line setback except for the following circumstances and in accordance with the following provisions. The following projections shall be permitted:
  - a. chimney breast, eaves, sills or cornices not projecting more than 1 m into a required front yard depth;
  - b. unenclosed steps with or without a landing;
  - c. an unenclosed or enclosed porch that projects no more than 2 m into the required front yard depth or beyond the established building line for the lot;

- d. a patio or veranda in accordance with the conditions as outlined in the specific Use Zone; and
- e. wheelchair ramps or other accessibility devices as approved by Council.

2. Council may permit the projection to exceed beyond 2 m into the building line setback if it is the view of Council that the projection does not negatively impact the sight lines or streetscape of the residential street, does not create obstructed views for adjacent or nearby residential properties, and the projection is architecturally and aesthetically compatible with the dwelling to which it is attached.
3. The projection does not encroach upon or reduce the minimum amount of parking required for the lot;
4. The projection does not encroach upon or create an obstruction in the sight triangle for corner lots;

#### **4.7.1. Single Detached Dwellings**

**Definition:** Residential, single detached means a dwelling 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 5.2.1)

**Conditions:**

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

#### **4.7.2 Tiny Homes**

**Definitions:** Tiny home 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 m<sup>2</sup>.

**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. Tiny houses shall only be considered if they form part of a residential subdivision of not less than eight (8) lots designed specifically for tiny houses;
3. The location of a tiny house subdivision shall be determined by Council in any residential zone and subject to any conditions identified by council outlined in a development agreement;
4. Must meet Use Zone Site Development Standards and use conditions; that is, all other siting

requirements of the residential land use zone shall apply;

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

#### **4.7.3 Semi-Detached Dwelling (Double)**

**Definition:** Residential dwelling, semi-detached means a building containing two dwelling units, where each dwelling unit has a private entrance as compared to apartment buildings with a common entrance, where the units can be placed one above the other, or side by side, but does not mean a Single Detached Dwelling containing a subsidiary apartment.

**Conditions:**

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

#### **4.7.4 Townhouses**

**Definition:** Residential townhouse means three or more dwelling units at ground level in one building, 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.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. Shared walls must meet all national code regulations;

#### **4.7.5 Mini-Home and Mobile Homes**

**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.

**MOBILE HOME - Definition:** Mobile home means a transportable factory-built single detached family dwelling unit:(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 to a mobile home lot, and subsequently supported on its own wheels, jacks, posts or piers, or on a permanent foundation and connected to exterior public utilities , in order to be suitable for year round term occupancy, but it will still be considered a mobile home not a permanent home.

- **Mobile Home or Mini Home Park:** means a development under single or joint ownership, cared for and controlled by an operator where individual mobile or mini home lots are rented or leased with or without units placed on them 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 park management. It does not mean 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 Comprehensive Development Application (2.2.2 & 2.2.4);

#### **4.7.6 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 use conditions;
2. Required to submit a Comprehensive Development Application (2.2.2 & 2.2.4);
3. Commercial uses may be permitted in multiple-unit apartment buildings where:
  - a. The proposed use is located on the ground floor of the apartment building;
  - b. The commercial use will serve local needs of the residents and surrounding neighbourhood; and,
  - c. The use will not detract from the residential character of the neighbourhood by virtue of generating excessive noise or traffic.

#### **4.7.7 Cottage or Cabin**

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

**Conditions:**

1. Must meet Use Zone Site Development Standards and use 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. A home in a residential area, used as a seasonal residence, must be maintained to the standard of the neighbourhood as a full-time residence;
5. Recreational cottages with road access (usually a resource road) allocated on Crown land should preferably be located within a designated cottage development area by the Lands Branch, Government of Newfoundland and Labrador.
6. In the Resource 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 Resource zone.

#### **4.7.8 Personal Care Home, Residential (including Group Home)**

**Definition:** A personal care home (single family residence), including a group home, is a Single Detached Dwelling used for children or young people who cannot live with their families, people with chronic disabilities who may be adults or seniors, or people with dementia. Typically, there are no more than six residents and there is at least one trained caregiver there 24 hours a day.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use 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.
3. The use and appearance of the dwelling shall not materially differ from, or adversely affect, the amenities of adjacent dwellings or the neighbourhood.
4. Council may require special access and safety features to be provided for the occupants before occupancy is permitted.

#### **4.7.9 Infill residential**

**Definition:** An infill residential development is a single-family dwelling on a lot that does not meet the development standards of the surrounding zone due to the constraints of existing conforming development. These will only be considered as a discretionary use in areas served by municipal water and sewer services.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. Council shall review infill development to ensure:
  - a. the type, scale, massing, and design of the development is generally appropriate to the neighbourhood;
  - b. preservation of side/back/front yards for public safety requirements;
  - c. Building line setbacks shall conform to the existing development pattern; and,
  - d. adequate provision is made for light, privacy, and amenity.

## **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:**

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:

1. must meet Industry Canada standards;
2. 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;
3. 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,
4. the site or the building on which the telecommunications structure or antenna is erected or situated shall 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.: Lower Churchill, Newfoundland Power, telephone, cable television, Crown Land). Permanent buildings include, but are not limited to, all dwellings and accessory buildings, warehouses, barns.
2. Note that the Lower Churchill easement No. 143603 right-of-way width is 60 m. There can be no development within the easement area without the permission of Nalcor Energy.

#### **4.8.3 Utilities**

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

- water;
- sewage disposal;
- drainage;
- fuel;
- electric power;
- waste management;
- street lighting;
- telecommunications,

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.

**Conditions:**

1. Must meet Use Zone Site Development Standards and use conditions;
2. No adverse effect on adjacent land uses is created.
3. The size and appearance of such works must be in keeping with adjacent uses; and,
4. Provision shall be made for buffering in the form of landscaped areas between uses;

## 5.0 ACCESSORY USES & BUILDINGS, ANCILLARY USES, AND HOME BUSINESSES

### 5.1 ACCESSORY USES

#### 5.1.1 General Accessory Uses

**Definition: 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...’;

Examples of accessory or subsidiary uses 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 and may include a storage building and workshop only if it does not detract from the nature of the neighbourhood;
- f. a storage building and workshop only if it does not detract from the nature of the neighbourhood;
- 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 the Use Zone Table in which the primary permitted use is located;

#### 5.1.2 Subsidiary Apartments (including 'Granny suite')

**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 and shall be contained within the same building as the single detached residential dwelling.
2. 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.

3. For the purpose of calculating lot area and yard requirements, the subsidiary apartment shall be considered part of the single detached residential dwelling.
4. A minimum of 2 (two) off street parking spaces shall be required (one for the primary use and one for the subsidiary apartment).
5. The minimum floor area required is 40 m<sup>2</sup> for a one-bedroom subsidiary apartment, plus 10 m<sup>2</sup> for each additional bedroom.
6. The apartment must be completely self-contained, with facilities for cooking, sleeping, and bathing.
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. For lots without municipal water, Service NL shall determine water and sewerage disposal requirements and a permit will be issued subject to its approval.

## 5.2 ACCESSORY BUILDINGS

### 5.2.1 Accessory Buildings – General

**Definition:** ACCESSORY BUILDING  includes 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.

EXAMPLES include:

- *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,
- *for commercial uses*, workshops or garages, and
- *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 accessory buildings may only be permitted within the Rural and Agriculture Use Zones.
5. an accessory building shall not be erected or placed upon any easements;
6. an accessory building shall maintain a minimum side yard and rear yard of 1 m.;
7. the exterior siding of an accessory building shall match or be complimentary to the exterior siding of the principal building on the lot and in residential zones, it shall be residential in character;

8. an accessory building shall have a maximum height of three decimal five meters (3.5m), with the exception of radio and television antennae which shall have a maximum height of 15 m;
9. Wharf/Boathouse/Slipway/Breakwater shall be subject to the following conditions:
  - a. Must meet Use Zone Site Development Conditions;
  - b. Appropriate noise and separation measures shall be incorporated into the development to reduce noise impact on surrounding properties;
  - c. Wharf/Boathouse/Slipway/Breakwater structures shall follow the guidelines for the *Construction and Maintenance of Wharves, Breakwaters, Slipways and Boathouses* which are available at: [http://www.env.gov.nl.ca/env/waterres/regulations/appforms/Guidelines\\_for\\_Wharves.pdf](http://www.env.gov.nl.ca/env/waterres/regulations/appforms/Guidelines_for_Wharves.pdf),
  - d. The Applicant must obtain a permit under of the Water Resources Act, 2002 under Section 48 (<http://assembly.nl.ca/Legislation/sr/statutes/w04-01.htm>) for any infilling or dredging work associated with these structures or other works near or in any body of water prior to the start of construction. Contact: Manager, Water Rights & Investigations Section - (709) 729-4795.

#### **5.2.2 Additional conditions related to Accessory Buildings in Residential zones**

1. Accessory buildings shall not be located:
  - a. within 1.2 m from any property boundary and 2.4 m from any building;
  - b. within any easement area;
  - c. in front of the building line on the street which the building has its legal civic address unless it has specific permission of Council.
  - d. 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 6 m from the flanking street. Exception: Council may, at its discretion, allow an accessory building with a floor area less than 90 m<sup>2</sup> to be located in front of the building line 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.
    - iv. Accessory buildings shall not be used for commercial or industrial uses on a residential property except as outlined under Home Business (Section 5.3);
2. Repairs to vehicles, other than minor vehicle maintenance, are prohibited in accessory buildings, except for minor maintenance; no accessory building will be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery;
3. No truck, bus, semi-trailer, freight container, or other vehicle body shall be used as an accessory building;
4. an accessory building may be used for a home business as outlined in home business section.
5. an accessory building shall be located on the lot so that it has no undesirable impact on the private enjoyment of adjoining residential lots;
6. the use of an accessory building shall be directly related to the principal use or building on the lot;

- a. the maximum floor area of an accessory building shall be 75 m<sup>2</sup> or seven percent (7%) of the lot coverage on lots that are up to 1860 m<sup>2</sup> in size, whichever is lesser; for lots that are greater than 1,860 m<sup>2</sup>, the size of an accessory building can be considered at the discretion of Council, taking into consideration the following factors:
  - b. The location of the accessory building on the lot;
  - c. The size of the accessory building compared to the dwelling on the lot and the size of structures on neighbouring properties;
  - d. Visibility of the structure from neighbouring properties and/or street;
  - e. If the accessory building will block a view and/or light from adjoining properties;
  - f. The use of the accessory building;
  - g. Site conditions, such as topography and the presence of wetlands; and
  - h. Any other on-site conditions that may warrant Council's considerations.
- 5. Residential swimming pool: Subject to the following requirements, the swimming pool shall:
  - o be located in the rear yard of a residential property;
  - o not encroach upon any easement;
  - o not be located under any overhead power line;
  - o have a minimum setback of 2 m from any property boundary; and
  - o have an area surrounding a swimming pool and pool deck shall be fully fenced to prevent people, especially children, from unauthorized access to the pool area.

#### **5.2.3 Trailer in Non-Residential zone**

- 6. The use of a trailer as an accessory building shall be permitted within the Industrial Light (IL) Use Zone, subject to the trailer meeting the following conditions:
  - a. the use of the trailer shall be restricted to storage purposes only;
  - b. the trailer shall not be used for human habitation;
  - c. the trailer shall be located in the rear yard of the lot so that it is not visible from the street;
  - d. the trailer shall not be permitted to be located in a rear yard which abuts a residential or open space Use Zone;
  - e. the trailer shall be placed and anchored on the site in accordance with the requirements of Council;
  - f. the trailer shall be kept in a good condition aesthetically and structurally; and
  - g. if, in the opinion of Council, the appearance and structural soundness of the trailer is unacceptable, the trailer will be required to be removed from the site immediately.
  - h.

### **5.3 Home Business in the Residential Land Use Class**

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.

### **5.3.1 General Home Business Definition and General Conditions**

**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. Examples may include, but not limited to:

1. Professions, such as an accountant, architect, auditor, engineer, realtor, insurance agent, planner, lawyer;
2. 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;
3. Care services, such as child care, or home-care; and similar occupations or businesses;
4. Artisan and other home crafts;
5. Food preparation for catering services and baking;
6. Bed and Breakfasts;
7. Music and dance lessons and educational tutoring;
8. Telephone and mail order business;
9. Art gallery and framing shop;
10. Pet grooming services;
11. Furniture repair and upholstery;
12. Sale of bedding plants and trees grown on the same lot;
13. Any business applying for only a phone/fax/internet service is permitted;

#### **Exclusions:**

An accessory home-based 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 (9,920lbs.) 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-based business residence in such bulk or quantity as to require regular or frequent delivery by a commercial vehicle or trailer;
8. Business that result 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. The sale of any commodity not produced on the premises, except for personal service-related products;
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.

### **5.3.2 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 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. Working within the residence, the home business is limited to 1 (one) employee or staff in addition to the owner/operator.
6. There shall be no wholesale or outdoor storage or display of goods or equipment.
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-based 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.
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 m<sup>2</sup> in area shall be permitted provided that the sign is consistent with the residential character of the neighbourhood.
12. 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 m<sup>2</sup> can be used for the home occupation;
  - b. the home business can be housed all or in part in 1 (one) accessory building.
13. Council may require fencing, screening, and/or a minimum buffer to protect the amenity of adjacent uses.
14. 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.

15. 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 should be provided to ensure no parking on the street by residents, staff, or customers from the property housing the home business. Parking should respect and maintain the residential character of the neighbourhood;
16. The home business will adhere to all other conditions that Council considers necessary to protect the amenity of adjacent uses and the neighbourhood.
17. 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.

### **5.3.3 Development Conditions for Specific Home Businesses**

#### **5.3.3.1 Bed and Breakfast**

**Definition:** Bed and breakfast, sometimes referred to as a hospitality home, 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, such as, Canada Select and the Tourism, Culture, Industry and Innovation, Government of Newfoundland and Labrador;
3. No more than 4 bedrooms accommodating not more than 8 adult persons at any one time may be used by residential homes for a Bed and Breakfast use in order to protect the residential nature of the neighbourhood;
4. The maximum stay for any one patron shall be not more than 45 days in a 12-month period;
5. Bed and Breakfast amenities shall include a minimum of sleeping accommodation area per bedroom of 12.0m<sup>2</sup> and full bathroom and washroom facilities with potable hot and cold water for each bedroom;
6. A Bed and Breakfast Use is not permitted within a subsidiary apartment, a mobile home or within multi-unit dwellings (Townhome, apartment).

#### **5.3.3.2 Boarding House**

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

**Conditions:**

1. Must conform to Use Zone Table and General Standards for Home Businesses

### **5.3.3.3 Day Care in a residence**

**Definition:** Day care or family and group care means a 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**

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 must be compatible with nearby uses; that is, the use of the dwelling does not materially differ from, nor adversely affect, the amenities of the adjacent residences, or the neighborhood in which it is located;
3. The use shall occupy a maximum of forty percent (40%) of the floor area of the dwelling unit;
4. A minimum of 5 m<sup>2</sup> of net floor space per person shall be provided for use by adult day care users, this aggregate floor space shall be utilized for the purpose of group amenity areas and individual rest areas;
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 6:00 p.m.
7. Council may require special access and safety features to be provided for the occupants before occupancy is permitted.

### **5.3.3.4 Parking for Home Business**

1. In addition to the two required parking spaces for a residential zone use, a Home-Based 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 spaces location and any landscape improvements related thereto at time of business license application.

## **6.0 BUILDINGS, LOT SITING AND LANDSCAPING AND SERVICES**

### **6.1 BUILDINGS**

#### **6.1.1 Building Orientation**

Taking into consideration 4.7.1 regarding building orientation to the street, wherever possible, development or the siting of a building on a lot should be configured to optimize winter solar exposure and shall take into consideration street/building layout, shading, landscaping, and on-site parking.

#### **6.1.2 Building Quality**

**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.

#### **6.1.4 Heritage Building or Structure**

Where Council designates a building or structure 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.

## **6.2 LOT SITING**

### **6.2.1 Lot Area**

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 Regulations for the zone in which such lot is located, and
  - b. the lot coverage of all buildings exceeds the maximum permitted by these Regulations for the zone in which such lot is located.
2. Where any part of a lot is required by these 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.

### **6.2.2 Unsubdivided Land**

Development is not permitted on unsubdivided land unless sufficient area is reserved for both lots to satisfy the yard and other site development requirements in the Use Zone in which the land is located. Even if both parcels are owned by one owner, these site development requirements shall be retained when the land is developed.

### **6.2.3 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 that the requirements of 6.2.10.

### **6.2.4 Building Line and Setbacks (refer to Appendix 1)**

1. Council may vary established building lines on an existing or proposed street under 2.3.1 taking into consideration that it:
  - a. does not create an obstruction to other dwellings on the street,
  - b. is sympathetic to the location and setback of adjacent buildings,
  - c. does not create a safety hazard, and
  - d. is not a hindrance to municipal snow clearing or snow storage operations on the street.
2. The building line setback is measured from the front property line;
3. 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.
4. Setbacks should be sufficient to allow for landscaping of front yards, vehicle off-street parking and take into consideration Town service obligations, such as, snow clearing;
5. To encourage a more interesting streetscape Council can allow staggered building line setbacks
6. Council, at its discretion, may allow development to complement existing building setbacks of adjoining properties by varying the yard requirements after notification of the proposed variance is given to neighbouring property owners in accordance the section on Variances in these Regulations.
7. If required, the building line as set out in the provincial *Building Near Highways Regulation* along any provincial highway, must be adhered to.

### **6.2.5 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, 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.

### **6.2.6 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.

### **6.2.7 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 and discretionary use, provided that each use shall conform to all requirements in these 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.

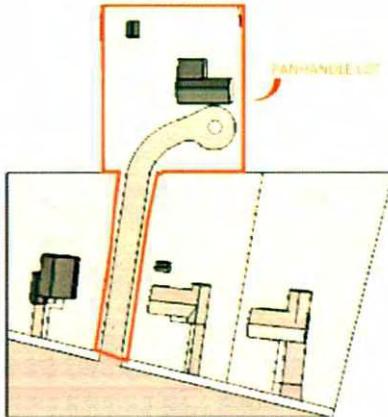
Where more than one main building is developed on a single lot, sufficient area shall be reserved to satisfy the yard requirements and other allowances outlined in the Use Zone Table applicable to the lot. These allowances shall be maintained when the adjacent land is developed.

#### **6.2.8 Backlots**

Where the configuration of existing parcels of land does not support traditional residential subdivision of land where each lot has a minimum frontage to a street, the Council may consider a proposal to subdivide land and develop a new lot through the creation of backlots, where a driveway from the street (forming part of the lot) provides access to a developable portion of the parcel behind the parcel fronting on the street (see example diagram below). Backlots shall not be permitted in Commercial and Industrial Zones.

Backlot development conditions in the Residential zone:

1. The backlot development must have access
  - a. by an independent, approved access to a public road by means of a 6 m driveway
  - b. the driveway must be part of the survey for the backlot development;
  - c. The backlot driveway access area of the lot shall not be calculated as part of the minimum parcel size area required by the Development Regulations for that zone,
2. The backlot driveway shall be constructed to meet standards to provide for a durable road surface for fire and emergency access vehicles and include provision for road drainage.
3. Sewer and water service hook-ups or well and septic are located entirely on the backlot property;
4. Only one dwelling can be located behind the other;
5. There must be adequate separations between the backlot development dwelling and other dwellings must be maintained under the development regulations;
6. If there is potential for future development, a minimum right of way of 12.5 m to 15 m shall be provided and reserved as a future road, despite being in the ownership of the applicant, must be shown on the survey or plan of the property;
7. The backlot width (frontage) shall be a minimum of an unobstructed 6.0m for a single backlot.
8. The maximum length of a backlot access shall be 200 m;
9. The maximum length of a corner truncation for a backlot shall be no more than 27 m.
10. If a parcel of land fronting on a street is being subdivided for the purpose of creating a backlot, the development permit must show how the front lot meets the zoning requirements for that zone. The front parcel CANNOT be made undevelopable by the creation of a backlot. An illustration of a backlot is shown as follows:



### 6.2.9 Outdoor Storage

1. Outdoor storage shall not be located in front yards.
2. The Council may require screening from street and other surrounding development.
3. Open storage shall be maintained with a stable surface to prevent raising or movement of dust, clay, mud or loose particles.
4. Open storage side yard minimum requirement = 5 m.
5. 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.

## 6.3 LANDSCAPING

### 6.3.1 General

1. The provision of adequate and suitable landscaping or screening may be made a condition of any development permit where, in the opinion of the Town, the landscaping or screening is desirable to preserve amenity and/or protect the environment.
2. The landscaped area shall comprise trees, shrubs, and grass, and/or other materials in a design approved by the Town.
3. At the direction of Council, the limits of new development shall 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.
4. All areas that are disrupted by construction shall be reinstated by the developer using natural landscaping with a minimum of topsoil and grass sods. 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.
5. Slopes shall have a maximum vertical slope ratio of 2:1 and shall be landscaped with topsoil and grass sods or hydro seeded as determined by the Engineering Department.

6. Whenever an alternate landscaping treatment is approved by Council and the treatment includes ornamental gravel, the developer or property owner shall ensure that:
  - a. an appropriate retaining wall or border is constructed to contain the gravel within the lot boundaries and along paved driveways, vehicular circulation areas, and parking areas, and
  - b. the area between the border and the sidewalk or curb be maintained with grass in accordance with these Regulations.
  - c. The Council may require a landscape deposit in the amount to cover the costs of the landscaping of the lot or area as a condition of the Development Permit and shall be paid prior to the issuance of the applicable permit by the Town. The deposit shall be returned upon the successful completion of the landscaping to the satisfaction of the Town.

#### **6.3.2 Subdivisions**

1. Wherever possible, natural areas should be maintained in their natural state and the destruction of these natural areas by development shall be 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 sods or hydro seed, as determined by the Town.
3. Where it is determined by Council that berthing 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 will form a part of the Subdivision Agreement to be returned upon the acceptance of the area by Engineering Services.

#### **6.3.3 Residential**

1. The front, side, and rear yards of a residential lot should be landscaped with a minimum treatment of grass and related natural vegetation, and any variation or alternative landscaping treatment to this shall be proposed in the form of a landscaping plan prepared by a certified member of a recognized landscaping organization which is recognized by the Town to offer such landscaping expertise and service.
2. With the exception of row dwellings and apartment building lots, the minimum area to be landscaped in the front yard of a residential lot is 50% unless otherwise determined by Council.
3. Where a residential property abuts a publicly-owned open space snow storage buffer immediately adjacent to a public road intersection, the entire front yard area, including the buffer located between the front lot line and the front wall of the dwelling, may be considered in the calculation of the 50% landscaped front yard requirement, subject to the review and approval by Council.
4. The front yard landscaping of row dwellings and apartment building lots will be determined by Town staff as part of the application and plan review process.
5. Council may consider the requirement of a minimum of one tree to be planted per 6 m of lot frontage as part of the initial landscaping feature of the lot.

#### **6.3.4 Commercial and Public Use/Institutional**

1. The front, side, and rear yards of a commercial lot should be landscaped with a minimum treatment of grass and related natural vegetation, and any variation or alternative to this requirement shall be proposed in the form of a landscaping plan prepared by a certified member of a recognized landscaping organization which is recognized by Council to offer such landscaping expertise and service.
2. On every lot, Council may consider the requirement of a minimum of one tree to be planted for every 8 m of lot frontage.
3. For smaller lot developments (frontages of 30 m or less), the proposed landscaping shall be indicated on the site plan.
4. On larger lots (frontages greater than 30 m), a landscape plan shall be required as a condition of the development and the appropriate amount of landscaping as determined by the Town shall be illustrated on the landscaping plan.
5. The driveway and all vehicle circulation areas, including parking stalls and parking and shipping areas in all yards (front, side, and rear), shall be paved and curbed.

#### **6.3.5 Industrial**

1. In the landscaped front yard of an industrial lot, a combination of natural landscaping elements may be required as part of the development or redevelopment of the lot.
2. The side and rear yards of an industrial lot should be landscaped with a minimum treatment of grass and related natural vegetation, and any variation or alternative landscaping treatment to this requirement shall be proposed in the form of a landscaping plan prepared by a certified member of a recognized landscaping organization which is recognized by Council to offer such landscaping expertise and service
3. A landscape plan shall be required as a condition of the development and the appropriate amount of landscaping as determined by the Town and should be illustrated on the landscaping plan.
4. The driveway and all vehicle circulation areas, including parking stalls and parking and shipping areas, in all yards in the front, side, and rear yards (with the exception of exterior storage yards), shall be paved with curbing extending from the front of the property up to the limits of the rear wall of the building.

#### **6.3.6 Screening and Landscaping**

1. Council may, in the case of existing unsightly development, order the owner or occupier to provide adequate and suitable landscaping or screening and, for this purpose, may require the submission of an application giving details of the landscaping or screening, and these Regulations shall then apply to that application. The provision of adequate and suitable landscaping or screening may be made a condition of any Development Permit where, in the opinion of Council, the landscaping or screening is desirable to preserve amenity, or protect the environment.

## 6.4 SERVICES

### 6.4.1 Streets and access to streets

1. A new street may not be constructed except in accordance with and to the design and specifications established by Council.
2. 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. Where Council has adopted an access plan, the location of accesses to existing and new developments shall be in accordance with that plan.
4. No vehicular access shall be closer than 10 m to the street line of any street intersection.
5. 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:
  - a. 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
  - b. 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.
  - c. In order to control access to streets, Council may, by the adoption of an Access Plan:
    - i. determine the number, location and layout of accesses to a street;
    - ii. require an access to a service street, where direct access to an arterial street is not desirable;
    - iii. require two or more properties to share a joint access to an arterial street where individual accesses would not be desirable.

### 6.4.2 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.

### 6.4.3 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 on site in accordance with the requirements of Council.
2. Development of land shall be undertaken with the objective of wherever possible achieving zero net run off with respect to on-site storm water runoff.

### 6.4.4 Effluents:

1. Liquid or Semi-Solid Industrial Drainage: No liquid, semi-solid or 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* <http://assembly.nl.ca/Legislation/sr/regulations/rc030065.htm>.
3. Application forms for permits and licences, fee schedules, and guidelines are available at: <http://www.env.gov.nl.ca/env/waterres/regulations/appforms/index.html>.

#### **6.4.5 On-Site Services (Wells and onsite sanitary sewer systems)**

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

#### **6.4.6 Environmental Investigations**

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

## **7.0 OFF-STREET LOADING, PARKING, DRIVEWAYS AND SIGNS**

### **7.1 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 m long and 4 m wide with a vertical clearance of at least 4 m. The space will have direct access to a public street or to a driveway of a minimum width of 6 m 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 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.

## **7.2 PARKING**

### **7.2.1 Parking Area Standards**

1. Council shall determine during the application review, 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. The required number of parking spaces set out in Section 7.2.3.
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.
5. Parking space for apartment buildings will be provided in the rear yard where possible.
6. Non-residential parking spaces shall be provided not more than 200 m distant from the use for which the parking is required.
7. The parking facilities required by this 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	7.3 m
Driveway width	7.0 m

9. Where Council permits parking horizontal to the curb, the minimum length of the stall will be 7.00 m and the aisle width will be at least 4 m, or more if deemed necessary by Council.
10. For any other parking lot configuration, the requirements shall as be as specified by Council, but in no instance, shall the requirements be less than that specified for perpendicular parking spaces.
11. 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 m 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.
12. Where, in these Regulations, a parking area for more than four vehicles are required or permitted:
  - a. a parking area and an adjoining driveway shall provide drainage, lighting, curbs, and landscaping in accordance with requirements of Council.
  - b. except in zones in which a service station is a permitted use, no gasoline pump or other service station equipment shall be located or maintained on a parking area;
  - c. no part of any off-street parking area shall be closer than 2 m to any lot line in any zone;
  - d. access to a parking area in non-residential zones shall not be by way of residential zones;
  - e. where a parking area is in or abuts a residential zone, a natural or structural barrier at least 1 m in height shall be erected and maintained along all lot lines;
13. 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 Regulations in lieu of the provision of a parking area, and the full amount of the levy charged shall be used by Council for the provision and upkeep of alternative parking facilities within the general vicinity of the development.

### **7.2.2      Parking Development Plans**

Council may exempt or change all the off-street parking required under Section 7.1 for a designated area, provided the development within the designated area is controlled by a Comprehensive Development.

### **7.2.3      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 <sup>2</sup> of gross floor area
Animal Grooming	One parking space for every 20 m <sup>2</sup> 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 <sup>2</sup> of net floor area
Bank & Bank – Drive through	One parking space per 15 m <sup>2</sup> of net floor area
Bar (night club)	One parking space for every 5 m <sup>2</sup> 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 <sup>2</sup> 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 <sup>2</sup> of net floor area (parking provision for the storage of new and used vehicles for sale shall not be counted towards this requirement)
Convenience Store	One space for every 20 m <sup>2</sup> of gross floor area
Public Gathering Places	One space for every 60 m <sup>2</sup> of gross floor areas
Day Care	One space for every 30 m <sup>2</sup> of gross floor area
Semi-Detached (Double)	Two spaces for every dwelling unit
Dry Cleaning	One parking space per 30 m <sup>2</sup> 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)

USE/DEVELOPMENT	MINIMUM OFF-STREET PARKING REQUIREMENT
Funeral Home	One parking space for every 5 m <sup>2</sup> of gross floor area used by visitors
Furniture & Appliance	One parking space for every 50 m <sup>2</sup> of gross floor area
General Industry	One parking space for every employee
General Service	One space for every 25 m <sup>2</sup> of gross floor area
Hazardous Industry	One parking space for every employee
Health Club	One parking space for every 20 m <sup>2</sup> of gross floor area
Hotel	One parking space for every 3 sleeping units plus one parking space for every 15 square metres of banquet seating area
Light Industry	As specified by Council but not less than one space per 50 m <sup>2</sup> of gross floor area or 5 parking spaces, whichever is greater
Medical and Professional	One space for every 25 m <sup>2</sup> of gross floor area
Mobile and Mini Homes	Two spaces for every dwelling unit
Office	One space for every 30 m <sup>2</sup> of gross floor area
Personal Service	One space for every 25 m <sup>2</sup> of gross floor area
Public Gathering Place-Indoor	One space for every 6 seats; or one space for every 15 m <sup>2</sup> 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 <sup>2</sup> of seating area
Restaurant – Drive Through	One parking space per 5 m <sup>2</sup> of seating space
Restaurant -Take-out	One space for every 25 m <sup>2</sup> of gross floor area
Retail	One space for every 20 m <sup>2</sup> of gross floor area
Row Dwelling	Two spaces for every dwelling unit
Service Station	One space for every 20 m <sup>2</sup> of gross floor area
Shopping Centre	One space for every 20 m <sup>2</sup> 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

USE/DEVELOPMENT	MINIMUM OFF-STREET PARKING REQUIREMENT
Subsidiary Apartment	One parking space for every dwelling unit
Veterinary	One space for every 25 m <sup>2</sup> of gross floor area

#### 7.2.4 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* (Newfoundland and Labrador), such spaces shall be provided according to the regulations, and such parking space or spaces shall be designated and marked in accordance with the *Designated Mobility Impaired Parking Regulations* under the *Highway Traffic Act, 1990* (Newfoundland and Labrador) and the *Buildings Accessibilities Act*.

### 7.3. SIGNS (ADVERTISEMENTS)

#### 7.3.1 Permit Required

No sign or advertisement shall be erected or displayed in the 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.

##### 7.3.1.1 Signs/Advertisements Exempt from Control

The following advertisements may be erected or displayed in the Planning Area without application to the Authority:

- a. on a dwelling or within the courtyard of a dwelling, one nameplate not exceeding 0.2 m<sup>2</sup> in area;
- b. on an agricultural holding or farm, a notice board not exceeding 1 m<sup>2</sup> 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 m<sup>2</sup> 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 m<sup>2</sup> 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 m<sup>2</sup> 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 m<sup>2</sup> 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 m<sup>2</sup> in size, identifying the parking lot.

### **7.3.1.2 Provincial Highway Sign Regulations, 1996 (under the *Urban and Rural Planning Act, 2000*)**

A permit for erection or display of advertisement on Provincial Highways shall be obtained from the Government Service Centre.

### **7.3.1.3 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.

### **7.3.1.4 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.

### **7.3.1.5 Permit Valid for Limited Period**

A permit granted under these 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.

### **7.3.1.6 Removal of Signs/Advertisements**

Notwithstanding the provisions of these 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.

### **7.3.1.7 Approval Subject to Conditions**

A permit may only be issued for the erection or display of advertisements which comply with the appropriate conditions and specifications set out in the Use Zone Tables in Chapter 3 of these Regulations.

### **7.3.1.8 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.

## **7.3.2 Sign Standards for Specific Zones**

The following limitations on size and placement of signs apply to the following zones:

- All residential zones;

### **7.3.2.1 Advertisements Relating to Onsite Uses**

The conditions for the erection or display of an advertisement 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 m<sup>2</sup> in area.
- c. Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

### **7.3.2.2 Advertisements Relating to Offsite Uses on Local Roads**

The conditions for the erection or display of an advertisement 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 m<sup>2</sup> 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.

## **8.0 SUBDIVISION OF LAND**

### **8.1 SUBDIVISION STANDARDS**

#### **8.1.1 Subdivision Standards apply**

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

1. The subdivision of land under single ownership into five or more lots, including the residual lot;
2. Construction, upgrading, or extension of a public street; and,
3. Extension or upgrading of the municipal water and sewer system.

#### **8.1.2 Subdivisions standards do not apply**

The requirements of this Part shall not apply to the following:

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 Resource 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 associated with the Use Zone.

#### **8.1.3 Permit Required**

1. No land in the 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 Regulations.

#### **8.1.4 Form of Application**

Application for a permit to develop a subdivision shall be made to Council in accordance with the requirements for submitting and application in Administration Section.

#### **8.1.5 Subdivision Subject to Zoning**

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

#### **8.1.6 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 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.

#### **8.1.7 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 Regulations with respect to the development of the subdivision.

### **8.2 SUBDIVISION PERMIT REQUIREMENTS**

#### **8.2.1 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 Section.

#### **8.2.2 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.

### **8.2.3 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 as part of the subdivision approval process where a minimum sized subdivision is to be serviced by individual wells. The Groundwater Assessment Report must be prepared in accordance with the Department of Municipal Affairs and Environment's 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 2,203m<sup>2</sup> (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	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

### **8.2.4 Fees, Service Levies and Land for Open Space**

#### **8.2.4.1 Subdivision Fees**

**Subdivision Application Fee:** 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 shall be calculated on a per-lot basis for every lot created by the subdivision of land. This fee shall be calculated in addition to any other fee or charge required under the regulation addressing Development Charges.

#### **8.2.4.2 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 Regulations.
3. The applicant shall pay the cost of all capital works necessary to serve the proposed development or subdivision.

#### **8.2.4.3 Deposit of Securities**

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

#### **8.2.4.4 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 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 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 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 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 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.

## 8.3 SUBDIVISION DESIGN STANDARDS

### 8.3.1 General Subdivision Design Standards

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

1. The finished grade of streets shall not exceed 10%.
2. The plan should indicate which streets are classified as arterial, collector or service (local) roads.
3. Every cul-de-sac shall be provided with 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 m in areas served by, or planned to be served by, municipal water and sewer services;
  - b. 350 m in areas not served by, or planned to be served by, municipal water and sewer services;
  - c. all cul de sac water mains will be connected to a water main on an adjoining street or 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 three metres (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 thirty metres (30 m) from the intersection.
9. No street intersection shall be closer than 40 m 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 m between street intersections.
12. 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	Pavement Width	Sidewalk Width	Sidewalk Number
Arterial Streets (m)	30	15	1.5	Council Discretion
Collector Streets (m)	20	9	1.5	Council Discretion
Local Residential Streets				
where more than 50% of the units are single detached or semi-detached (double) dwellings	15	7	1.5	1
where 50% or more of the units are row houses or apartments (m)	18-20m	7	1.5	Council Discretion
Service Streets (m)	18	7	1.5	Council Discretion

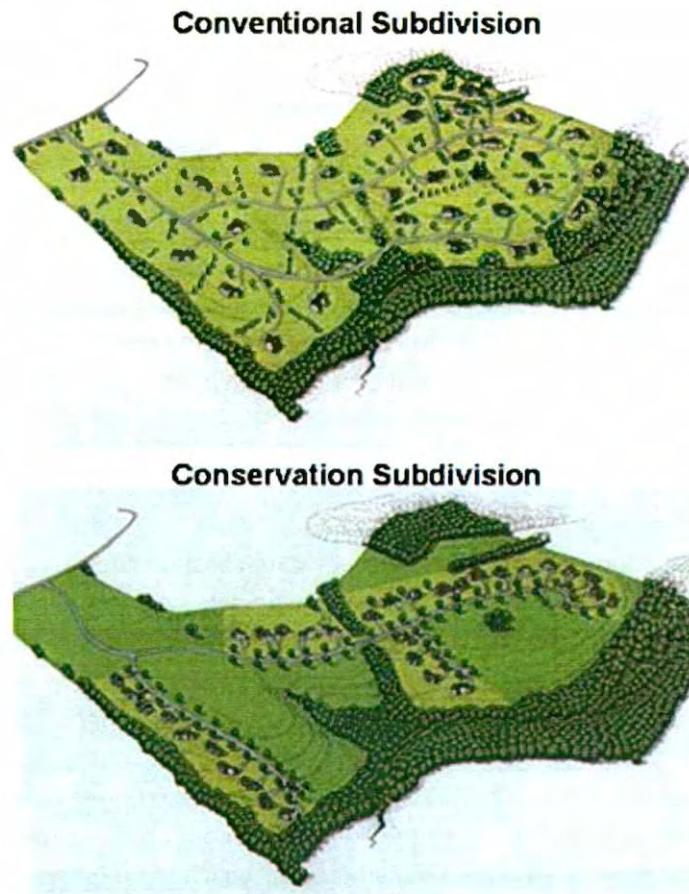
13. No lot intended for residential purposes shall have a depth exceeding four times the frontage.

14. Residential lots shall not be permitted which abut a local street at both front and rear lot lines.
15. Council may require any existing natural, historical or architectural feature or part thereof to be retained when a subdivision is developed.
16. Land shall not be subdivided in such a manner as to prejudice the development of adjoining land.
17. 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.

### **8.3.2 Conservation Subdivision Design (Grouping of Buildings and Landscaping)**

Conservation Subdivision Design is limited to the Shoal Point, Little Bay and Spanish Room RDSA zones. Each plan of subdivision shall make provision for the grouping of building types and for landscaping in order to enhance the visual aspects of the completed development, provide greater amenity spaces, such as trails and parklands by incorporating site-specific topography and vegetation into the neighbourhood design.

Building groupings, once approved by Council, shall not be changed without written application to and subsequent approval of Council.



## **8.4 SUBDIVISION ENGINEERING STANDARDS**

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

### **8.4.1 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 Manager of Engineering Services. 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 Manager of Engineering Services 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 Manager of Engineering Services, 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.

### **8.4.2 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 and Geoscientists of Newfoundland and Labrador and in effect at the time the work is carried out.

### **8.4.3 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 Manager of Engineering Services 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.

#### **8.4.4 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.

#### **8.4.5 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.

#### **8.4.6 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.

#### **8.4.7 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.

## APPENDICES

## APPENDIX 1: INTERPRETATION

### Introduction

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 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.

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

### Definitions

**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;

**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.

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

**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;

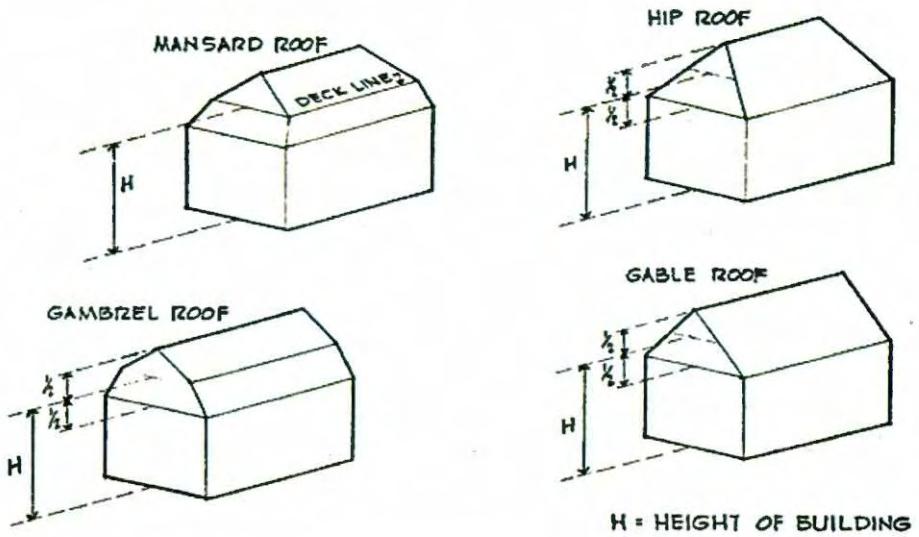
**BUILDING** means

(i) a structure, erection, alteration or improvement placed on, over or under land or attached, anchored or moored to land,

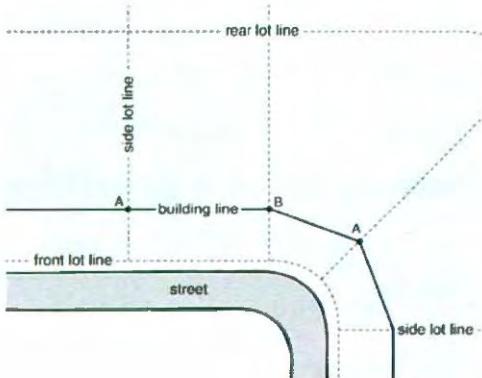
- (ii) mobile structures, vehicles and marine vessels industrial and other similar uses,
- (iii) a part of and fixtures on buildings referred to in subparagraphs (i) and (ii), and
- (iv) an excavation of land whether or not that excavation is associated with the intended or actual construction of a building 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*;

**BOARD**  except in Part IX, means an appeal board established under section 40;

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

**COURT**  unless the context indicates otherwise, means the Trial Division;

**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 responsible for the *Urban and Rural Planning Act* (the Act);

**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 and regulations and by-laws respecting development that have been enacted by the relevant authority; and development regulations  means 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.

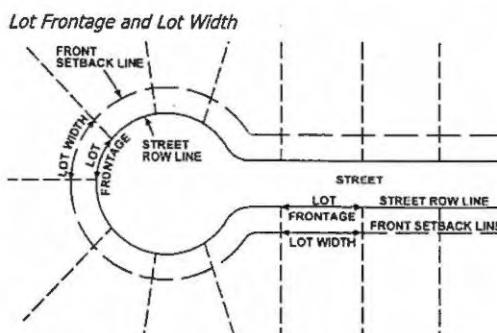
**ESTABLISHED GRADE**  means,

- (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;



**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 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;

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

**MUNICIPALITY**  includes a Town incorporated under the *Town of Corner Brook Act*, *Town of Mount Pearl Act* and the *Town 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;

**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;

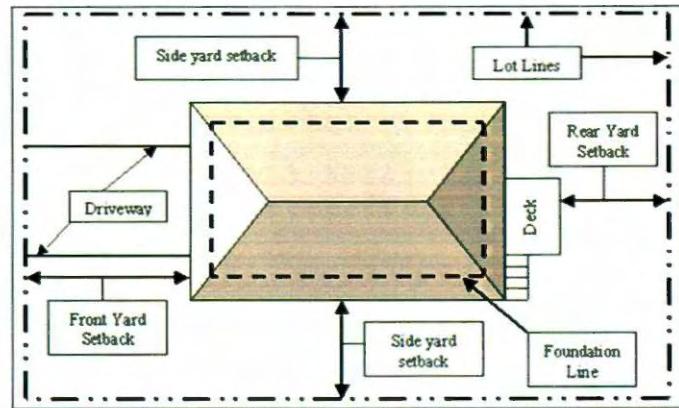
**USE ZONE OR ZONE**  means an area of land including buildings and water designated on the zoning map to which the uses, standards and conditions of a particular use zone table apply;

**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 setbacks) refer to the diagram below for illustrations of the following definitions:

- **FRONT YARD DEPTH** otherwise called the building line or front yard setback, means setback from the front of 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 development controls indicate side yard and rear 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.

## **APPENDIX 2: MINISTER'S DEVELOPMENT REGULATIONS**

- UNDER THE URBAN AND RURAL PLANNING ACT, 2000

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[Table of Regulations](#)

[Main Site](#)

[How current is this regulation?](#)

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**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 Town of Corner Brook, Town of Mount Pearl or Town 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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### **APPENDIX 3: LAND USE ZONING MAP**

