

# **TOWN OF FORTUNE**

**LAND USE ZONING, SUBDIVISION AND ADVERTISEMENT  
REGULATIONS**

## **DEVELOPMENT REGULATIONS**

**In Effect: August 21, 2014**

**Consolidation:  
No amendments as of January 12, 2015**



**Resolution to Approve**

Under the authority of Section 23 of the *Urban and Rural Planning Act 2000*, the Council of Town of Fortune approves the Development Regulations for 2012 to 2022, as released by the Department of Municipal Affairs.

Resolved by the Town of Fortune on the 20th day of February, 2014.

Signed and sealed this 31 day of March, 2014

Mayor: \_\_\_\_\_

(Council Seal)

Clerk: Naama Stacy  
Clerk/Manager

**Clerk's Certificate:**

Certified that the attached Development Regulations is a correct copy of the Development Regulations for 2012 to 2022, approved by the Council of the Town of Fortune, on the 20<sup>th</sup> day of February, 2014.

Clerk Naama Stacy  
Clerk/Manager



**Resolution to Adopt**

Under the authority of Section 16 of the *Urban and Rural Planning Act 2000*, the Council of Town of Fortune adopts the Development Regulations for 2012 to 2022.

Resolved by the Town of Fortune on the 16<sup>th</sup> day of September, 2013.

Signed and sealed this 31 day of March, 2014.

Mayor: 

Clerk: 

(Council Seal)

**Clerk's Certificate:**


Certified that the attached Development Regulations is a correct copy of the Development Regulations for 2012 to 2022, adopted by the Council of the Town of Fortune, on the 16<sup>th</sup> day of September, 2013.

Clerk 

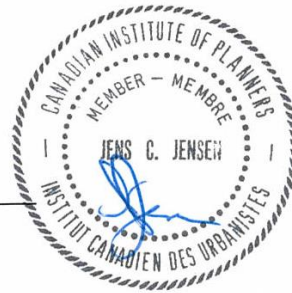
CANADIAN INSTITUTE OF PLANNERS CERTIFICATION

I certify that the attached *Development Regulations* document has been prepared in accordance with the requirements of the *Urban and Rural Planning Act, 2000*.

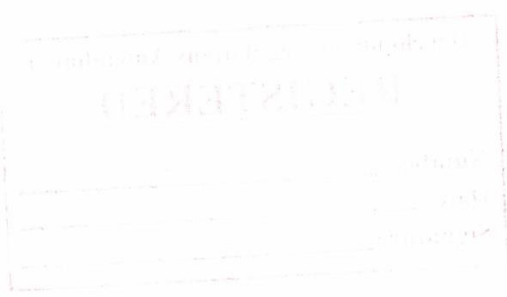
Member of the Canadian Institute of Planners:

  
\_\_\_\_\_  
Jens Jensen, P.Eng., MCIP

Date: 6 June 2014



Seal





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# SECTION A: Ministers Regulations

## NEWFOUNDLAND 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. John's, January 2, 2001.

Joan Marie Aylward  
Minister of Municipal and Provincial Affairs

### REGULATIONS

#### *Analysis*

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- [2. Definitions](#)
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19. Commencement

#### **Short title**

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

#### **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.

### **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.

### **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.

### **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) 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 board at the Department of Municipal and Provincial Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. John's, Nfld., A1B 4J6 is the secretary to all boards in the province and an appeal filed with that secretary within the time period referred to in subsection 42(4) of the Act shall be considered to have been filed with the appropriate board.

(2) Notwithstanding subsection (1), where the City of Corner Brook, City of Mount Pearl or City of St. John's 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.

### **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.

### **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.

### **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.

#### **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.

#### **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.

#### **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.

#### **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.

#### **Residential non conformity**

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

#### **Notice and hearings on change of use**

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

**Non-conformance with standards**

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

**Discontinuance of non-conforming use**

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

**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.

**Commencement**

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

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# **SECTION B: DEVELOPMENT REGULATIONS**

## **LAND USE, ZONING, SUBDIVISION AND ADVERTISEMENT REGULATIONS (DEVELOPMENT REGULATIONS)**

### **APPLICATION**

#### **1. Short Title**

These Regulations may be cited as the Town of Fortune Development Regulations.

#### **2. Interpretation**

- (1) Words and phrases used in these Regulations shall have the meanings ascribed to them in Schedule A.
- (2) Words and phrases not defined in Schedule A shall have the meanings which are commonly assigned to them in the context in which they are used in the Regulations.

#### **3. Commencement**

These Regulations come into effect throughout the Fortune Planning Area, hereinafter referred to as the Planning Area, on the date of publication of a notice to that effect in the Newfoundland Gazette.

#### **4. Municipal Code and Regulations**

The Building Code including the Plumbing Code, the Fire Code, the Electrical Code, and any other ancillary code and any Building Regulations, Fencing Regulations, Waste Disposal Regulation and/or any other municipal regulations regulating or controlling the development, conservation and use of land in force, shall, under these Regulations, apply to the entire jurisdiction of the Town of Fortune.

#### **5. Authority**

In these Regulations, "Authority" means the Council of the Town of Fortune.



## **PART I - GENERAL REGULATIONS**

### **6. Compliance With Regulations**

No development shall be carried out within the Planning Area except in accordance with these Regulations.

### **7. Permit Required**

No person shall carry out any development within the Planning Area except where otherwise provided in these Regulations unless a permit for the development has been issued by the Authority.

### **8. Permit to be Issued**

Subject to Regulations 9 and 10, a permit shall be issued for development within the Planning Area that conforms to:

- (a) the general development standards set out in Part II of these Regulations, the requirements of Part V of these Regulations, and the use classes, standards, requirements, and conditions prescribed in Schedule C of these Regulations for the use zone in which the proposed development is located;
- (b) the standards set out in the Building Code and/or other ancillary codes, and any Building Regulations, Waste Disposal Regulations, and/or any other municipal regulation in force in the Planning Area regulating or controlling development, conservation and use of land and buildings;
- (c) the standards set out in Part III of these Regulations in the case of advertisement;
- (d) the standards set out in Part IV of these Regulations in the case of subdivision;
- (e) the standards of design and appearance established by the Authority.

### **9. Permit Not to be Issued in Certain Cases**

Neither a permit nor approval in principle shall be issued for development within the Planning Area when, in the opinion of the Authority, 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 the Authority and such cost shall attach to and upon the property in respect of which it is imposed.

## **10. Discretionary Powers of Authority**

- (1) In considering an application for a permit or approval in principle to carry out development, the Authority 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, the Authority 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) 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

## **11. Variances** *(Refer to Minister's Development Regulations, Section 12, January 2, 2001)*

- (1) Where an approval or permit cannot be given by the Authority because a proposed development does not comply with development standards set out in development regulations, the 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) The 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) The Authority shall not permit a variance from development standards where the proposed development would increase the non conformity of an existing development.

**12. Notice of Variance** *(Refer to Minister's Development Regulations, Section 13., January 2, 2001)*

Where the Authority is to consider a proposed variance, the 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.

**13. Service Levy**

- (1) The Authority 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 property is enhanced by the carrying out of public works either on or off the site of the development.
- (2) A service levy shall not exceed the cost, or estimated cost, including finance charges to the Authority of constructing or improving the public works referred to in Regulation 13(1) that are necessary for the real property to be developed in accordance with the standards required by the Authority and for uses that are permitted on that real property.
- (3) 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.
- (4) The Authority 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 the Authority may decide.

**14. Financial Guarantees by Developer**

- (1) The Authority 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 or licence.

- (2) The financial provisions pursuant to Regulation 14(1) may be made in the form of:
- (a) a cash deposit from the developer, to be held by the Authority, or;
  - (b) a guarantee by a bank, or other institution acceptable to the Minister, for expenditures by the developer, or;
  - (c) a performance bond provided by an insurance company or a bank, or;
  - (d) an annual contribution to a sinking fund held by the Authority, or;
  - (f) another form of financial guarantee that the Authority may approve.

#### **15. Dedication of Land for Public Use**

In addition to the requirements for dedication of land under Regulation 78, the Authority 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 the Authority in accordance with the provisions of the Act.

#### **16. Reinstatement of Land**

Where the use of land is discontinued or the intensity of its use is decreased, the Authority may order the developer, the occupier of the site, or the owner or all of them to reinstate the site, to remove all or any buildings or erections, to cover or fill all wells or excavations, and to close all or any accesses, or to do any of these things or all of them, as the case may be, and the developer, occupier or owner shall carry out the order of the Authority and shall put the site in a clean and sanitary condition to the satisfaction of the Authority.

#### **17. Form of Application**

- (1) An application for a development permit or approval in principle shall be made only by the owner or by a person authorized by the owner to the Authority on such form as may be prescribed by the Authority, and every application shall include such plans, specifications and drawings as the Authority may require, and be accompanied by the permit fee required by the Authority.
- (2) The Authority shall supply to every applicant a copy of the application forms referred to in Regulation 17(1) and a description of the plans, specifications and drawings required to be provided with the application and any information or requirements applicable to the application.

## **18. Register of Application**

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

## **19. Deferment of Application**

- (1) The Authority may, with the written agreement of the applicant, defer consideration of an application.
- (2) Applications properly submitted in accordance with these Regulations which have not been determined by the Authority and on which a decision has not been communicated to the applicant within eight weeks of the receipt thereof by the Authority, and on which consideration has not been deferred in accordance with Regulation 18(1), shall be deemed to be refused.

## **20. Approval in Principle**

- (1) The Authority may grant approval in principle for the erection, alteration or conversion of a building if, after considering an application for approval in principle made under these Regulations, it is satisfied that the proposed development is, subject to the approval of detailed plans, in compliance with these Regulations.
- (2) Where approval in principle is granted under this Regulation, it shall be subject to the subsequent approval by the Authority of such details as may be listed in the approval in principle, which shall also specify that further application for approval of these details shall be received not later than two years from the grant of approval in principle.

## **21. Development Permit**

- (1) A plan or drawing which has been approved by the Authority and which bears a mark and/or signature indicating such approval together with a permit shall be deemed to be permission to develop land in accordance with these Regulations but such permission shall not relieve the applicant from full responsibility for obtaining permits or approvals under any other regulation or statute prior to commencing the development; from having the work carried out in accordance with these Regulations or any other regulations or statutes; and from compliance with all conditions imposed thereunder.

- (2) The Authority may attach to a permit or to approval in principle such conditions as it deems fit in order to ensure that the proposed development will be in accordance with the purposes and intent of these Regulations.
- (3) Where the Authority deems necessary, permits may be issued on a temporary basis for a period not exceeding the last day of the calendar year in which it was issued, which may be extended in writing by the Authority for further periods not exceeding two years.
- (4) A permit is valid for such period not exceeding the last day of the calendar year in which it was issued , 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, or for subsequent periods of one year each.
- (5) The approval of any application and plans or drawings or the issue of a permit shall not prevent the Authority from thereafter requiring the correction of errors, or from ordering the cessation, removal of, or remedial work on any development being carried out in the event that the same is in violation of this or any other regulations or statute.
- (6) The Authority may revoke a permit for failure by the holder of it to comply with these Regulations or any condition attached to the permit or where the permit was issued in error or was issued on the basis of incorrect information.
- (7) No person shall erase, alter or modify any drawing or specifications upon which a permit to develop has been issued by the Authority.
- (8) There shall be kept available on the premises where any work, matter or thing in being done for which a permit has been issued, a copy of the permit and any plans, drawings or specifications on which the issue of the permit was based during the whole progress of the work, or the doing of the matter or thing until completion.

## **22. Reasons for Refusing Permit**

The Authority shall, when refusing to issue a permit or attaching conditions to a permit, state the reasons for so doing.

## **23. Notice of Right to Appeal** (*Refer to Minister's Development Regulations, Section 5, January 2, 2001*)

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.

## **24. Appeal Requirements** (*Refer to Minister's Development Regulations, Section 6, January 2, 2001*)

- (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, Nfld., 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.

**25. Appeal Registration** (*Refer to Minister's Development Regulations, Section 7, January 2, 2001*)

- (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.

**26. Development Prohibited** (*Refer to Minister's Development Regulations, Section 8, January 2, 2001*)

- (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.



## **27. Appeal Board**

- (1) The minister may, by order, establish an Appeal Board and shall assign to the Appeal Board a specific area of the province over which it shall have jurisdiction, as outlined in section 40, of the Act.

## **28. Appeals**

- (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 Appeal 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) a decision permitted under the Act or another Act to be appealed to the board.
- (2) A decision of the Authority to adopt, approve or proceed with a municipal plan, a 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 the municipal plan, a scheme and development regulations that apply to the matter being appealed.
- (4) An appeal shall be filed with the Appeal 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 person or group of persons affected by the subject of an appeal or their representatives may appear before an Appeal Board and make representations concerning the matter under appeal.
- (7) An Appeal Board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.
- (8) An Appeal Board shall consider and determine appeals in accordance with the Act and the municipal plan, scheme and regulations that have been registered under section 24, of the Act, and having regard to the circumstances and merits of the case.
- (9) A decision of the Appeal Board must comply with the plan, scheme or development regulations that apply to the matter that has been appealed to that board.
- (10) In determining an appeal, an Appeal 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 Authority to carry out its decision or make the necessary order to have its decision implemented.
- (11) Notwithstanding subsection (10), where the Authority may, in its discretion, make a decision, an Appeal Board shall not make another decision that overrules the discretionary decision.
- (12) The decision of a majority of the members of an Appeal Board present at the hearing of an appeal shall be the decision of the Appeal Board.

- (13) An Appeal Board shall, in writing notify the appellant and the appropriate Authority of the decision of the Appeal Board.

**29. Hearing Notice and Meetings** (*Refer to Minister's Development Regulations, Section 9, January 2, 2001*)

- (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.

**30. Hearing of Evidence** (*Refer to Minister's Development Regulations, Section 10, January 2, 2001*)

- (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.

**31. Return of Appeal Fee**

Where an appeal made by an appellant under section 42 of the Act, is successful, an amount of money equal to the fee paid by that appellant under regulation 24(2) shall be paid to him or her by the Authority.

### **32. Notice of Application**

- (1) When a change in non conforming use is to be considered under Regulation 49, or when the development proposed is listed as a discretionary use in Schedule C of the Regulations, the Authority shall, at the expense of the applicant, give notice of an application for a permit or for approval in principle, by public advertisement in a newspaper circulating in the area.
- (2) When a variance is necessary under Regulation 11, and the Authority wishes to consider whether to authorize such a variance from development standards, the Authority shall give written notice of the proposed variance to all persons whose land is in the immediate vicinity of the land that is the subject of the variance.

### **33. Right of Entry**

The Authority, the Director, or any inspector 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 the Authority is empowered to regulate.

### **34. Record of Violations**

Every inspector shall keep a record of any violation of these regulations which comes to his knowledge and report that violation to the Authority.

### **35. Stop Work Order and Prosecution**

- (1) Where a person begins a development contrary or apparently contrary to these Regulations, the Authority may order that person to stop the development or work connected therewith pending final adjudication in any prosecution arising out of the development.
- (2) A person who does not comply with an order made under Regulation 35(1) is guilty of an offence under the provisions of the Act.

### **36 Delegation of Powers** *(Refer to Minister's Development Regulations, Section 18, January 2, 2001)*

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.

## PART II - GENERAL DEVELOPMENT STANDARDS

### 37. Accesses and Service Streets

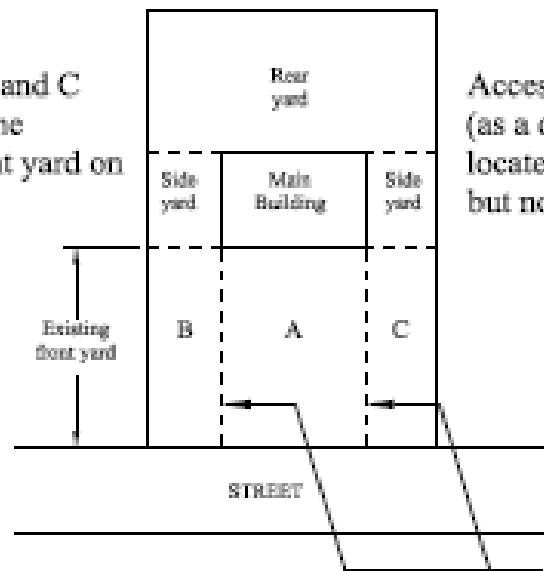
- (1) Access shall be located to the specification of the Authority so as to ensure the greatest possible convenience and safety of the street system and the Authority may prescribe the construction of service streets to reduce the number of accesses to collector and arterial streets.
- (2) No vehicular access shall be closer than 10 metres to the street line of any street intersection.

### 38. Accessory Buildings

- (1) Accessory buildings shall be clearly incidental and complementary to the use of the main buildings in character, use and size, and shall be contained on the same lot unless exempted as provided in clause (4).
- (2) No accessory building or part thereof shall project in front of any building line except as may be prescribed in these Regulations. Accessory buildings shall be located in the rear yard or side yard on the lot, except where topography or natural or built features on the lot or the street(s) providing access to the lot make it practically impossible to locate an accessory building in a side or rear yard, or, where the lot is so large and the configuration of main and accessory buildings so arranged that the appearance of one or more accessory buildings in front of the building line would not adversely affect the aesthetics of the area. In such cases, a discretionary use may be approved which would allow accessory buildings to be built in those portions of the existing front yard which are adjacent to each side lot line, each said portion lying between the side lot line and an extension of the existing side yard line on that side of the lot leading most directly to the street line. To illustrate the concept for simple rectangular and irregularly shaped lots, refer to the following sketches:

## SIMPLE RECTANGULAR LOT

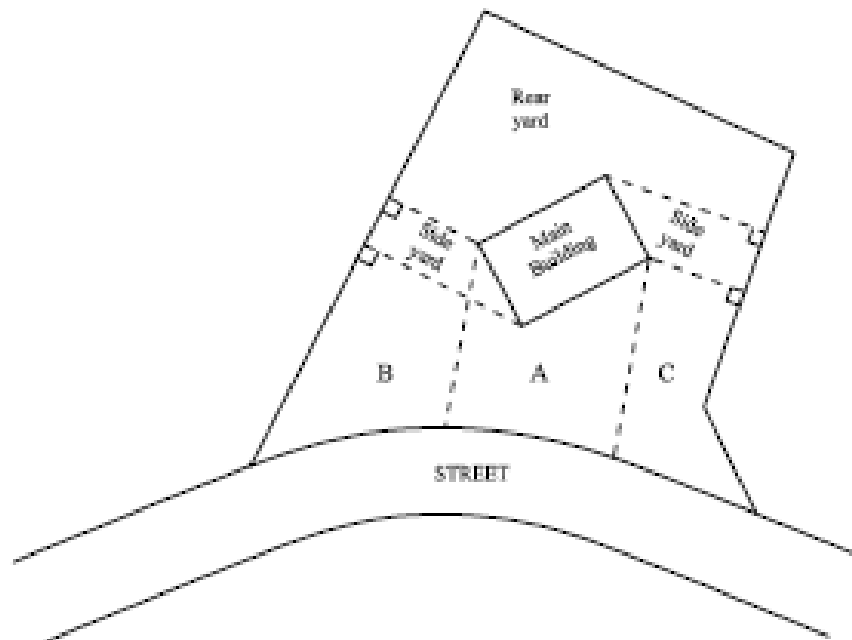
Areas A, B, and C together is the existing front yard on the lot.



Accessory buildings may (as a discretionary use) be located in areas B and C, but not in area A.

Extensions of existing side yards to the street line most directly in front of the Main Building. Extensions are parallel to each other, but not necessarily parallel to any lot line.

## IRREGULAR LOT



Notwithstanding the foregoing, open sided or “see-through” accessory buildings in which there is only a ground level structure (or where side walls are not sheathed and in which the framing or supports of a roof provide for minimal blocking of the view of the dwelling structure from the street), such as gazebos, ground level decks with sun roofs, or carports not attached to the main building, may be approved as a discretionary use for location anywhere in an existing front yard.

- (3) The sideyard requirements set out in the use zone tables in these Regulations 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) Storage buildings, motor vehicle garages, home workshops, boat sheds, boat houses, stages and wharves are deemed to be permitted accessory uses in all Use Zones, where there is an existing main building on the lot. Where permitted, boat sheds, wharves and stages may be built to any lot line which corresponds to the high water mark. Requirements for other yards shall continue to apply. Where such a use is proposed to be the main use on a separate lot, approval shall be subject to approval of the Authority as a discretionary use.

### **39. Advertisements**

Advertisements shall not be erected or displayed except in accordance with Part III of these Regulations.

### **40. Buffer Strips**

Where any industrial development permitted in any Use Zone abuts an existing or proposed residential area, or is separated from it by a road only, the owner of the site of the industrial development shall provide a buffer strip not less than ten (10) metres wide between any residential activity and the industrial area. The buffer shall include the provision of such natural or structural barrier as may be required by the Authority and shall be maintained by the owner or occupier to the satisfaction of the Authority.

### **41. Building Height**

The Authority may permit the erection of buildings of a height greater than that specified in Schedule C, but in such cases the building line setback and rearyard requirements shall be varied as follows:

- (1) The building line setback shall be increased by 2 metres for every 1 metre increase in height.
- (2) The rearyard shall not be less than the minimum building line setback calculated as described in (1) above plus 6 metres.

#### **42. Building Line and Setback**

The Authority, by resolution, may establish building lines on an existing or proposed street or service street and may require any new buildings to be located on those building lines, whether or not such building lines conform to the standards set out in the tables in Schedule C of these Regulations. The Authority may permit location of a building at a lesser setback but no less than the at least the average setback of the non-accessory buildings on abutting lots, where there is a building on each lot.

#### **43. Family and Group Care Centres**

Family group care centre use is permitted in any dwelling or apartment that is adequate in size to accommodate the number of persons living in the group, inclusive of staff, provided that in the opinion of the Authority, the use of the dwelling does not materially differ from, nor adversely affect, the amenities of the adjacent residences, or the neighbourhood in which it is located. The Authority may require special access and safety features to be provided for the occupants before occupancy is permitted.

#### **44. Height Exceptions**

The height requirements prescribed in Schedule C of these Regulations may be waived in the case of communication masts and antennae, flagpoles, water towers, spires, belfries, or chimneys, but any such waiver which results in an increase of more than 10% of the permitted height of the structure shall only be authorized under the provisions of Regulation 11 and with notice given under the provisions of Regulation 12 and 32.

#### **45. Livestock Structures and Uses**

- (1) No structure designed to contain more than five animal units shall be erected or used unless it complies with the following requirements:



- (a) The structure shall be located only in an area designated as Rural (RUR) on Schedules E or F of these Regulations, and be at least 600 m from a residence, (except a farm residence or a residence which is a non-conforming use in any zone in which agriculture is a permitted use class in the Use Zone Tables in Schedule C of these Regulations), and, from an area designated as Residential (RES), and, from a Provincial or Federal Park.
  - (b) The structure shall be at least 60 m from the boundary of the property on which it is to be erected.
  - (c) The structure shall be at least 90 m from the centre line of a street.
  - (d) The erection of the structure shall be approved by the Department of Natural Resources and the Department of Environment & Conservation.
- (2) No development for residential use shall be permitted within 600 m of a lawfully existing structure designed to contain more than five animal units unless the development is first approved by the Department of Natural Resources.

#### **46. Lot Area and Size Exceptions**

- (1) No lot shall be reduced in area, either by the conveyance or alienation of any portion thereof or otherwise, so that any building or structure on such lot shall have a lot coverage that exceeds, or a front yard, rear yard, side yard, frontage or lot area that is less than that 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.
- (3) Where, at the time of coming into effect of these Regulations, one or more lots already exist in any residential zone, with insufficient frontage or area to permit the owner or purchaser of such a lot or lots to comply with the provisions of these Regulations, then these Regulations shall not prevent the issuing of a permit by the Authority for the erection of a dwelling thereon, provided that the lot coverage and height are not greater than, and the yards and floor area are not less than the standards set out in these Regulations.

#### 47. Home Based Businesses

Home based business uses of a type indicated in the “permitted” or “discretionary” use classes in the Use Zone Table for the zone in which the use is located may be permitted as a discretionary use in a single dwelling or on the lot upon which a single dwelling is located provided that:

- (i) The use is clearly a subsidiary use to the residential use and does not substantially detract from the character of the neighbourhood.
- (ii) Open storage of goods, vehicles and equipment associated with the home based business is permitted provided that such open storage does not occupy more than 25% of the outdoor area of the lot and that such open storage area is screened with an opaque fence at least 1.8 metres in height. Open storage includes only the temporary parking or positioning of goods, vehicles and equipment outdoors and does not include activities such as materials processing, servicing of vehicles or equipment, or manufacturing activity concerning those items, and actual work on or use of these items shall be carried on indoors. Open storage does not include operation of an outdoor market.
- (iii) Activities associated with the use (other than for open storage as indicated in (ii)) shall be carried on inside the dwelling unit or inside one or more buildings separate from the dwelling unit but on the same lot.
- (iv) Not more than twenty-five (25) percent of the floor area of the dwelling unit up to a maximum of forty-five (45) square metres is devoted to the use, unless otherwise specified in the use zone tables, except that the entitlement to open storage area and the areas of accessory buildings are in addition to such maximum. The dwelling unit must continue to meet the dwelling unit minimum floor area requirement.
- (v) The use is operated by a resident of the dwelling unit and does not employ more than three persons in addition to the resident.
- (vi) Office uses shall be limited to small business services and professional offices.
- (vii) Light Industry uses shall be limited to production of baked goods, hand-made articles such as clothing and arts and crafts objects, or other craft or piece work, and servicing, processing or manufacturing of small equipment or goods.
- (viii) The use shall not generate sewage or water use substantially in excess of what is normal in the residential area and can be accommodated by the existing municipal road, water and sewer services.
- (ix) Activities associated with the use are not hazardous and do not cause substantial noise,

odour, dust or fumes, nor cause electrical interference or in any other way result in a significant nuisance to the occupants of surrounding residences.

- (x) Any number of buildings separate from the dwelling unit may be used in connection with one or more light industrial uses and each of them shall conform to the Accessory Building condition for the use zone.
- (xi) No sign will be permitted other than a name plate not exceeding 1.0 square metres in area and which is attached to the principal building. No illumination of the sign will be permitted.
- (xii) The Authority may require fencing, screening and separation or a combination of the two to protect the amenity of adjacent uses.
- (xiii) Parking requirements are a minimum of one space for a subsidiary use. The minimum required parking for the dwelling must continue to be met.
- (xiv) The lot has sufficient area to accommodate the parking requirements of both the dwelling unit and the subsidiary use.
- (xv) No change in type, class or extent of the use shall be permitted except in accordance with a permit issued by the Authority.

#### **48. Lot Frontage**

Except where specifically provided for in the Use Zone Tables in Schedule C of these Regulations, no residential or commercial building shall be erected unless the lot on which it is situated fronts directly onto a street or forms part of a Comprehensive Development Scheme.

#### **49. Non-Conforming Use**      *(Refer to Minister's Development Regulations, Section 14, 15, 16, 17, January 2, 2001)*

- (1) Notwithstanding the Municipal Plan, scheme or regulations made under this Urban and Rural Planning Act, 2001, the Authority shall, in accordance with regulations made under this Act, allow a development or use of land to continue in a manner that does not conform with a regulation, scheme, or plan that applies to that land provided that the non-conforming use legally existed before the registration under section 24 of the Act, scheme or regulations made with respect to that kind of development or use.
- (2) Notwithstanding subsection (1), a right to resume a discontinued non-conforming use of land shall not exceed 12 months after the discontinuance of that use.

- (3) A building, structure or development that does not conform to a scheme, plan or regulations made under the Act that is allowed to continue under subsection (1)
- (a) shall not be internally or externally varied, extended or expanded unless otherwise approved by the Authority;
  - (b) shall not be structurally modified except as required for the safety of the building, structure or development;
  - (c) shall not be reconstructed or repaired for use in the same non-conforming manner where 50% or more of the value of that building, structure or development has been destroyed;
  - (d) may have the existing use for that building, structure or development varied by the Authority to a use that is, in the Authority's opinion, more compatible with the plan and regulations applicable to it;
  - (e) may have the existing building extended by approval of the Authority where, in the Authority's opinion, the extension is not more than 50% of the existing building;
  - (f) where the non-conformance is with respect to the standards included in these development regulations, 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;
  - (g) where the building or structure is primarily zoned and used for residential purposes, it may, in accordance with the municipal plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed but the residential building or structure, where being repaired or rebuilt, must be repaired or rebuilt in accordance with the plan and development regulations applicable to that building or structure.
- (4) Before making a decision to vary an existing use of a non-conforming building, structure or development, the Authority, at the applicant's 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.

#### **50. Offensive and Dangerous Uses**

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 the Authority and any other Authority having jurisdiction.

#### **51. Offstreet Parking Requirements**

- (1) For every building, structure or use to be erected, enlarged or established, 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 the on-street parking of vehicles associated with that building, structure or use.
- (2) The number of parking spaces to be provided for any building, structure, use of occupancy shall conform to the standards set out in Schedule D of these Regulations.
- (3) Each parking space, except in the case of one or two-family dwellings, shall be made accessible by means of a durably surfaced right-of-way at least 3 m in width. Parking required in a Residential Zone shall be provided on the same lot as the dwelling or dwellings. Parking space for apartments shall be provided in the rear yard where possible. In a Non-Residential Zone, parking spaces shall be provided within the limits of the zone in which the use is situated and not more than 200 m distant from the use concerned.
- (4) The parking facilities required by this Regulation shall, except in the case of single or attached dwellings, be arranged so that it is not necessary for any vehicle to reverse onto or from a street.
- (5) Where, in these Regulations, parking facilities for more than four vehicles are required or permitted:

- (a) parking space shall mean an area of land, not less than 15 m<sup>2</sup> in area, capable of being used for the parking of a vehicle without the need to move other vehicles on adjacent areas;
- (b) the parking area shall be constructed and maintained to the specifications of the Authority;
- (c) the lights used for illumination of the parking area shall be so arranged as to divert the light away from adjacent development;
- (d) a structure, not more than 3 m in height and more than 5 m<sup>2</sup> in area may be erected in the parking area for the use of attendants in the area;
- (e) 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;
- (f) no part of any off-street parking area shall be closer than 1.5 m to the front lot line in any zone;
- (g) access to parking areas in non-residential zones shall not be by way of residential zones;
- (h) 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;
- (i) where, in the opinion of the Authority, strict application of the above parking requirements is impractical or undesirable, the Authority 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 the Authority for the provision and upkeep of alternative parking facilities within the general vicinity of the development.

## **52. Off-Street Loading Requirements**

- (1) For every building, structure or use to be erected, enlarged or established requiring the shipping, loading or unloading of animals, goods, wares or merchandise, there shall be provided and maintained for the premises loading facilities on land that is not part of a street comprised of one or more loading spaces, 15 m long, 4 m wide, and having a vertical clearance of at least 4 m with direct access to a street or with access by a driveway of a minimum width of 6 m to a street.
- (2) The number of loading spaces to be provided shall be determined by the Authority.

- (3) The loading facilities required by this Regulation shall be so arranged that vehicles can manoeuvre clear of any street and so that it is not necessary for any vehicle to reverse onto or from a street.

### **53. Parks and Playgrounds, and Conservation Uses**

Nothing in these Regulations shall prevent the designation of conservation areas or the establishment 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.

### **54. Screening and Landscaping**

The Authority 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 the Authority, the landscaping or screening is desirable to preserve amenity, or protect the environment.

### **55. Services and Public Utilities**

The Authority may within any zone permit land to be used in conjunction with 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 the Authority, adequate to protect the character and appearance of the area.

### **56. Service Stations**

The following requirements shall apply to all proposed service stations:

- (a) All gasoline pumps shall be located on pump islands designed for such purpose, and to which automobiles may gain access from either side.
- (b) Pump islands shall be set back at least 4 metres from the front lot line.
- (c) Accesses shall not be less than 7 metres wide and shall be clearly marked, and where a

service station is located on a corner lot, the minimum distance between an access and the intersection of street lines at the junction shall be 10 metres and the lot line between entrances shall be clearly indicated.

#### **57. Side Yards**

A sideyard which shall be kept clear of obstruction shall be provided on the exposed sides of every building in order to provide access for the maintenance of that building.

#### **58. Street Construction Standards**

A new street may not be constructed except in accordance with good engineering practice and in particular to the Municipal Water, Sewer and Road Specifications promulgated by, and as amended from time to time by, the Department of Municipal Affairs.

#### **59. Subsidiary Apartments**

Subsidiary apartments may be permitted in single dwellings only, and for the purposes of calculating lot area and yard requirements, shall be considered part of the self-contained dwelling.

#### **60. Unsubdivided Land**

Development is not permitted on unsubdivided 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.

#### **61. Zero Lot Line and Other Comprehensive Development, Including Flag Lots and Fences**

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

(2) Development on a flag lot is permitted provided that the requirement for lot area is satisfied in the main body of the flag lot, and that the minimum interior dimension of the main body of the flag lot is at least the minimum frontage required. The location of a main or accessory building on a flag lot shall provide for yards in the main body of the lot of at least the dimensional minimum requirements of the



building line setback, sideyard widths, and rearyard depths ordinarily required in the subject use zone, as if the main body of the flag lot were an ordinary lot where most or the whole width of the lot abuts the street. Whereas the ordinary meanings of side, front and rear yards are not relevant to a flag lot, any yard in a flag lot can be deemed the front, side or rear yard for this purpose. In a flag lot, the minimum width of the leg or prolongation which provides access to a street shall be 6 m at every point along its length, including the lot boundary where the flag lot fronts directly on a street.

(3) Fences may be permitted as discretionary uses provided the design, location and standard of construction are in compliance with the Town of Fortune Fencing Regulations, 2004, as amended from time to time. Fences may be erected on a lot line, except where not in compliance with said Fencing Regulations.

## **PART III - ADVERTISEMENTS**

### **62. Permit Required**

Subject to the provisions of Regulation 67, no advertisement shall be erected or displayed in the Planning Area unless a permit for the advertisement is first obtained from the Authority. Permit for erection or display of advertisement on Provincial Highways shall be obtain from the Government Service Centre.

### **63. Form of Application**

Application for a permit to erect or display an advertisement shall be made to the Authority in accordance with Regulation 17.

### **64. Advertisements Prohibited in Street Reservation**

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

### **65. Permit Valid for Limited Period**

A permit granted under these Regulations for the erection or display of an advertisement shall be valid for such period not exceeding the last day of the calendar year in which it was issued , as may be stated therein, but may be renewed at the discretion of the Authority for similar periods.

### **66. Removal of 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.

### **67. Advertisements Exempt from Control**

The following advertisements may be erected or displayed in the Planning Area without applica-

tion 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 land used for professional practice(s), one nameplate not exceeding 0.2 m<sup>2</sup> in area in connection with the practice of a professional person carried on at that lot;
- (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.

#### **68. 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 Schedule C of these Regulations.

#### **69. Non-Conforming Uses**

Notwithstanding the provisions of Regulation 62, a permit may be used for the erection or display of 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.

## **PART IV - SUBDIVISION OF LAND**

### **70. Permit Required**

No land in the Planning Area shall be subdivided unless a permit for the development of the subdivision is first obtained from the Authority.

### **71. Services to be Provided**

No permit shall be issued for the development of a subdivision unless provisions satisfactory to the Authority 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.

### **72. Payment of Service Levies and Other Charges**

No permit shall be issued for the development of a subdivision until agreement has been reached for the payment of all fees levied by the Authority for connection to services, utilities and streets deemed necessary for the proper development of the subdivision, and all service levies and other charges imposed under Regulations 13 and 14.

### **73. Issue of Permit Subject to Considerations**

A permit shall not be issued when, in the opinion of the Authority, the development of a subdivision does not contribute to the orderly growth of the municipality and does not demonstrate sound design principles. In considering an application, the Authority 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 Plan and Regulations affecting the site;
- (d) the land use, physical form and size of buildings anticipated to be developed on the new lots and the character of adjacent developments related the same factors;
- (e) the transportation network and traffic densities affecting the site;
- (f) the relationship of the project to existing or potential sources of nuisance;
- (g) topography, soil and subsoil characteristics of each lot, and the related difficulty or cost of landscaping and access;

- (h) the drainage of the site and potential for affecting drainage of adjacent land;
- (i) natural features such as lakes, streams, topsoil, trees and shrubs;
- (j) prevailing winds;
- (k) visual quality;
- (l) community facilities;
- (m) energy conservation;
- (n) such other matters as may affect the proposed development.

#### **74. Building Permits Required**

Notwithstanding the approval of a subdivision by the Authority, 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.

#### **75. Form of Application**

Application for a permit to develop a subdivision shall be made to the Authority in accordance with Regulation 17.

#### **76. Subdivision Subject to Zoning**

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

#### **77. Building Lines**

The Authority may establish building lines for any subdivision street and require any new building to be located on such building lines.

#### **78. Land for Public Open Space**

- (1) Before a development commences, the developer shall, if required, dedicate to the Authority, at no cost to the Authority, an area of land equivalent to not more than 10% of the gross area of the subdivision or 25 m<sup>2</sup> for every dwelling unit permitted

in the subdivision, whichever is the greater, for public open space, provided that:

- (a) where land is subdivided for any purpose other than residential use, the Authority shall determine the percentage of land to be dedicated;
  - (b) if, in the opinion of the Authority, no public open space is required, the land may be used for such other public use as the Authority may determine;
  - (c) the location and suitability of any land dedicated under the provisions of this Regulation shall be subject to the approval of the Authority but in any case, the Authority shall not accept land which, in its opinion is incapable of development for any purpose;
  - (d) the Authority 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;
  - (e) money received by the Authority in accordance with Regulation 78(1)(d) above, shall be reserved by the Authority 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 Authority and may be sold or leased by the Authority 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) The Authority 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 the Authority, constitute the requirement of land for public use under Regulation 78(1).

#### **79. Structure in Street Reservation**

The placing within any street reservation of any structure (for example, a hydro pole, telegraph or telephone pole, fire hydrant, mail box, fire alarm, sign post) shall receive the prior approval of the Authority which shall be satisfied on the question of safe construction and relationship to the adjoining buildings and other structures within the street reservation.

## 80. 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:

- (a) The finished grade of streets shall not exceed 10 percent.
- (b) Every cul de sac shall be provided with a turning circle of a diameter of not less than 30 m.
- (c) The maximum length of any cul de sac shall be:
  - (i) 200m in areas served by or planned to be served by municipal piped water and sewer services, as shown in the map and letter of agreement signed by the Municipality and the Minister of Municipal and Provincial Affairs in connection with municipal five-year capital works program eligibility.
  - (ii) 300m in areas not served by or planned to be served by municipal piped water and sewer services.
- (d) Emergency vehicle access to a cul de sac shall be not less than 3 m wide and shall connect the head of the cul de sac with an adjacent street.
- (e) No cul de sac shall be located so as to appear to terminate a collector street.
- (f) New subdivisions shall have street connections with an existing street or streets.
- (g) All street intersections shall be constructed within 5E of a right angle and this alignment shall be maintained for 30 m from the intersection.
- (h) No street intersection shall be closer than 60 m to any other street intersection.
- (i) No more than four streets shall join at any street intersection.
- (j) No residential street block shall be longer than 490 m between street intersections.
- (k) Streets in residential subdivisions shall be designed in accordance with the approved standards of the Authority, 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	30 m	15 m	1.5 m	discretion of Council
Collector Streets	20 m	15 m	1.5 m	2
Local Residential Streets:				
where more than 50% of the units are single or double dwellings;	15 m	9 m	1.5 m	1
where 50% or more of the units are row houses or apartments.	20 m	9 m	1.5 m	2
Service Streets	15 m	9 m	1.5 m	discretion of Council

- (l) No lot intended for residential purposes shall have a depth exceeding four times the frontage.
- (m) Residential lots shall not be permitted which abut a local street at both front and rear lot lines.
- (n) The Authority may require any existing natural, historical or architectural feature or part thereof to be retained when a subdivision is developed.
- (o) Land shall not be subdivided in such a manner as to prejudice the development of adjoining land, and each lot shall be laid out so as to maximize the usefulness of the land to the eventual occupant, with regard to positioning of buildings, driveways, and outdoor storage and activity areas.

**81. Engineer to Design Works and Certify Construction Layout**

- (1) 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 the Authority to service the area



proposed to be developed or subdivided shall be designed and prepared by or approved by the Engineer. The design shall conform to good engineering practice and in particular to the Municipal Water, Sewer and Road Specifications promulgated by, and as amended from time to time by, the Department of Municipal Affairs. Such designs and specifications shall, upon approval by the Authority, be incorporated in the plan of subdivision.

- (2) Upon approval by the Authority of the proposed subdivision, the Engineer 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 his own cost and in accordance with the approved designs and specifications and the construction layout certified by the Engineer, of all such water mains, hydrants, sanitary sewers and all appurtenances and of all such streets and other works deemed necessary by the Authority to service the said area.

#### **82. Developer to Pay Engineer's Fees and Charges**

The developer shall pay to the Authority 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 of Newfoundland and in effect at the time the work is carried out.

#### **83. Street Works May Be Deferred**

The construction and installation of all curbs and gutters, catch basins, sidewalks and paving specified by the Authority as being necessary, may, at the Authority's discretion, be deferred until a later stage of the work on the development of the subdivision but the developer shall deposit with the Authority before approval of his application, an amount estimated by the Engineer as reasonably sufficient to cover the cost of construction and installation of the works. In the later stage of the work of development, the Authority shall call for tenders for the work of 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 Authority the amount of the excess. If the contract price is less than the deposit, the Authority shall refund the amount by which the deposit exceeds the contract price. Any amount so deposited with the Authority 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.

#### **84. Transfer of Streets and Utilities to Authority**

- (1) The developer shall, following the approval of the subdivision of land and upon request of the Authority, transfer to the Authority, at no cost to the Authority, 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 the Authority for public uses as streets, or other rights-of-way, or for other public use;
  - (b) all services or public works including streets, water supply and distribution and sanitary an storm drainage systems installed in the subdivision that are normally owned and operated by the Authority.
- (2) Before the Authority shall accept the transfer of lands, services or public works of any subdivision, the Engineer shall, at the cost to the developer, test the streets, services and public works installed in the subdivision and certify his satisfaction with their installation.
- (3) The Authority 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 the Authority.

#### **85. Restriction on Sale of Lots**

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

- (a) the lot can be served with satisfactory water supply and sewage disposal systems, and;
- (b) satisfactory access to a street is provided for the lots.

## **86. Grouping of Buildings and Landscaping**

- (1) 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 and to make the most use of existing topography and vegetation.
- (2) Building groupings, once approved by the Authority, shall not be changed without written application to and subsequent approval of the Authority.

## **PART V - USE ZONES**

### **87. Use Zones**

- (1) For the purpose of these Regulations, the Planning Area is divided into Use Zones which are shown on the Zoning Map attached to and forming part of these Regulations.
- (2) Subject to Regulation 87(3), the permitted use classes, discretionary use classes, standards, requirements and conditions applicable to each Use Zone are set out in the Use Zone Tables in Schedule C of these Regulations.
- (3) Where standards, requirements and conditions applicable in a Use Zone are not set out in the Use Zone Tables in Schedule C, the Authority may in its discretion, determine the standards, requirements and conditions which shall apply.

### **88. Use Classes**

The specific uses to be included in each Use Class set out in the Use Zone Tables in Schedule C shall be determined by the Authority in accordance with the classification and examples set out in Schedule B.

### **89. Permitted Uses**

- (1) Subject to these Regulations, the uses that fall within the Permitted Use Classes set out in the appropriate Use Zone Table in Schedule C shall be permitted by the Authority in that Use Zone.
- (2) Where the permitted use is expressed by the title of a "Group" shown in Schedule B, all of the uses in the divisions and classes of uses under that title shall be permitted, and likewise where the permitted use is expressed by the title of a "Division" shown in Schedule B, all of the uses in the classes of uses under that title shall be permitted.

## **90. Discretionary Uses**

(1) Subject to these Regulations, the uses that fall within the Discretionary Use Classes set out in the appropriate Use Zone Table in Schedule C may be permitted in that Use Zone if the Authority is 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, and if the Authority has given notice of the application in accordance with Regulation 32 and has considered any objections or representations which may have been received on the matter.

(2) Where the discretionary use is expressed by the title of a “Group” shown in Schedule B, all of the uses in the divisions and classes of uses under that title shall be permitted, and likewise where the discretionary use is expressed by the title of a “Division” shown in Schedule B, all of the uses in the classes of uses under that title shall be permitted, subject to the provisions of subsection (1).

## **91. Uses Not Permitted**

Uses that do not fall within the Permitted Use Classes or Discretionary Use Classes set out in the appropriate Use Zone Tables in Schedule C, shall not be permitted in that Use Zone.

## SCHEDULE A: DEFINITIONS

**ACCESS:** 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. (*Refer to Minister's Development Regulations, January 2, 2001*)

**ACCESSORY BUILDING:**

- (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.
- (*Refer to Minister's Development Regulations, January 2, 2001*)

**ACCESSORY USE:** A use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use. (*Refer to Minister's Development Regulations, January 2, 2001*)

**ACT:** The Urban and Rural Planning Act, 2000.

**ADVERTISEMENT:** Any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction; excluding such things employed wholly as a memorial, or functional advertisement of Councils, or other local authorities, public utilities and public transport undertakers, and including any boarding or similar structure used or adapted for use for the display of advertisements.

**AGRICULTURE:** Horticulture, fruit growing, grain growing, seed growing, dairy farming, the breeding or rearing of animals for pet or commercial uses including raising of livestock or any other creature kept for the production of food, wool, skins, or fur, or for the purpose of its use in the farming of land, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds and the use of land for woodlands where that use is ancillary to the farming of land for any other purpose. "Agricultural" shall be construed accordingly.

**AMUSEMENT USE:** The use of land or buildings equipped for the playing of electronic, mechanical, or other games and amusements including electronic games, pinball games and slot machine arcades and billiard and pool halls.

**ANIMAL UNIT:** Any one of the following animals or groups of animals:

- 1 bull;
- 1000 broiler chickens or roosters (1.8 - 2.3 kg each);
- 1 cow (including calf);
- 100 female mink (including associated males and kits);
- 4 goats;
- 4 hogs (based on 453.6 kg = 1 unit);
- 1 horse (including foal);
- 125 laying hens;
- 4 sheep (including lambs);
- 1 sow or breed sow (including weaners and growers based on 453.6 kg = 1 unit);
- 500 turkeys, ducks, geese (based on 2,268 kg = 1 unit).

**APARTMENT BUILDING:** A building containing three or more dwelling units, but does not include a row dwelling.

**APPLICANT:** A person who has applied to an Authority for an approval or permit to carry out a development.

**APPEAL BOARD:** The appropriate Appeal Board established under the Act.

**ARTERIAL STREET:** The streets in the Planning Area constituting the main traffic arteries of the area and defined as arterial streets or highways in the Municipal Plan or on the Zoning Map.

**AUTHORITY:** the Town of Fortune.

**BOARDING HOUSE:** A dwelling in which at least 2 rooms are regularly rented to persons other than the immediate family of the owner or tenant.

**BUILDING:** Every structure, erection, excavation, alteration or improvement whatsoever placed on, over or under land, or attached, anchored or moored to land, and includes mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other like uses, and any part of a building as so defined and any fixtures that form part of a building.

**BUILDING HEIGHT:** 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. *(Refer to Minister's Development Regulations, January 2, 2001)*

**BUILDING LINE:** 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. *(Refer to Minister's Development Regulations, January 2, 2001)*

**COLLECTOR STREET:** A street that is designed to link local streets with arterial streets and which is designated as a collector street in the Municipal Plan, or on the Zoning Map.

**CONVENIENCE STORE:** A small retail store that carries limited lines of goods, such as a partial line of groceries, housewares, and clothing; gifts; speciality items; and, other goods, and which has a floor area dedicated to retail sales (including storage area) not exceeding 100 square metres..

**DAYCARE CENTRE or DAY NURSERY:** A building or part of a building in which services and activities are regularly provided to children of pre-school age during the full daytime period as defined under the Day Nurseries Act, but does not include a school as defined by the Schools Act.

**DEVELOPMENT:** The carrying out of any building, engineering, mining or other operations in, on, over, or under land, or the making of any material change in the use, or the intensity of use of any land, buildings, or premise and without limiting the generality of the foregoing, shall specifically include:

- (a) the making of an access onto a highway, road or way;
- (b) the erection of an advertisement or sign;
- (c) the parking of a trailer, or vehicle of any description used for the sale of refreshments or merchandise, or as an office, or for living accommodation, for any period of time; and shall exclude:
  - (d) the carrying out of works for the maintenance, improvement or other alteration or any 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;
  - (e) the carrying out by a highway Authority of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road reservation;
  - (f) the carrying out by any local Authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;
  - (g) the use of any building or land within the courtyard of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such.

**DEVELOPMENT REGULATIONS:** Regulations respecting development that have been enacted by the relevant Authority.

**DISCRETIONARY USE:** A use that is listed within the discretionary use classes established in the use zone tables of an Authority's development regulations. (*Refer to Minister's Development Regulations, January 2, 2001*)

**DIRECTOR:** The Director of Urban and Rural Planning.

**DOUBLE DWELLING:** A building containing two dwelling units, placed one above the other, or side by side, but does not include a self-contained dwelling containing a subsidiary apartment.

**DWELLING UNIT:** A self-contained unit consisting of one or more habitable rooms used or designed as the living quarters for one household.

**ENGINEER:** A professional engineer employed or retained by the Authority.

**ESTABLISHED GRADE:**

(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. (*Refer to Minister's Development Regulations, January 2, 2001*)

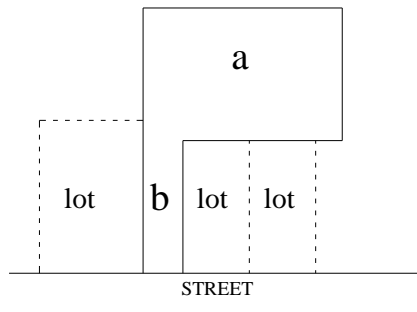
**FAMILY AND GROUP CARE CENTRE:** A dwelling accommodating up to but no more than six (6) persons exclusive of staff in a home-like setting. Subject to the size limitation, this definition includes, but is not limited to, the facilities called "Group Homes", "Halfway House", and "Foster Home".

**FLAG LOT:** A lot characterized by a shape in which the lot's main body of land is located some distance from a street, typically lying behind other lots located along the street line, and in which the main body of the lot is joined to the street by a narrower leg or prolongation which is part of the flag lot; an easement or right of way across another lot so as to gain access to a street does not create a flag lot. A flag lot is so named because its shape in a simple rectangular configuration resembles a flag on a pole, where the main body of the lot is separated from the street and access to the street is along the part of the lot having the narrow pole shape (the street lies at the foot of the pole). The "pole" or narrow leg or prolongation lying between the main body of the lot and the street may be of any configuration, not necessarily of uniform width; the minimum width thereof is stated in Regulation 61.

To illustrate the concept:

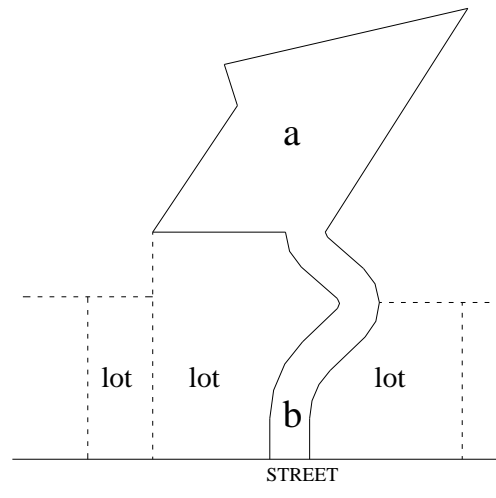


## RECTANGULAR SHAPE



a: main body of the flag lot

## IRREGULAR SHAPE



b: leg or prolongation of the flag lot to provide access to a street

**FLOOR AREA:** The total area of all floors in a building measured to the outside face of exterior walls. (Refer to *Minister's Development Regulations, January 2, 2001*)

**FRONTAGE:** The horizontal distance between side lot lines measured at the building line. (Refer to *Minister's Development Regulations, January 2, 2001*)

**FRONT YARD DEPTH:** The distance between the front lot line of a lot and the front wall of the main building on the lot.

**GARAGE:** A building erected for the storage of motor vehicles as an ancillary use to a main building on the lot.

**GENERAL INDUSTRY:** The use of land or buildings for the purpose of storing, assembling, altering, repairing, manufacturing, fabricating, packing, canning, preparing, breaking up, demolishing, or treating any article, commodity or substance. "Industry" shall be construed accordingly.

**GENERAL GARAGE:** Land or buildings used exclusively for repair, maintenance and storage of motor vehicles and may include the sale of gasoline or diesel oil.

**HAZARDOUS INDUSTRY:** The use of land or buildings for industrial purposes involving the use of materials or processes which because of their inherent characteristics, constitute a special fire, explosion, radiation or other hazard.

**INSPECTOR:** Any person appointed and engaged as an Inspector by the Authority or by any federal or provincial Authority or the agent thereof.

**INSTITUTION:** A building or part thereof occupied or used by persons who:

- (a) are involuntarily detained, or detained for penal or correctional purposes, or whose liberty is restricted, or;
- (b) require special care or treatment because of age, mental or physical limitations or medical conditions.

**LAND:** Includes land covered by water, and buildings and structures on, over, or under the soil and fixtures that form part of these buildings and structures.

**LIGHT INDUSTRY:** 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.

**LOCAL STREET:** A street designed primarily to provide access to adjoining land and which is not designated as a collector street or arterial street in the Municipal Plan, or on the Zoning Map.

**LODGING HOUSE:** A dwelling in which at least 2 rooms are regularly rented to persons other than the immediate family of the owner or tenant.

**LOT:** Any plot, tract or parcel of land which can be considered as a unit of land for a particular use or building. *(Refer to Minister's Development Regulations, January 2, 2001)*

**LOT AREA:** The total horizontal area within the lot lines of the lot. *(Refer to Minister's Development Regulations, January 2, 2001)*

**LOT COVERAGE:** The combined area of all buildings on the lot measured at the level of the lowest floor above the established grade expressed as a percentage of the total area of the lot. *(Refer to Minister's Development Regulations, January 2, 2001)*

**MINERAL WORKING:** Land or buildings used for the exploration, working or extraction of any naturally occurring substance

**MOBILE HOME:** A transportable factory-built single 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 Municipal Codes and;

(b) which is designed to be:

(i) 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;

(ii) connected to exterior public utilities approved by the Authority, namely, piped water, piped sewer, electricity and telephone, in order for such mobile home unit to be suitable for year round term occupancy.

**MOBILE HOME PARK:** A mobile home development under single or joint ownership, cared for and controlled by a mobile home park operator where individual mobile home lots are rented or leased with or without mobile home units placed on them and where ownership and responsibility for the maintenance and development of site facilities including underground services, access roads, communal areas, snowclearing and garbage collection, or any of them, are the responsibility of the mobile home park management, and where the mobile home development is classified as a mobile home park by the Authority.

**MOBILE HOME SUBDIVISION:** A mobile home 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 locating thereon mobile home units under either freehold or leasehold tenure and where the maintenance of streets and services is the responsibility of a municipality or public Authority, and where the mobile home development is classified as a mobile home subdivision by the Authority.

**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. *(Refer to Minister's Development Regulations, January 2, 2001)*

**OWNER:** means a person or an organization of persons owning or having the legal right to use the land under consideration. *(Refer to Minister's Development Regulations, January 2, 2001)*

**PARKING AREA:** means an open area containing parking spaces and any interior aisles and lanes necessary for parking and movement of motor vehicles.

**PARKING SPACE:** means a space exclusive of any driveways or interior aisles or lanes, upon which one motor vehicle may be parked .

**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. (*Refer to Minister's Development Regulations, January 2, 2001*)

**PIT AND QUARRY WORKING:** Carries the same meaning as Mineral Working.

**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. (*Refer to Minister's Development Regulations, January 2, 2001*)

**REAR YARD DEPTH:** means the distance between the rear lot line and the rear wall of the main building on the lot. (*Refer to Minister's Development Regulations, January 2, 2001*)

**RESTAURANT:** A building or part thereof, designed or intended to be used or occupied for the purpose of serving the general public with meals or refreshments for consumption on the premises.

**ROW DWELLING:** Three or more dwelling units at ground level in one building, each unit separated vertically from the others.

**SEASONAL RESIDENCE:** A dwelling which is designed or intended for seasonal or recreational use, and is not intended for use as permanent living quarters.

**SERVICE STATION:** Any land or building used exclusively for the sale of petroleum products, automotive parts and accessories, minor repairs, washing and polishing of motor vehicles.

**SERVICE STREET:** A street constructed parallel to or close to another street for the purpose of limiting direct access to that street.

**SHOP:** A building or part thereof used for retail trade wherein the primary purpose is the selling or offering for sale of goods, wares or merchandise by retail or the selling or offering for sale of retail services but does not include an establishment wherein the primary purpose is the serving of meals or refreshments, an amusement use, a general garage, or a service station.

**SHOPPING CENTRE:** A group of shops and complementary uses with integrated parking and which is planned, developed and designed as a unit containing a minimum of 5 retail establishments.

**SHOWROOM:** A building or part of a building in which samples or patterns are displayed and in which orders may be taken for goods, wares or merchandise, including vehicles and equipment, for later delivery.

**SIDE YARD DEPTH:** means the distance between a side lot line and the nearest side wall of any building on the lot. (*Refer to Minister's Development Regulations, January 2, 2001*)

**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. (*Refer to Minister's Development Regulations, January 2, 2001*)

**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. (*Refer to Minister's Development Regulations, January 2, 2001*)

**STREET LINE:** means the the edge of a street reservation as defined by the Authority having jurisdiction. *(Refer to Minister's Development Regulations, January 2, 2001)*

**SUBDIVISION:** The dividing of any land, whether in single or joint ownership, into two or more pieces for the purpose of development.

**SUBSIDIARY APARTMENT:** A separate dwelling unit constructed within and subsidiary to a self-contained dwelling.

**TAKE-OUT FOOD SERVICE:** A building in which the primary purpose is the preparation and sale of meals or refreshments for consumption off the premises.

**TAVERN:** Includes a nightclub and means a building licensed or licensable under the Liquor Control Act wherein meals and food may be served for consumption on the premises and in which entertainment may be provided.

**USE:** means a building or activity situated on a lot or a development permitted on a lot. *(Refer to Minister's Development Regulations, January 2, 2001)*

**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. *(Refer to Minister's Development Regulations, January 2, 2001)*

**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. *(Refer to Minister's Development Regulations, January 2, 2001)*

**ZONING MAP:** The map or maps attached to and forming part of the Authority's regulations. *(Refer to Minister's Development Regulations, January 2, 2001)*

## SCHEDULE B: CLASSIFICATION OF USES OF LAND AND BUILDINGS

NOTE: The classification of uses set out in the following table is based on the Classification of Typical Occupancies included as Table 3.1.2.A of the **National Building Code of Canada, 1980**. This classification is referred to in Regulation 87.

GROUP	DIVISION	CLASS	EXAMPLES
A. ASSEMBLY USES	1. Assembly Uses for the production and viewing of the performing arts.	(a) Theatre	Motion Picture Theatres T.V. Studios admitting an audience.
	2. General Assembly Uses	(a) Cultural and Civic	Libraries Museums Art Galleries Court Rooms Meeting Rooms Council Chambers
		(b) General Assembly	Community Halls Lodge Halls Dance Halls Gymnasias Auditoria Bowling Alleys
		(c) Educational	Schools Colleges (non- residential)
		(d) Place of Worship	Churches and similar places of worship. Church Halls
		(e) Passenger Assembly	Passenger Terminals
		(f) Club and Lodge	Private Clubs and Lodges (non-residential)
		(g) Catering	Restaurants Bars Taverns
		(h) Funeral Home	Funeral Homes and Chapels
		(i) Child Care	Day Care Centres
		(j) Amusement	Electronic Games Arcades Pinball Parlours Poolrooms

**CLASSIFICATION OF USES OF LAND AND BUILDINGS**

GROUP	DIVISION	CLASS	EXAMPLES
A. ASSEMBLY USES (continued)	3. Arena-type Uses	(a) Indoor Assembly	Arenas Armouries Ice Rinks Indoor Swimming Pools
	4. Open-air Assembly Uses	(a) Outdoor Assembly	Bleachers Grandstands Outdoor Ice Rinks and Swimming Pools Amusement Parks and Fair-grounds Exhibition Grounds Drive-in Theatres
B. INSTITUTIONAL USES	1. Penal and Correctional Institutional Uses	(a) Penal and Correctional Detention	Jails Penitentiaries Police Stations (with detention quarters) Prisons Psychiatric Hospitals (with detention quarters) Reformatories
	2. Special Care Institutional Uses	(a) Medical Treatment and Special Care	Children's Homes Convalescent Homes Homes for Aged Hospitals Infirmaries Orphanages Psychiatric Hospitals Sanatoria
C. RESIDENTIAL USES	1. Residential Dwelling Uses	(a) Single Dwelling	Single Detached Dwellings Family & Group Homes
		(b) Double Dwelling	Semi-detached Dwelling Duplex Dwellings Family & Group Homes
		(c) Row Dwelling	Row Houses Town Houses Family & Group Homes
		(d) Apartment Building	Apartments Family & Group Homes

**CLASSIFICATION OF USES OF LAND AND BUILDINGS**

GROUP	DIVISION	CLASS	EXAMPLES
C. RESIDENTIAL USES (continued)	2. General Residential Uses (continued)	(a) Collective Residential	Residential Colleges & Schools University & College Halls of Residence Convents & Monasteries Nurses and Hospital Residences
		(b) Boarding House Residential	Boarding Houses Lodging Houses
		(c) Commercial Residential	Hotels & Motels Hostels Residential Clubs
		(d) Seasonal Residential	Summer Homes & Cabins Hunting & Fishing Cabins
		(e) Mobile Homes	Mobile Homes
D. BUSINESS & PERSONAL SERVICE USES	1. Business, Professional, and Personal Service Uses	(a) Office	Offices (including Government Offices) Banks
		(b) Medical & Professional	Medical Offices and Consulting Rooms Dental Offices & Surgeries Legal Offices Similar Professional Offices
		(c) Personal Service	Barbers Hairdressers Beauty Parlours Small Appliance Repairs
		(d) General Service	Self-service Laundries Dry Cleaners (not using flammable or explosive substances) Small Tool and Appliance Rentals Travel Agents

## CLASSIFICATION OF USES OF LAND AND BUILDINGS

GROUP	DIVISION	CLASS	EXAMPLES
D. BUSINESS & PERSONAL SERVICE USES (continued)	1. Business, Professional & Personal Service Uses (continued)	(e) Communications	Radio Stations Telephone Exchanges
		(f) Police Station	Police Stations without detention quarters
		(g) Taxi Stand	Taxi Stands
		(h) Take-out Food Service	Take-out Food Service
		(i) Veterinary	Veterinary Surgeries
E. MERCANTILE USES	1. Retail Sale and Display Uses	(a) Shopping Centre	Shopping Centres
		(b) Shop	Retail Shops and Stores and Showrooms Department Stores
		(c) Indoor Market	Market Halls Auction Halls
		(d) Outdoor Market	Market Grounds Animal Markets Produce and Fruit Stalls Fish Stalls
		(e) Convenience Store	Confectionary Stores Corner Stores Gift Shops Specialty Shops
F. INDUSTRIAL USES	1. Industrial uses involving highly combustible and hazardous substances and processes.	(a) Hazardous Industry	Bulk Storage of hazardous liquids and substances. Chemical Plants Distilleries Feed Mills Lacquer, Mattress, Paint, Varnish, and Rubber Factories Spray Painting



**CLASSIFICATION OF USES OF LAND AND BUILDINGS**

GROUP	DIVISION	CLASS	EXAMPLES
F. INDUSTRIAL USES (continued)	2. General Industrial Uses involving Limited Hazardous Substances and Processes.	(a) General Industry	Factories Cold Storage Plants Freight Depots General Garages Warehouses Workshops Laboratories Laundries Planing Mills Printing Plants Contractors' Yards
		(b) Service Station	Gasoline Service Stations Gas Bars
	3. Light, Non-hazardous or Non-intrusive Industrial Uses.	(a) Light Industry	Light Industry Parking Garages Indoor Storage Warehouses Workshops
G. NON-BUILDING USES	1. Uses not directly related to building	(a) Agriculture	Commercial Farms Hobby Farms Market Gardens & Nurseries
		(b) Forestry	Tree Nurseries Silviculture
		(c) Mineral Working	Quarries Pits Mines Oil Wells
		(d) Recreational Open Space	Playing Fields Sports Grounds Parks Playgrounds
		(e) Conservation	Watersheds Buffer Strips Flood Plains Architectural, Historical and Scenic Sites Steep Slopes Wildlife Sanctuaries
		(f) Cemetery	Cemeteries Graveyards
		(g) Scrap Yard	Car Wrecking Yards Junk Yards Scrap Dealers

**CLASSIFICATION OF USES OF LAND AND BUILDINGS**

GROUP	DIVISION	CLASS	EXAMPLES
G. NON-BUILDING USES (continued)	1. Uses not directly related to building. (continued)	(h) Solid Waste	Solid Waste Disposal Sanitary Land Fill Incinerators
		(i) Animal	Animal Pounds Kennels Zoos
		(j) Antenna	TV, Radio and Communications Transmitting and Receiving Masts and Antennae
		(k) Transportation	Airfields Railway Yards Docks and Harbours

# Schedule C: USE ZONE TABLES

## NOTE

This schedule contains tables showing the use classes which may be permitted or which may be treated as discretionary use classes for the purpose of these Regulations. The tables also indicate the required standards of development and may also include conditions affecting some or all of the use classes.

The schedule contains tables for the following Use Zones:

Residential	RES
Industrial	IND
Commercial	COMM
Public Use	PU
Recreational Open Space	ROS
Conservation	CONS
Cemetery	CEM
Water Supply	WS
Rural	RUR
Fortune Head Ecological Reserve	FHER



## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

### 2. Discretionary Uses - Site Standards

Unless otherwise specified in the Use Zone Table or in these conditions, discretionary use classes involving buildings shall conform to the frontage, building line setback, sideyard, rearyard, lot coverage and height requirements specified for a single dwelling.

### 3. Accessory Buildings

- i) The total of all accessory buildings associated with a residential use shall have a lot coverage no greater than 7% up to a maximum of 70m<sup>2</sup> and no accessory building shall have a height of no more than 4.5 metres.
- ii) No accessory building shall project in front of any building line setback except as provided by Section 38, Part II of these Regulations.
- iii) Accessory buildings shall be located at least 1 metre from any lot line and at least 2 metres from any other structure on the lot or the abutting lot.
- iv) Accessory buildings shall be finished with exterior roof, wall, window and door components of similar quality and type of material and colour as the main building on the lot. Exterior finishes shall be fully constructed or applied within three months of substantial completion (ie: the time at which the structure becomes useful for its intended purpose).

### 4. Convenience Stores

Convenience stores will only be permitted as a discretionary use under the following conditions:

- i) The store shall form part of, or be attached to a dwelling unit.

- ii) The retail use shall be subsidiary to the residential use of the dwelling, and not more than forty (40) percent of the total floor area of the dwelling up a maximum of forty-five square metres is devoted to the use.
- iii) The store shall not negatively affect residential amenities of adjoining properties.

**5. Lot Area and Dimensions**

The lot area and dimensions of a lot not serviced with central water or sewer service or both are subject to the requirements of Service Newfoundland and Labrador or the Department of Environment and Conservation, as follows:

With a municipal piped water supply, and connection to a municipal sewer or to a private sewer discharging directly to the sea.	650 m <sup>2</sup>
With a municipal piped water supply, and sewage disposal by septic tank and tilefield.	1400 m <sup>2</sup>
With a well water supply and connection to a municipal sewer or to a private sewer discharging directly to the sea.	1400 m <sup>2</sup>
With a well water supply and sewage disposal by septic tank and tilefield.	1860 m <sup>2</sup>

**6. Medical, Professional and Personal Service Uses**

Medical, professional and personal service uses may be permitted as a discretionary use in a residential dwelling unit not occupied by the owner, in the form of doctors consulting rooms, personal services, small business services, small appliance repair and sporting goods repair service and similar uses provided that the requirements of Section 47, Part II, in these Regulations shall apply notwithstanding that the building is not occupied by the owner, except that not more than forty (40) percent of the total floor area of the dwelling up to a maximum of forty-five square metres is devoted to the non-residential use.

**7. Subdivision Development**

- i) Refer to the Subdivision of Land section which forms Part IV of these Regulations.

- ii) With regard to residential subdivision design and in addition to the requirements of Part IV of these Regulations the Authority may require that:
  - (a) street, layout and placement of building lots conform to natural features and topography as much as possible and that the configuration of central sewer services be such that sewage flow requiring pumping is minimized or avoided;
  - (b) at least two accesses from the subdivision to the street network be provided;
  - (c) waterbodies and watercourses not be altered and, if possible, integrated with open space and park areas;
  - (d) original trees and plant growth be left on building lots and open space areas;
  - (e) open space areas be landscaped and free of garbage and refuse;

## **8. Advertisements Relating to Onsite Uses**

The conditions which shall apply to the erection or display of an advertisement on any lot or site occupied by a use permitted or existing as a legal non-conforming use in this use zone, shall be as follows:

- i) The size, shape, illumination and material construction of the advertisement shall meet the requirements of the Authority, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- ii) No advertisement shall exceed 1.5 square metres in area.

## **9. Advertisements Relating to Offsite Uses**

The conditions to be applied to 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:

- i) Each advertisement shall not exceed 1.5 square metres in area.
- ii) 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.

- iii) The location, siting and illumination of each advertisement shall be to the satisfaction of the Authority, having regard to the grade and alignment of streets, the location of street junctions, the location of nearby buildings and the preservation of the amenities of the surrounding area.

## **10. Protection of Water Sources and Environment**

All development applications within 15 metres of a waterbody or watercourse or that may otherwise have a negative effect on the environment shall be subject to the review and approval of the Department of Environment and Conservation.



## USE ZONE TABLE

ZONE TITLE	COMMERCIAL (COM)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89) Assembly, commercial residential, business and personal services, mercantile, and service station uses.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90) General industry, light industry and residential dwelling.		

## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

### 2. Development Standards

- (i) With the exception of residential the development standards for this zone shall be as follows:
  - (a) Minimum Building Line Setback 6 metres
  - (b) Minimum Sideyard Width 3 metres
  - (c) Minimum Rearyard Depth 9 metres
  - (d) Maximum Height 12 metres
- (ii) All standards, conditions or other requirements of the Residential (RES) zone shall apply with regard to residential development in the Commercial (COM) zones.
- (iii) The development standards set out in (i) may be reduced at the discretion of the Authority to facilitate non-residential development where abutting uses are non-residential.

### **3. Accessory Buildings**

- i) The total of all accessory buildings associated with a non-residential use shall have a lot coverage no greater than 20% up to a maximum of 200m<sup>2</sup> and no accessory building shall have a height of no more than 7 metres.
- ii) No accessory building shall project in front of any building line setback except as provided in Section 38, Part II of these Regulations.

### **4. Advertisements**

See Conditions 8 and 9 of the Residential (RES) zone.

### **5. Outdoor Market**

An outdoor market may, at the discretion of the Authority, include a motor vehicle sales lot, provided due consideration is given to the size and scale of the development relative to surrounding development and to the site itself. Due consideration shall also be given to buffering where appropriate, off-street parking, and to the implications of traffic movement and/or congestion as well as safe access. Additional conditions may be required for temporary outdoor markets, related to term of time for which a market may operate, hours of operation, temporary parking, and provision of traffic and litter control.

### **6. Access**

The number of accesses to the street shall be limited and designed to the satisfaction of the Authority, having regard to the safety and efficiency of the street for both vehicles and pedestrians.

### **7. Protection of Residential Use**

Adverse effects of any proposed development on an adjacent existing residential use shall be prevented or minimized through proper site planning and the provision of buffering by the developer to the satisfaction of the Authority.

### **8. Protection of Water Sources and Environment**

All development applications within 15 metres of any watercourse shall be subject to the review and approval of the Department of Environment and Conservation.

### **9. Service Station**

The following development standards shall apply to all proposed service stations.

- i) All gasoline pumps shall be located on pump islands designed for such purpose, and to which automobiles may gain access from either side.

- ii) Pump islands shall be setback at a minimum 4 metres from the front lot line.
- iii) Accesses shall not be less than 7 metres wide and shall be clearly marked, and where a service station is located on a corner lot, the minimum distance between an access and the intersection of the street shall be 10 metres and the lot line between entrances shall be clearly indicated.

## **10. Outdoor Storage**

Outdoor storage as a use accessory to a main use, such as storage of vehicles, aggregates, equipment, and goods in conjunction with a main use of mercantile, shall be located only in the rearyard of the lot and be screened from visual sight from streets and other surrounding development.



### **3. Accessory Buildings**

- i) The total of all accessory buildings shall have a lot coverage no greater than 20% up to a maximum of 200m<sup>2</sup> and no accessory building shall have a height of no more than 7 metres.
- ii) No accessory building shall project in front of any building line setback except as provided in Section 38, Part II of these Regulations.

### **4. Advertisements**

See Conditions 8 and 9 of the Residential (RES) zone.

### **5. Outdoor Storage**

Outdoor storage shall be located on the rearyard of the lot and be screened from visual site from street and other surrounding development.

### **6. Access**

The number of accesses to the street shall be limited and designed to the satisfaction of the Authority, having regard to the safety and efficiency of the street for both vehicles and pedestrians.

### **7. Protection of Residential Use**

Adverse effects of any proposed development on an adjacent existing residential use shall be prevented or minimized through proper site planning and the provision of buffering by the developer to the satisfaction of the Authority.

### **8. Protection of Water Sources and Environment**

All development applications within 15 metres of any watercourse shall be subject to the review and approval of the Department of Environment and Conservation.

## USE ZONE TABLE

ZONE TITLE	INDUSTRIAL (IND)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89)		
Light industry, general industry, and transportation.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90)		
Hazardous industry, service station, assembly, institutional, commercial residential, business and personal service, mercantile.		

## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes and provided that they are not of a scale of building or amount of land required which would deter from the efficient functioning or potential for expansion of the industrial area.

Discretionary uses will only be permitted if the Department of Environment and Conservation has determined they will not cause pollution of any area of land or water body or cause erosion of land to take place.

### 2. Development Standards

The development standards for this zone shall be as follows:

- |     |                               |           |
|-----|-------------------------------|-----------|
| (a) | Minimum Building Line Setback | 6 metres  |
| (b) | Minimum Sideyard Width        | 4 metres  |
| (c) | Minimum Rearyard Depth        | 10 metres |
| (d) | Maximum Height                | 15 metres |

### **3. Accessory Buildings**

- i) The total of all accessory buildings associated with this land use designation shall have a lot coverage no greater than 20% and no accessory building shall have a height of more than 10 metres.
- ii) No accessory building shall project in front of any building line setback except as provided in Section 38, Part II of these Regulations..
- iii) Accessory buildings shall have at least a 6 foot side yard width as well as a 6 foot rear yard depth.

### **4. Advertisements**

See Conditions of the Residential (RES) zone.

### **5. Municipal Heritage Site—Fishing Sheds**

See regulations made pursuant to the Municipalities Act, which are quoted as follows (these are subject to change):

## ***Regulations for Fortune Fishing Sheds (Municipal Heritage Site)***

### ***Statement of Significance***

#### ***A. Description of Historic Place***

*The Fortune Fishing Sheds are a collection of fifteen fisheries structures including sheds, wharfs, walkways and slipways. Constructed between 1900 and 1970, the structures are located on Harbour Drive in Fortune, NL. The designation includes the sheds, associated structures such as wharfs, walkways and slipways and the land between the sheds.*

#### ***B. Heritage Value***

*The Fortune Fishing Sheds have been designated a municipal heritage site by the Town of Fortune because of their aesthetic, historical and cultural values.*

*The Fortune Fishing Sheds have aesthetic value as good examples of intact fishing structures in the region. There are few examples of clusters of such structures in the province left in their original shapes and conditions. Such buildings were designed for practical use and had to endure the rigours of a harsh environment. The use of rough materials, simple design elements and the utilitarian construction techniques exemplify these fishery buildings.*

*The sheds have further aesthetic value due to their continuity in terms of form, design, materials, massing and setting. Most roofs are low pitched gable roofs and most stand one storey high. The sheds are devoid of decoration, serving a strictly utilitarian purpose. Wide trim and corner boards, narrow wooden siding and wood shingles are common building materials and the use of recycled building materials is common in many of the structures. The sheds are aligned with Harbour Drive and show uniformity in length, their facades creating an almost unbroken line on the sea-facing side. Raised wooden walkways, wooden wharfs and wooden slipways located adjacent to some of the stages create interesting structural features and spatial usage patterns are evident in the adjacent open spaces associated with some of the sheds.*

*The Fortune Fishing Sheds are of historical importance because of their extended use as fisheries premises and their association with the inshore fishery. Built between 1900 and 1970, the sheds have been used for the same purpose over several generations. They are a physical reminder of a way of life once common in Fortune and throughout Newfoundland and Labrador. These fisheries buildings were a vital part of an industry dependant on the ocean and remain an important physical link to the past.*

*The Fortune Fishing Sheds are culturally important as they are physical reminders of a specific time and place, particularly of a time when life was intrinsically linked to the sea. The sheds originally served a vital purpose in a subsistence economy based on the bounty of the ocean surrounding the community and on the procurement, curing and storage of fish. The continued use and maintenance of this collection of fisheries buildings is a testament to the value the community places on the site.*



### **C. Character-Defining Elements**

*All those elements that reflect simple design elements and utilitarian construction techniques, including:*

- *original form, small scale and low, simple massing*
- *typical one storey design*
- *low pitch gable roofs*
- *narrow wooden clapboard*
- *exterior wood shingle sheathing*
- *wooden comer boards*
- *window size, style, trim and placement*
- *size, style, trim and placement of exterior doors*
- *traditional exterior colours*
- *wooden post building supports*
- *location orientation of sheds in relation to the community wharf to the east and Harbour Drive to the west*
- *associated wooden wharfs, walkways and slipways,*
- *adjacent open spaces associated with some of the sheds*

*To Renovate and repair the following activities can be completed with a valid permit:*

- *Repair and replace only what is necessary while keeping the defining characteristics such as:*
  - *original form*
  - *one story, low pitch gable roof*
  - *narrow wooden clapboard or shingles, similar to what presently exists in the stage*
  - *wooden comer boards*
  - *windows of traditional wooden and glass materials*
  - *traditional exterior paint colours*
  - *wooden post building supports*
  - *traditional stage type size and trim*

*Repair and replace wood siding with wood siding of the same profile, size and original.*

*Repair existing, old wooden windows and doors before resorting to replacement*

*Stabilize the structure with shores.*

*Keep original window and door openings, sizes and shapes*

*Install new windows and doors which are wooden and of the same shape, style as original*

*Keep original, unique openings used in the fishery, such as offal doors, heading pound holes, side spans, etc. and any original hardware and decorative elements*  
*Keep any original sub-structures that are unique, flakes, splitting tables, slipway walkways, flakes, stage heads, etc.*  
*following repairs and renovations are contrary to the goals of the heritage site and roved by permit, or allowed:*  
*Treated lumber, vinyl, aluminum, still and non traditional materials are not allo*  
*Replace siding with modern siding such as vinyl or aluminum*  
*Replace windows and doors with modern products like vinyl, aluminum or stee*  
*Construct or create new window or door openings*  
*Cover or destroy original window or door openings*  
*Install windows or doors more than 10% larger or smaller than original*  
*Remove, alter or cover unique wall and floor openings such as offal doors, heat pound holes, side spans, etc.*  
*Strip the entire structure and replace everything with new materials*

***END of Quotation: Regulations for Fortune Fishing Sheds***

**USE ZONE TABLE**

ZONE TITLE	CONSERVATION (CONS)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89)		
Conservation.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90)		
Recreational open space, forestry, public utilities, antenna.		

**CONDITIONS**

**1. Discretionary Use Classes**

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

Discretionary uses will only be permitted if they will not cause pollution of any area of land or water body or cause erosion of land to take place or worsen any propensity to flood.

Forestry activity shall be defined in a forest management plan satisfactory to the Authority. Development will not be permitted on land which may be inherently dangerous due to steep or unstable slopes.

**2. Recreation**

Only passive recreational activities not involving erection of structures except ground level structures such as boardwalks and decks, such as hiking and canoeing, shall be permitted.

**3. Special Requirements for Storage Buildings**

Storage buildings may be permitted subject to the requirements for accessory buildings in the Residential (RES) use zone, notwithstanding that they may be the main use on the lot.

## USE ZONE TABLE

ZONE TITLE	RECREATIONAL OPEN SPACE (ROS)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89) Recreational open space.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90) Outdoor assembly, conservation, and cemeteries.		

## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

### 2. Development Standards

(a) The development standards for this zone shall be as follows:

- |       |  |           |
|-------|--|-----------|
| (i)   | Minimum Building Line Setback  | 6 metres  |
| (ii)  | Minimum Sideyard Width, except where building are built with adjoining party walls | 3 metres  |
| (iii) | Minimum Rearyard Depth   | 8 metres  |
| (iv)  | Maximum Height   | 15 metres |

### 3. Advertisements

See Conditions 8 and 9 of the Residential (RES) zone.

### 4. Parking

Parking for special events may be required by the Authority in addition to any parking requirements stated in Appendix D.

**5. Access**

The number of accesses to the street shall be limited and designed to the satisfaction of the Authority, having regard to the safety and efficiency of the street for both vehicles and pedestrians.

**6. Protection of Residential Use**

Adverse effects of any proposed development on an adjacent existing residential use shall be prevented or minimized through proper site planning and the provision of buffering by the developer to the satisfaction of the Authority.

**7. Protection of Water Sources and Environment**

All development applications within 15 metres of any watercourse shall be subject to the review and approval of the Department of Environment and Conservation.

## USE ZONE TABLE

ZONE TITLE	WATER SUPPLY (WS)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89)		
Conservation.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90)		
Public works and forestry uses related to management and use of the water supply.		

## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

Discretionary uses will only be permitted if they will not cause pollution of any area of land or water body or cause erosion of land to take place or worsen any propensity to flood.

Forestry activity shall be defined in a forest management plan satisfactory to the Authority.

## USE ZONE TABLE

ZONE TITLE	CEMETERY (CEM)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89)		
Cemeteries, graveyards.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90)		
Recreational open space, conservation.		

## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

### 2. Development Standards

(i) With the exception of residential the development standards for this zone shall be as follows:

- |                                   |           |
|-----------------------------------|-----------|
| (a) Minimum Building Line Setback | 6 metres  |
| (b) Minimum Sideyard Width        | 3 metres  |
| (c) Minimum Rearyard Depth        | 9 metres  |
| (d) Maximum Height                | 12 metres |

### 3. Accessory Buildings

i) The total of all accessory buildings shall have a lot coverage no greater than 20% up to a maximum of 200m<sup>2</sup> and no accessory building shall have a height of no more than 7 metres.

ii) No accessory building shall project in front of any building line setback except as

provided by Section 38, Part II of these Regulations.

iii) Accessory buildings shall be located at least 1 metre from any lot line and at least 2 metres from any other structure on the lot or the abutting lot.

#### **4. Advertisements**

See Conditions 8 and 9 of the Residential (RES) zone.

#### **5. Protection of Water Sources and Environment**

All development applications within 15 metres of any watercourse shall be subject to the review and approval of the Department of Environment and Conservation.



## USE ZONE TABLE

ZONE TITLE	RURAL (RUR)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89) Agriculture, forestry, conservation.		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90) All other uses.		

## CONDITIONS

### 1. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are compatible or complementary to uses within the permitted use classes, or that their development will not inhibit or prejudice the existence or the development of such uses.

Unless otherwise specified in the Use Zone Table or in these conditions, discretionary use classes involving buildings shall conform to the frontage, building line setback, sideyard, rearyard, lot coverage and height requirements as specified by the Authority.

### 2. Advertisements

See Conditions 8 and 9 of the Residential (RES) zone.

### 3. Special Requirements Protected Road Designation

The Province of Newfoundland and Labrador limits the types of development which may be located within specified building control lines along designated highways, as listed in the Newfoundland and Labrador Protected Road Zoning Regulations O.C. 96-217, as may be amended from time to time. A part of Highway 220 is included in

the designated highways listed there, but any Protected Road Zoning Regulations have no effect within a Planning Area Boundary where municipal Development Regulations are in effect.

#### 4. Mineral Workings

##### 4.1 Applications

All applications for any mineral working or related development or for any development within the recommended buffer shall be subject to the review and approval of the Department of Natural Resources and the Department of Environment and Conservation.

##### 4.2 Separation from Adjacent Uses (Buffers)

No mineral working or associated activity shall be located any closer than the minimum distances listed below to the specified developments or natural features unless, after consulting nearby residents, concerned government departments and those involved in any kind of land use within the surrounding general area, the Authority is satisfied that the working will not have a negative effect on other development, potential development or natural features and provided all other applicable regulations and plan policies are respected.

Type of Development	Minimum Distance from Mineral Working
Existing or proposed residential development	300 metres
Any other developed area or area likely to be developed during the life of pit or quarry working for any purpose other than residential	150 metres
Public highway or street	50 metres
Any of the above, with regard to a mineral working operation in which blasting may take place (or any bedrock quarry or reserve)	1000 metres
Waterbody or watercourse	50 metres

##### 4.3 Screening

Where a mineral working or related activity is visible from a public street or highway, developed area, or area likely to be developed during the life of the use of the mineral working it shall be screened in the following manner:

- (i) Where tree screens exist between the mineral working and adjacent public highways and streets or other land uses (excepting forestry and agriculture), the tree screens shall be retained in a 30—metre wide strip so that visibility of any part of the use from surrounding uses or streets will be prevented. The tree screens must be maintained by the owner or occupier of the use to remain in a forested appearance. Where vegetation dies or is removed from the 30-metre strip, the Authority may require new trees of a minimum height of 1 metre be planted to fill in the areas affected to the satisfaction of the Authority or, at the discretion of the Authority, condition 4.3(ii) must be undertaken.
- (ii) Where no tree screens of sufficient width and density to constitute a visual screen exist, earthen berms shall be constructed to a height sufficient to prevent visibility of any part of the mineral working from adjacent uses (excepting forestry and agriculture), or adjacent public highways and streets. The berms shall be landscaped to the Authority's satisfaction.
- (iii) Where natural topography creates a visual screen between mineral workings and adjacent public highways and streets or other land uses (excepting forestry and agriculture), additional screening may not be required.
- iv) Where effective screening for any mineral working or associated processing or manufacturing use cannot be installed or located as required in 4.3(i) to 4.3(iii), the Authority may refuse to permit the use or associated activity.

#### 4.4 Fencing

The Authority may require the mineral working site or excavated areas of a pit or quarry working to be enclosed by a fence designed and constructed to its specifications and no less than 1.8 metres in height.

#### 4.5 Water Pollution

No mineral working or associated storm or sanitary drainage shall unacceptably reduce the quality of water in any waterbody or watercourse. Any access road to a pit or quarry working which crosses a rock or stream shall be bridged or culverted at the crossing in accordance with the Regulations of the Department of Environment and Conservation.

#### 4.6 Water Ponding

No mineral working shall result in the excavation of areas below the level of the water table nor in any way cause the accumulation or pending of water in any part of the site. Settling ponds may be permitted with the approval of the Department of Environment and Conservation.

#### 4.7 Erosion Control

Before commencement of the mineral working the developer must indicate how the mineral working will be carried out so as to not cause erosion of adjacent land. The mineral working must then be carried out in this manner. If not, the Authority shall rescind approval of the permit for the mineral working.

#### 4.8 Site Maintenance

The mineral working site shall be kept free from refuse. Vehicles, equipment and buildings shall not be left abandoned on site.

#### 4.9 Access Roads

- i) During extended periods of shutdown, or expiration of the quarry permit or permanent cessation of operations prior to that, access roads to a mineral working shall be ditched or barred to the satisfaction of the Authority.
- ii) Access to a quarry site shall not be via local residential streets.

#### 4.10 Stockpiling Cover Material

All stumps, organic material and topsoil, including the rusty coloured and iron stained layer. Shall be stripped and stockpiled at least 5 metres from active quarry or stockpile areas. The owner or operator shall ensure that the quality of the topsoil is not affected by dilution with other materials.

#### 4.11 Operating Plant and Associated Processing and Manufacturing

The Authority may permit processing and manufacturing use associated with mineral workings provided that, in the opinion of the Authority, the use does not create a nuisance nor is liable to become a nuisance or offensive by the creation of noise or vibration, or by reason of the emission of fumes, dust, dirt, objectionable odour, or by reason of unsightly storage of materials.

All permanent or temporary buildings, plants and structures associated with processing and manufacturing will be located so as not to interfere with the present or future extraction of aggregate resources.

The Authority may specify a minimum separation distance between operating plant or associated processing and manufacturing structure or equipment and adjacent developed areas likely to be developed during the life of the mineral working.

#### 4.12 Termination and Site Rehabilitation

Upon completion of the mineral working, the following work shall be carried out by the operator:

- (i) All buildings, machinery and equipment shall be removed.
- (ii) All pit and quarry slopes shall be graded to slopes less than 20° or to the slope conforming to that existing prior to the mineral working.
- (iii) Topsoil and any organic materials shall be respread over the entire quarried area. Seeding and/or tree planting may be required.
- (iv) The access road to the working shall be ditched or barred to the satisfaction of the Authority.
- (v) If the mineral working contains reserves of material sufficient to support further extraction operations, the Authority may require the work described above to be carried out only in areas of the site where extraction has depleted reserves.
- (vi) Prior to commencement of the mineral working, Council may require the developer to post a bond to be repaid once site rehabilitation has taken place. The amount of the bond shall be no less than 10% (ten percent) of the estimated cost of site rehabilitation, which shall be repaid, with interest, upon satisfactory termination of rehabilitation of the site.

### **5. Agricultural Development**

Applications for agricultural development shall be referred to the Department of Natural Resources for review and approval.

### **6. Protection of Water Sources and Environment**

All applications for development within 15 metres of any watercourse shall be subject to the review and approval of the Department of Environment and Conservation.

### **7. Solid Waste Processing or Disposal Operated by Public Authority**

- i) No development of this kind shall be approved if it is not operated by a public authority or if it will have noticeable off-site effects from pollution, noise, visual impact or traffic which cannot be considered acceptable, or which cannot be ameliorated to be made acceptable, within the context of the surrounding area.

- ii) A site plan must be included with proposals for such uses or for extensions or additional activity at the site of existing development of this kind. The site plan must clearly depict in proper scale and proportion the layout of all existing and proposed features of the site including activities, buildings and parking areas as well as any other items that Council may require.
- iii) Buffers of existing plant growth must be retained around the site, including the parking area and any part fronting along a public road for a depth of at least 50 m (165 feet). Landscaping of buffers, parking areas, accesses and of the entire development in general is required and must be to the satisfaction of Council.
- iv) All buildings on-site and otherwise associated with this development must have properly finished exteriors and be maintained to the satisfaction of Council.

#### **8. Special Requirement for Development in Close Proximity to Fortune Head Ecological Reserve**

Proposals for any development in the Rural Zone and located within 500 metres of the boundary of the Fortune Head Ecological Reserve shall be referred to the Department of Environment and Conservation for review and comment to the Town of Fortune before the Town considers approval. Only those developments in the Rural Zone and within that limit that, in the opinion of Council, do not pose a significant threat to the Reserve in the form of negative biological or physical effects may be approved. The 500 metre offset line is illustrated on the Land Use Zoning Maps.

## USE ZONE TABLE

ZONE TITLE	FORTUNE HEAD ECOLOGICAL RESERVE (FHER)	(FORTUNE)
<b>Permitted Use Classes</b> - (see Regulation 89)		
Conservation		
Uses compatible with the values and plans of the Province of Newfoundland and Labrador for the Fortune Head Ecological Reserve		
<b>Discretionary Use Classes</b> - (see Regulations 32 and 90)		
None		

### CONDITIONS

#### 1. Permitted and Discretionary Use Classes

Only those uses which are approved by and under the control of the Province of Newfoundland and Labrador are permitted.

#### 3. Certain Lands Not Included in Reserve

The lightstation and its access road are not part of the designated Reserve, and the requirements of this Use Zone Table do not apply to development on those lands.

# Schedule D

## OFF-STREET PARKING REQUIREMENTS

Pursuant to Regulation 51, the quantity of off-street parking spaces shall be provided according to the following minimum requirements:

- |   |  |
|---|--|
| a. Assembly uses other than education and child care: | 1 space for every five seats or if there are no seats, one space for each 100 square metres of floor area devoted to public occupancy                |
| b. Education and child care uses:                     | 2 spaces for each classroom or 25 students or children, whichever is less  |
| c. Institutional uses                                 | 1 space for each two beds or clientele spaces  |
| d. Residential Dwelling uses                          | 2 spaces for each dwelling unit  |
| e. General Residential uses                           | 1 space for each rental suite or unit, plus 1 space for each 10 square metres of common spaces such as common rooms, kitchens, and recreation areas. |
| f. Business and personal service uses                 | 1 space for each 20 square metres of floor area  |
| g. All other uses                                     | 1 space for each 30 square metres of floor area  |



## **Schedules E and F: LAND USE ZONING MAPS**

Schedule E, Land Use Zoning Map 1, is located in a map pocket.

Schedule F, Land Use Zoning Map 2, is located in a map pocket.