

# TOWN OF PORTUGAL COVE SOUTH DEVELOPMENT REGULATIONS 2017

| DECEMBER 2017 |



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**Urban and Rural Planning Act, 2000**  
**Resolution to Approve**  
**Town of Portugal Cove South Development Regulations, 2017**


Under the authority of Section 16, Section 17, and Section 18 of the *Urban and Rural Planning Act, 2000*, the Town Council of Portugal Cove South:

- a) Adopted the Town of Portugal Cove South Development Regulations on the 22nd day of August 2017.
- b) Gave notice of the adoption of the Town of Portugal Cove South Development Regulations by advertisement inserted on the 11<sup>th</sup> day and the 15<sup>th</sup> day of November, 2017 in the Telegram (newspaper).
- c) Set the 4<sup>th</sup> day of December, 2017 at 6 p.m. at Town Hall for the holding of the Public Hearing of objections.

Now under the authority of Section 23, of the *Urban and Rural Planning Act, 2000*, the Town Council of Portugal Cove South approves the Development Regulations as adopted.

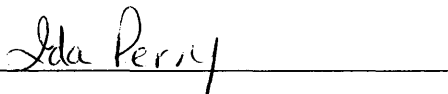
Signed and Sealed this 19<sup>th</sup> day of December, 2017.

Mayor:

  
Clarence Molloy

FILED  
April 2, 2018  
Mary G. G. G.

Town Clerk:

  
Ida Perry

(Council Seal)

**Urban and Rural Planning Act, 2000**  
**Resolution to Adopt**  
**Town of Portugal Cove South Development Regulations, 2017**

Under the authority of Section 16 of the Urban and Rural Planning Act, 2000, the Town Council of the Town of Portugal Cove South adopts the Town of Portugal Cove South Development Regulations, 2017.

Adopted by the Town Council of the Town of Portugal Cove South on the 22<sup>nd</sup> day of August 2017.

Mayor: Clarence Molloy  
Clarence Molloy

Town Clerk: Ida Perry  
Ida Perry

(Council Seal)

**Canadian Institute of Planners Certification**

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

MCIP: Algeers  
Member of Canadian Institute of Planners



## DEVELOPMENT REGULATIONS 2017

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### Town of Portugal Cove South



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# TABLE OF CONTENTS

- OVERVIEW OF DEVELOPMENT REGULATIONS..... i**
  
- APPLICATION ..... iii**
  - Short Title ..... iii
  - Interpretation ..... iii
  - Commencement ..... iii
  - Municipal Code and Regulations ..... iii
  - Authority..... iii
  
- PART I: PROVINCIAL DEVELOPMENT REGULATIONS (MINISTER’S REGULATIONS) .1**
  - I-1 Short title..... GNL 3
  - I-2 Definitions ..... GNL 3
  - I-3 Application..... GNL 3
  - I-4 Interpretation ..... GNL 3
  - I-5 Notice of right to appeal ..... GNL 6
  - I-6 Appeal requirements..... GNL 6
  - I-7 Appeal registration ..... GNL 6
  - I-8 Development prohibited ..... GNL 7
  - I-9 Hearing notice and meetings ..... GNL 7
  - I-10 Hearing of evidence..... GNL 7
  - I-11 Board decision ..... GNL 8
  - I-12 Variances ..... GNL 8
  - I-13 Notice of variance ..... GNL 8
  - I-14 Residential non-conformity..... GNL 8
  - I-15 Notice and hearings on change of use ..... GNL 9
  - I-16 Non-conformance with standards ..... GNL 9

I-17	Discontinuance of non-conforming use .....	GNL 9
I-18	Delegation of powers .....	GNL 9
I-19	Commencement .....	GNL 9

**PART II - GENERAL REGULATIONS .....0**

II-1	Compliance with Regulations.....	1
II-2	Compliance with Legislation & higher levels of regulatory authority.....	1
II-3	Permit Required .....	1
II-4	Permit to be Issued .....	2
II-5	Permit Not to be Issued in Certain Cases.....	2
II-6	Discretionary Powers of Council .....	2
II-7	Variances By Authority (Refer to Minister’s Regulations, Section 12).....	3
II-8	Service Levy .....	4
II-9	Financial Guarantees by Developer .....	4
II-10	Dedication of Land for Public Use .....	5
II-11	Reinstatement of Land .....	5
II-12	Form of Application.....	5
II-13	Register of Application .....	6
II-14	Deferment of Application.....	6
II-15	Approval-In-Principle / Conditional Approval / Outline Planning Permission .....	6
II-16	Development Permit .....	7
II-17	State Conditions or Reasons for Refusing Permit .....	8
II-18	Notification Requirements (see ACT, and Minister’s Development Regulations) .....	8
(1)	Notice of Application: Variance.....	8
(2)	Notice of Application: Change in Non-Conforming Use.....	8
(3)	Notice of Application: Discretionary Use .....	9
II-19	Right of Entry.....	9
II-20	Record of Violations .....	9
II-21	Stop Work Order and Prosecution .....	9
II-22	Appeals (see ACT, and Minister’s Development Regulations) .....	9
II-23	Appeal Regulations (see Minister’s Development Regulations) .....	11
II-24	Return of Appeal Fee (see Minister’s Development Regulations) .....	11
II-25	Effect of Appeal Board Decisions .....	11
II-26	Development May Not Proceed When Decision Under Appeal .....	11
II-27	Delegation of Powers (Refer to Minister’s Development Regulations, S. 18) .....	11

<b>PART III – GENERAL DEVELOPMENT STANDARDS.....</b>	<b>12</b>
III-28 Accesses and Service Streets.....	12
III-29 Accessory Buildings.....	12
III-30 Accessory Uses.....	13
III-31 Advertisements.....	14
III-32 Alterations to the Natural Environment.....	14
III-33 Antennae and Satellite Dishes.....	14
III-34 Bed & Breakfast Operations.....	14
III-35 Buffer Strips.....	15
III-36 Building Height.....	15
III-37 Building Line and Setback.....	15
III-38 Easements and Emergency Access.....	16
III-39 Environmental Assessments.....	16
III-40 Family and Group Care Centres.....	16
III-41 Livestock Structures and Uses.....	17
III-42 Lot Area.....	17
III-43 Lot Area and Size Exceptions.....	17
III-44 Lot Frontage.....	18
III-45 Mineral Exploration.....	18
III-46 Mobile Homes.....	18
III-47 Multiple Uses.....	18
III-48 Non-Conforming Use.....	19
III-49 Offensive and Dangerous Uses.....	20
III-50 Off-Street Parking Requirements.....	20
III-51 Off-Street Loading Requirements.....	21
III-52 Outdoor storage.....	22
III-53 Outdoor Swimming Pools.....	22
III-54 Public Parks, Playgrounds, and Conservation Uses.....	22
III-55 Screening and Landscaping.....	23
III-56 Services and Public Utilities.....	23
III-57 Service Stations.....	23
III-58 Side Yards.....	23
III-59 Site Grading, Soil Removal, and Soil Deposit/ Fill.....	23
III-60 Stormwater & Groundwater Management.....	24
III-61 Street Construction Standards.....	25
III-62 Subsidiary Apartments.....	25

III-63	Unsubdivided Land.....	25
III-64	Watercourse Protection.....	25
III-65	Zero Lot Line and Other Comprehensive Development .....	25
<b>PART IV – SIGNAGE/ ADVERTISEMENTS .....</b>		<b>27</b>
IV-66	Provincial Highway Sign Regulations.....	27
IV-67	Permit Required .....	27
IV-68	Form of Application.....	27
IV-69	Advertisements Prohibited in Street Reservation.....	27
IV-70	Permit Valid for Limited Period.....	27
IV-71	Removal of Advertisements .....	27
IV-72	Advertisements Exempt from Control .....	28
IV-73	Approval Subject to Conditions.....	28
IV-74	Non-Conforming Uses .....	28
<b>PART V – SUBDIVISION OF LAND .....</b>		<b>29</b>
V-75	Permit to Subdivide Required .....	29
V-76	Services to be Provided .....	29
V-77	Payment of Service Levies and Other Charges.....	29
V-78	Issue of Permit Subject to Considerations .....	29
V-79	Building Permits Required.....	30
V-80	Form of Application.....	30
V-81	Subdivision Subject to Zoning .....	30
V-82	Building Lines.....	30
V-83	Land for Public Open Space.....	31
V-84	Structure in Street Reservation.....	32
V-85	Subdivision Design Standards.....	32
V-86	Engineer to Design Works and Certify Construction Layout.....	33
V-87	Developer to Pay Engineer's Fees and Charges .....	34
V-88	Street Works May Be Deferred .....	34
V-89	Transfer of Streets and Infrastructure Works to Council.....	34
V-90	Restriction on Sale of Lots.....	35
V-91	Grouping of Buildings and Landscaping .....	35
<b>PART VI – USE ZONES .....</b>		<b>37</b>
VI-92	Use Zones .....	37
VI-93	Use Classes .....	37



VI-94	Permitted Uses.....	37
VI-95	Discretionary Uses.....	37
VI-96	Uses Not Permitted .....	37

SCHEDULE A:

<b>DEFINITIONS .....</b>	<b>A • 1</b>
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SCHEDULE B:

<b>CLASSIFICATION OF USES OF LAND &amp; BUILDINGS .....</b>	<b>B • 1</b>
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SCHEDULE C:

<b>USE ZONE TABLES.....</b>	<b>C • 1</b>
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<b>MIXED DEVELOPMENT (MD).....</b>	<b>C • 5</b>
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<b>RURAL (RU) .....</b>	<b>C • 12</b>
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<b>CONSERVATION (CON) .....</b>	<b>C • 21</b>
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SCHEDULE D:

<b>OFF-STREET PARKING REQUIREMENTS.....</b>	<b>D • 1</b>
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SCHEDULE E:

<b>LAND USE ZONING MAP .....</b>	<b>E</b>
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## OVERVIEW OF DEVELOPMENT REGULATIONS

The Development Regulations represent the companion community planning document to the Town of Portugal Cove South Municipal Plan, 2017. While the Municipal Plan provides goals, objectives, and policies to guide and manage growth and development within the community over the next ten-year period, the Development Regulations detail the regulatory approach and requirements for implementing the Municipal Plan policies with regard to land use zoning, development standards, and conditions for proposed land and building development.

The Development Regulations like the Town's Municipal Plan are authorized through the provisions of the Newfoundland and Labrador Urban and Rural Planning Act (2000), and as approved by the Department of Municipal Affairs and the Town Council of Portugal Cove South. The Development Regulations apply to the entirety of the Town's designated Municipal Planning Area

The primary components of the Development Regulations include the following:

- Provincial Ministerial Regulations (mandatory component of municipal plans);
- Application;
- General Regulations;
- General Development Standards;
- Regulations pertaining to Signs and Advertisements;
- Regulations for Subdivision of Land; and,
- The document also provides for a number of information Schedules A-E, that form an integral part of the Development Regulations document, including: definitions of planning terms; a classification listing of indicative and exemplar uses of land and buildings; use zone tables outlining the uses that shall or may be permitted subject to standards and conditions; off-street parking requirements; and the land use zoning map.

The Development Regulations represent a comprehensive local government management approach for regulating current and future land use development within the community. To determine if proposed developments comply with the Town's planning framework, readers are advised to consider the comprehensive effect of the Municipal Plan in concert with the Development Regulations. Town staff are available to assist as much as possible in interpreting policies and regulations. Provincial planners at Municipal Affairs can also assist in land use matters, especially respecting legislative interpretation.



# APPLICATION

## SHORT TITLE

These Regulations may be cited as the Portugal Cove South Development Regulations.

## INTERPRETATION

(1) Words and phrases used in these Regulations shall have the meanings ascribed to them in Part I and Schedule A of these Regulations.

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

## COMMENCEMENT

These Regulations come into effect through the Portugal Cove South Municipal Planning Area, hereinafter referred to as the Planning Area, on the date of publication of a notice to that effect in the *Newfoundland and Labrador Gazette*.

## 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, Waste Disposal Regulation and/or any other municipal regulations regulating or controlling the development, conservation and use of land in force in the Town of Portugal Cove South shall, under these Regulations apply to the entire Planning Area.

## AUTHORITY

In these Regulations, "Authority" means the Council of the Town of Portugal Cove South.



# PART I: PROVINCIAL DEVELOPMENT REGULATIONS (MINISTER'S REGULATIONS)

## NEWFOUNDLAND AND LABRADOR REGULATION 3/01

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

*(Filed January 2, 2001)*

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

Dated at St. John's, January 2, 2001.

Joan Marie Aylward  
Minister of Municipal Affairs and Provincial Affairs

## MINISTER’S REGULATIONS

### *Analysis*

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

## 1. SHORT TITLE

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

## 2. DEFINITIONS

In these Regulations,

- a) "Act," unless the context indicates 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.

## 3. APPLICATION

- (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.

## 4. INTERPRETATION

- (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 buildings on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot;
- (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 percent 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 (Land Use Zoning Map).





- (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.

## **5. NOTICE OF RIGHT TO APPEAL**

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.

## **6. APPEAL REQUIREMENTS**

- (1) The secretary of the board at the Department of Municipal Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. John's, NL, 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 Regulation 42(4) of the Act shall be considered to have been filed with the appropriate board.
- (2) Notwithstanding Regulation (1), where the City of Corner Brook, City of Mount Pearl or City of St. John's may appoint an appeal board under Regulation 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 Regulation (1) or (2) within the 14 days referred to in Regulation 42(4) of the Act.
- (4) The board that hears the decision being appealed shall, subject to Regulation 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.

## **7. APPEAL REGISTRATION**

- (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 Regulations 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 Regulation (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 Regulation (4) shall be published not fewer than 2 weeks before the date upon which the appeal is to be heard by the board.

## **8. DEVELOPMENT PROHIBITED**

- (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 Regulation (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.

## **9. HEARING NOTICE AND MEETINGS**

- (1) A board shall notify the appellant, applicant, authority and other persons affected by
  - (a) 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.

## **10. HEARING OF EVIDENCE**

- (1) A board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under Regulation 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 Regulation 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.

## **11. BOARD DECISION**

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.

## **12. VARIANCES**

- (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 percent 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 percent variance even though the individual variances are separately no more than 10 percent.
- (3) An authority shall not permit a variance from development standards where the proposed development would increase the non-conformity of an existing development.

## **13. NOTICE OF VARIANCE**

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.

## **14. RESIDENTIAL NON-CONFORMITY**

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.



## **15. NOTICE AND HEARINGS ON CHANGE OF USE**

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.

## **16. NON-CONFORMANCE WITH STANDARDS**

Where a building, structure or development does not meet the development standards that are included within the 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.

## **17. DISCONTINUANCE OF NON-CONFORMING USE**

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

## **18. DELEGATION OF POWERS**

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

## **19. COMMENCEMENT**

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

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## PART II - GENERAL REGULATIONS

### 1 COMPLIANCE WITH REGULATIONS

No development shall be carried out within the Planning Area except in accordance with the Portugal Cove South Municipal Plan, 2017 and these Regulations.

### 2 COMPLIANCE WITH LEGISLATION & HIGHER LEVELS OF REGULATORY AUTHORITY

- (1) New development will comply with applicable acts and regulations at Federal and Provincial levels. Such may include, but are not limited to: the provincial *Water Resources Act*, *Environmental Assessment Act*, *Lands Act*, *Municipalities Act*, *Historic Resources Act*, *Mineral Act*, *Forestry Act*, *Health and Community Services Act*, *Works, Services, and Transportation Act*, and *Building near Highways Regulation*, as well as the federal *Fisheries Act of Canada*, *Environmental Protection Act of Canada*, and *Canadian Migratory Bird Act*.
- (2) Prior to issuing a development permit, Council shall require the applicant to provide confirmation that necessary provincial and federal approvals have been obtained.
- (3) A development permit will not be issued if Council is aware that the proposed development would not comply with a particular provincial or federal act or regulation.
- (4) Where these Regulations are more stringent than a provincial or federal act of regulation, these Regulations will apply.
- (5) Nothing in these Development Regulations shall exempt the requirement for licenses, permits, approvals, or authorization, or compliance with other by-laws or higher levels of authority.

### 3 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. Such development permits are to be made in writing, and state the reasons for refusal or approval with conditions (see Reg. 15, 17), and notification regarding appeal options and process (see Reg. 22 to 26).



#### 4 PERMIT TO BE ISSUED

Subject to Regulations 1 & 2, a permit shall be issued for development within the Planning Area that conforms to:

- (1) The General Development Standards outlined in Part III of these Regulations, the Signage requirements of Part IV of these Regulations, the Subdivision requirements of Part V, and the use classes, standards, requirements, and conditions prescribed in Part V1 and Schedule C of these Regulations for the use zone in which the proposed development is located;
- (2) The standards specified within 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;
- (3) The standards identified in Part III of these Regulations in the case of advertisement;
- (4) The standards contained in Part IV of these Regulations in the case of subdivision;
- (5) The standards of design and appearance established by the Authority;
- (6) The applicable approval requirements from the Province.

#### 5 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. Where water pressures and fire flows cannot be guaranteed, development may be refused.

#### 6 DISCRETIONARY POWERS OF COUNCIL

- (1) In considering an application for a permit or for 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, shall consider any applicable report and recommendation submissions from a qualified consultant, and shall assess the general appearance of the development of the area, the amenity of the surroundings, potential environmental effects, availability of municipal services and utilities, public safety and convenience, and any other considerations which are, in its opinion, material. 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) When conditionally approving or rejecting an application for a discretionary use as defined in the use zone tables, the Authority shall state in writing the basis for its decision.

#### 7 VARIANCES BY AUTHORITY (REFER TO MINISTER'S REGULATIONS, SECTION 12)

- (1) Where an approval or permit cannot be given by the Authority because a proposed development does not comply with the development standards identified within the development regulations, an Authority may vary the applicable development standards to a maximum of 10 percent 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) Variance from these Regulations pursuant to Regulation 7(1) shall only be authorized in the following circumstances:
  - (a) if, in the opinion of the Authority, such variance is not contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme, plan or regulation pursuant thereto, and the public interest;
  - (b) if, prior to authorization of such variance, the Authority has considered its effect on adjoining properties;
  - (c) if the variance does not change the permitted use of the property;
  - (d) if the Authority is satisfied that the variance has not become necessary due to the intentional or negligent conduct of the owner or some other party acting with the owner's knowledge or consent;
  - (e) if, prior to authorization of such variance, the Authority has given notice of the application in accordance with Regulation 18 and has considered any objections or representations which may have been received on the matter.
- (3) 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 ten percent (10%) variance even though the individual variances are separately no more than 10%.



- (4) The authority shall not permit a variance from development standards where the proposed development would increase the non-conformity of an existing development.
- (5) Notice of Variance (See Reg. 18, Notification Requirements; Minister's Regulations, S. 12-13)  
Where the Authority is to consider a variance proposal (to vary a measurable development standard up to a maximum cumulative amount of 10 %), 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, and allow a minimum period of 7 days for response.

#### 8 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 Council of constructing or improving the public works referred to in Regulation 8(1) that are necessary for the real property to be developed in accordance with the standards required by Council and for uses that are permitted on that real property.
- (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.

#### 9 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 9(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,
  - (e) Another form of financial guarantee that the Authority may approve.

#### 10 DEDICATION OF LAND FOR PUBLIC USE

In addition to the requirements for conveyance and dedication of land under Part 4 (Subdivision of Land), the Authority may require the dedication of a percentage of the land area of any subdivision or other development for public use under Regulation 83 (Land for Public Open Space), and such land shall be conveyed to the Authority in accordance with the provisions of the Act.

#### 11 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, septic tanks or excavations, to conduct an environmental audit and potentially remediate the site, 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.

#### 12 FORM OF APPLICATION

- (1) An application for a development permit or for outline planning permission shall be:
  - (a) made only by the owner, or by a person authorized by the owner, to the Authority;
  - (b) made on such form as may be prescribed by the Authority;
  - (c) inclusive of such plans, specifications and drawings as the Authority may require; and
  - (d) be accompanied by the permit fee required by the Authority.
- (2) The Authority shall, on request, supply to every applicant a copy of the application forms referred



to in Regulation # 12(1) and a description of the plans, specifications and drawings required to be provided with the application.

### 13 REGISTER OF APPLICATION

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

### 14 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 #14(1), shall be deemed to be refused.

### 15 APPROVAL-IN-PRINCIPLE / CONDITIONAL APPROVAL / OUTLINE PLANNING PERMISSION

- (1) Council may grant approval-in-principle (otherwise referred to as conditional approval, or outline planning permission) 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 the Municipal Plan and Development 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 (such as a real property report and survey description of the subject property, detailed plans for how the property is proposed for development, access, egress, parking, and any development studies, such as land use assessment or traffic, or additional requirements stipulated by Council).
- (3) Approval of the specified conditional requirements and detailed plans shall be received no later than two years from the grant of the approval-in-principle.



- (4) Such a decision to provide approval-in-principle is to be made in writing, and state the reasons for refusal or approval with conditions (see Regulation 17), and notification regarding appeal options and process (see Regulation 22-26).
- (5) An approval-in-principle does not permit development to occur.
- (6) An approval-in-principle may be revoked by Council if the application differs significantly from the original intent of that which was conditionally approved.

#### 16 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 outline planning permission such conditions and requirements 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 two years, 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 in excess of two years, as may be stated therein, and if the development has not commenced, the permit may be renewed for a further period not in excess of one year, but a permit shall not be renewed more than once, except in the case of a permit for an advertisement, which may be renewed in accordance with Part IV of these Regulations.
- (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 is 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.

#### 17 STATE CONDITIONS OR REASONS FOR REFUSING PERMIT

When attaching conditions to a permit or when refusing to issue a development permit, Council shall state the reasons for so doing in writing.

#### 18 NOTICE REQUIREMENTS (SEE ACT, AND MINISTER'S DEVELOPMENT REGULATIONS)

##### (1) NOTICE OF APPLICATION: VARIANCE

Where the Authority is to consider a variance proposal in accordance with Regulation 11 (to vary a measurable development standard up to a maximum cumulative amount of 10 %), the Authority shall, at the expense of the applicant, 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, and allow a minimum period of seven (7) days for response.

##### (2) NOTICE OF APPLICATION: PROPOSED CHANGE IN NON-CONFORMING USE

When a change in nonconforming use is to be considered, the Authority shall, at the expense of the applicant, give public notice for an application for a permit or for approval-in-principle to change or vary an existing use of a building, structure, or development, by publishing a notice in a newspaper circulating in the area or by other means give public notice, and allow a minimum period of seven (7) days for response.

(3) NOTICE OF APPLICATION: DISCRETIONARY USE

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 or by any other means deemed necessary.

19 RIGHT OF ENTRY

The Authority or any inspector representing the Authority 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.

20 RECORD OF VIOLATIONS

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

21 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 any 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 II.21(1) is guilty of an offence under the provisions of the Act.

22 APPEALS (SEE ACT, AND MINISTER'S DEVELOPMENT REGULATIONS)

- (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 made under this section 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 board may meet as often as it considers necessary to conduct its work in an expeditious manner.
- (7) A person or group of persons affected by the subject of an appeal or their representatives may appear before an Appeal Board and make representations concerning the matter under appeal.
- (8) An Appeal Board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.
- (9) 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.
- (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 or authorized administrator to carry out its decision or make the necessary order to have its decision implemented.
- (11) Notwithstanding Regulation (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 Authority of the decision of the Appeal Board.

#### 23 APPEAL REGULATIONS (SEE MINISTER'S DEVELOPMENT REGULATIONS)

Refer to Minister's Development Regulations, January 2, 2001, contained in this document, for:

- Notice of Right to Appeal, Section 5.
- Appeal Requirements, Section 6.
- Appeal Registration, Section 7.
- Development Prohibited, Section 8.
- Hearing Notice and Meetings, Section 9.
- Hearing of Evidence, Section 10.

#### 24 RETURN OF APPEAL FEE (SEE MINISTER'S DEVELOPMENT REGULATIONS)

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 22 (5) shall be paid to her or him by the Authority, and the Board of Appeal shall so order in its decision.

#### 25 EFFECT OF APPEAL BOARD DECISIONS

The Authority shall be bound to carry out the decision of the Appeal Board, and that decision shall be binding on all parties.

#### 26 DEVELOPMENT MAY NOT PROCEED WHEN DECISION UNDER APPEAL

Once an appeal is filed by an aggrieved party pertaining to a decision of the authority in accordance with Section 42 of the Act, no act of development shall proceed until the appeal process is complete.

#### 27 DELEGATION OF POWERS (REFER TO ACT AND MINISTER'S REGULATIONS, S. 18)

In accordance with the Urban and Rural Planning Act Section 109, where designating employees to whom a power is to be delegated respecting development decisions and conditions, Council shall officially delegate such authority, in writing, to an appointed municipal employee.



## PART III – GENERAL DEVELOPMENT STANDARDS

### 28 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 road network 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.

### 29 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.
- (2) As per the definition of “accessory building”, the structure shall not be used for human habitation.
- (3) No accessory building or part thereof shall project in front of any building line, shall be closer than the main building to the front lot line, shall be closer than 1 metre from the rear lot line.
- (4) An accessory building shall not be erected or placed upon any easement or right-of-way, unless prior written approval is granted by the authority responsible for easement provided the structure would not pose a safety or health hazard.
- (5) No accessory building or part thereof shall interfere with underground septic tanks, disposal fields, or easements.
- (6) The side yard requirements set out in the use zone tables in these Regulations shall apply to accessory buildings wherever they are located on the lot; however, accessory buildings on two adjoining properties may be built to property boundaries provided they shall be of fire resistant construction and have a common firewall.
- (7) Except for a temporary building for on-site construction equipment and tools storage as approved by the Authority, accessory buildings shall not be erected on a property before the principal building is constructed.





(8) Commercial or industrial use of an accessory building is limited to accessory uses associated with the primary and permitted use of the commercial or industrial development.

(9) The overall appearance and maximum height of an accessory building shall correspond to the height of the principal structure. In the case of residential lots, an accessory building shall not exceed six (6) metres in height, and shall be no higher than the height of the dwelling or the effective height of the dwelling when the grade of the lot is taken into consideration.

(10) Council shall encourage that every reasonable effort is made in the placement of accessory buildings to avoid obstructing views, blocking natural light, or creating negative impacts on adjoining properties or storm water drainage.

(11) Subject to compliance with setbacks and development standards, multiple accessory buildings may be accommodated on a lot for multiple accessory purposes (such as garage, tool shed, greenhouse, pool house), subject to the following size considerations:

- the cumulative area of all structures (including the primary structure/ dwelling and all accessory structures combined) must not exceed the ground floor area of the applicable use zone;
- the cumulative lot coverage must be no greater than the overall lot coverage of the use zone;
- provided that multi-building developments are suitably situated on the lot to enable access and maintenance of each of the various structures, with a separation distance acceptable to the authority and in accordance with the National Building Code of Canada.

(12) Accessory buildings are development and require a development application which shall include such plans, specifications and drawings as the Authority may require (i.e. proof of ownership or title, survey or real property report, site plan, lot size, building setbacks, building dimensions).

(13) Accessory buildings shall be prohibited from being used for performing motor vehicle or heavy equipment repairs, auto painting, dismantling or scrapping of vehicles or other machinery.

### 30 ACCESSORY USES

Any use that is accessory to a permitted use shall be located on the same lot and be clearly incidental and complementary to the principle use or building in terms of scale and exterior appearance.



### 31 ADVERTISEMENTS

Advertisements shall not be erected or displayed except in accordance with Part IV of these Regulations and the Use Zone Tables in Schedule C of these Regulations.

### 32 ALTERATIONS TO THE NATURAL ENVIRONMENT

Significant alterations to the natural environment will be a consideration of the development review process. All proposals for development shall include plans for alterations to the grade of the land, the alteration of natural drainage, or the removal or planting of vegetation. There shall be no grading, ditching, grubbing, filling, removal of topsoil, or landscaping without the approval of Council.

### 33 ANTENNAE AND SATELLITE DISHES

Where permitted, antennae and satellite dishes shall be subject to the following conditions:

- (1) There shall be one satellite dish per lot;
- (2) The satellite dish antenna shall not be located in the front yard or flanking side yard of a lot;
- (3) The maximum diameter of the satellite dish is 3 metres;
- (4) The maximum height of:
  - a) A ground-mounted antenna shall be 4.6 metres measured from the top of the antenna to ground level.
  - b) A roof-mounted antenna shall be 4.6 metres measured from the top of the antenna to the roof.
  - c) The satellite dish antenna does not obstruct views from other properties;
- (5) The satellite dish must not obstruct right-of-way or encroach any easements.

### 34 BED & BREAKFAST OPERATIONS

A bed and breakfast use shall be subject to the following conditions:

- a) It is located in a dwelling unit;
- b) The use does not detract from the residential character of the neighbourhood;
- c) The use is carried out by a resident of the dwelling unit;
- d) The number of rooms available for rent shall not be greater than four (4);
- e) No addition or alteration shall be undertaken which changes the roof line, increases the height of the building, or extends into the front or side yards of the lot, except for dormers and/or structures necessary for public safety such as fire escapes;
- f) A minimum of one parking space per room is provided on the lot;
- g) Access and parking area shall be paved;

- h) A parking area abutting a residential lot shall be screened by a fence, wall, or hedge of height not less than one metre (1 m) and located a minimum distance of one metre (1 m) from the edge of the parking area;
- i) A non-illuminated identification, free standing sign not exceeding 0.2 m<sup>2</sup> in area and a fascia sign not exceeding 0.2 m<sup>2</sup> in area shall be permitted provided that the sign is consistent with the residential character of the neighbourhood;
- j) No change in the type, class or extent of the use shall be permitted except in accordance with a permit issued by the Authority;
- k) The establishment shall be registered with, and receive a rating from, Canada Select and shall also be approved by the Provincial Department of Business, Tourism, Culture, and Rural Development as a Bed and Breakfast operation.

#### 35 BUFFER STRIPS

Where any industrial, commercial or institutional 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 development shall provide a buffer strip not less than 10 metres wide between any residential activity. The buffer shall include the provision of such natural or structural barrier as may be required by the Authority and shall be constructed and maintained by the owner or occupier to the satisfaction of the Authority.

#### 36 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 rear yard requirements shall be varied as follows:

- (a) The building line setback shall be increased by 2 meters for every 1 meter increase in height;
- (b) The rear yard shall not be less than the minimum building line setback calculated as described in (a) above, plus 6 meters.
- (c) Building Height Exceptions: The height requirements prescribed in these Regulations may be waived in the case of communication masts and antennae, flagpoles, water towers, spires, belfries, wind generators, or chimneys.

#### 37 BUILDING LINE AND SETBACK

- (1) The Authority, by resolution, may establish a building lines on any existing or proposed street or service street and may require new buildings to be located on those building lines, whether or



not the building line conforms to the standards set out in the tables of Schedule C of these Regulations.

- (2) In cases where Council has made a resolution to establish a building line, Council may nevertheless exempt an individual building from the requirement to respect the building line or street line if physical, heritage or other conditions make this location unsafe or impractical, or more in keeping with the character of the immediate neighbourhood.
- (3) Building line and setback requirements must be taken into account in the construction of fences and retaining wall structures projecting above the ground surface. Fences may comprise hardscape materials such as wood, metal or masonry, as well as softscape hedges and shrubs that are used as a fence, with the design, type, and materials being subject to Council approval. Notwithstanding building line and setback requirements, fences shall not block sightlines at the intersection of roads, shall not exceed 1.8 metres in height, and damages or repairs of any fencing during the normal operation of infrastructure maintenance shall not be the responsibility of the Town or authority for the road.

#### 6.38 EASEMENTS AND EMERGENCY ACCESS

Where land is required for utility easements or emergency access, such land may be so allocated during the development review process for a subdivision or development application.

#### 6.39 ENVIRONMENTAL ASSESSMENTS

Development applications pertaining to lands that were previously used for commercial, industrial, or potentially hazardous purposes may be subject to Environmental Assessment as a condition of Council, or as a requirement of the Department of Municipal Affairs and Environment.

#### 6.40 FAMILY AND GROUP CARE CENTRES

Family and 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.

#### 41 LIVESTOCK STRUCTURES AND USES

- (1) No structure designed to contain more than five (5) animal units shall be erected or used unless it complies with the following requirements:
  - (a) The structure shall be 600 meters from a residence (except a farm residence), from an area designated for residential use in an approved Plan, and from a Provincial or Federal Park;
  - (b) The structure shall be at least 60 meters from the boundary of the property on which it is to be erected;
  - (c) The structure shall be at least 90 meters from the center line of a street;
  - (d) The erection of the structure shall be referred to the Agrifoods Branch of the Department of Natural Resources, and the Department of Municipal Affairs and Environment for comment and any necessary approvals.
  
- (2) No development for residential use shall be permitted within 600 meters of an existing structure designed to contain more than five animal units unless the development is first approved by the Department of Natural Resources.

#### 42 LOT AREA

- (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 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.

#### 43 LOT AREA AND SIZE EXCEPTIONS

Where, at the time of the coming into effect of the Town of Portugal Cove South Development Regulations 2017, one or more lots already exists in any mixed zone, with insufficient frontage or area to permit the owner or purchaser of such a lot or lots to comply with 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.



#### 44 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 publicly maintained street or forms part of a Comprehensive Development Scheme.

#### 45 MINERAL EXPLORATION

Where permitted, mineral exploration activities shall meet the following conditions:

- (1) The Planned activities do not cause undue noise, significant ground disturbance or risks to the safety of residents of Portugal Cove South.
- (2) A plan to consult with and inform residents of the activity is submitted and approved by the Authority;
- (3) All permits and approvals from federal and provincial agencies, including the Department of Natural Resources, Mines and Energy Branch, have been obtained;
- (4) A site rehabilitation plan is submitted and approved by Council for exploration activities, which require trenching and/or the creation of cut lines through wooded areas, or other forms of ground disturbance;
- (5) All required financial guarantees and deposits have been made in accordance with provincial requirements to ensure that rehabilitation work has been completed in accordance with the development permit and to the satisfaction of the Authority.

#### 46 MOBILE HOMES

- (1) Groups of more than five mobile homes shall be located only in approved mobile home subdivision in Mixed Development Zones so designated and shall conform to all development standards and requirements.
- (2) No development permit shall be issued for a mobile home lot unless it conforms with the Mobile Home requirements set out under the Mixed Development Zone.

#### 47 MULTIPLE USES

In any use zone where any land or building is used for more than one use, each use shall be required to meet the provisions of these regulations. Where there is a conflict, such as in the case of lot size or lot frontage, the more stringent standard shall prevail.

48 NON-CONFORMING USE (REFER TO ACT, S. 108, MINISTER'S REGULATIONS, S. 141 & 148 - 18 NOTIFICATION REQUIREMENTS FOR CHANGE IN NON-CONFORMING USE)

- (1) Notwithstanding a plan, scheme or regulations made under the Act, the Minister, a Council or regional authority shall, in accordance with regulations made under the 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 of the plan, scheme or regulations made with respect to that kind of development or use.
- (2) Notwithstanding subsection 48 (1), a right to resume a discontinued non-conforming use of land shall not exceed 6 months after that discontinuance unless otherwise provided by regulation under the Act.
- (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 minister or appropriate council, regional authority or authorized administrator;
  - b. Shall not be structurally modified except as required for the safety of the building, structure or development;
  - c. Shall not be reconstructed or repaired for use in the same non-conforming manner where 50 percent or more of the value of that building, structure or development has been destroyed;
  - d. May have the existing use for that building, structure or development varied by the appropriate council, regional authority or authorized administrator to a use that is, in their opinion more compatible with a plan and regulations applicable to it;
  - e. May have the existing building extended by the appropriate council, regional authority or authorized administrator where, in its opinion that extension is not more than 50 percent of the existing building;



- f. Where the non-conformance is with respect to the standards included in development regulations, shall not be expanded if the expansion would increase the non-conformity; and
- g. Where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the appropriate plan and regulations, be repaired or rebuilt where 50 percent or more of the value of that building or structure is destroyed.

#### 49 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.

#### 50 OFF-STREET 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 the 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 outlined in Schedule D, Off-Street Parking Requirements, 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 hard surfaced right-of-way at least three (3) metres in width. Parking required for residences in the Mixed Development 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. For residential parking, parking spaces shall be provided within the limits of the zone in which the use is situated and not more than 200 meters distant from the use concerned.



- (4) Parking facilities shall, except in the case of single and attached double 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) A parking space shall mean an area of land, not less than 15 m<sup>2</sup> in size, 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 and terms and conditions 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 three (3) metres 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 that permit a service station, no gasoline pump or other service station equipment shall be located or maintained on a parking area;
  - (f) No part of an off-street parking area shall be closer than 1.5 metres to the front lot line in any zone;
  - (g) Access to parking areas in non-residential areas shall not be by way of residential areas;
  - (h) Where a parking area is in or abuts a residential area, a natural or structural barrier at least one (1) meter 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.

#### 51 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 metres long, four (4) metres wide, and having a vertical clearance of at least four (4) metres with direct access to a street or with access by a driveway of a minimum width of six (6) metres 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.

## 52 OUTDOOR STORAGE

Outdoor storage may be permitted in association with commercial or industrial uses, but may be subject to conditions and requirements. Outdoor storage may only be permitted in side yards and/or rear yards and will only be permitted in front yards at Council's discretion where clearly necessary to the function of the operation in terms of display (such as car sales) or access (such as building supplies). Where outdoor storage is permitted, Council may require screening, berming, or fencing to conceal storage materials and refuse containers that are unsightly or cause nuisance to the detriment of adjacent properties.

## 53 OUTDOOR SWIMMING POOLS

Where a swimming pool is an accessory use to a residential or commercial use, it shall meet the following conditions:

- (1) the pool must be enclosed by a fence having a minimum height of 1.8 metres (6 ft.) from the established grade and located a minimum of 1.8 metres from the water surface perimeter, and have a self-closing self-latching gate mechanism located high on the inside of the gate;
- (2) the pool must not exceed 7% of the area of the lot;
- (3) the pool must not encroach upon any easement;
- (4) the pool must not be placed over any existing, on-site septic system.

## 54 PUBLIC PARKS, PLAYGROUNDS, AND CONSERVATION USES

Nothing in these Regulations shall prevent the designation of conservation areas or the establishment of public parks and playgrounds or conservation uses in any zones provided that such parks and playgrounds are not located in areas which may be unsafe and hazardous to their use, are not operated for commercial purposes.

#### 55 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.

#### 56 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/ 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.

#### 57 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 four (4) metres from the front lot line.
- (c) Accesses shall not be less than seven (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.

#### 58 SIDE YARDS

A side yard 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.

#### 59 SITE GRADING, SOIL REMOVAL, AND SOIL DEPOSIT/ FILL

- (1) A development permit is not required for removal, deposit, or grading of soil, sand, gravel, rock, or other aggregate material if the activity is part of an approved development project, or affects less than 125 cubic metres of material.



- (2) No other excavation, removal, or depositing of material, site grading, cutting, or filling, shall be carried out unless a development permit under these Regulations has been issued by Council.
- (3) Any excavation, removal and depositing of soil, sand, gravel, and rock, that requires a development permit may be issued a temporary permit provided the work is based on a grading plan, will result in an improved site for permitted uses, while retaining as much of the natural features of the land as possible. The following conditions shall be met:
  - a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of neighbouring developed areas;
  - b) Steeply sloping land is not intended for grading or urban development. Lands with a slope greater than 25 percent over a distance of five (5) or more metres, shall be protected and shall not be developed except for infill development proposals as a discretionary use within the Mixed Development zone, and except on the further conditions that such proposals are accompanied and supported by a qualified geotechnical or other engineering certified and stamped report and recommendations, and all such proposals are approved by Council;
  - c) Resulting slopes are verified by a geotechnical or similar qualified engineer as being stable and without hazards;
  - d) When the work is completed, areas in which natural vegetation has been removed shall be covered with topsoil and other necessary material for vigorous plant growth and planted with appropriate vegetation; and
  - e) Storm water management and drainage is provided to a standard appropriate to the site, and as approved by the Town Engineer/ Engineering Consultant, so as to not impair existing surface drainage or create erosion either on the site or on adjacent sites.

## 60 STORMWATER & GROUNDWATER MANAGEMENT

- (1) Land development and the erection of buildings and structures will not be permitted on any site where it would otherwise be permitted under these Regulations, when in the opinion of the Town engineer, the development will create or aggravate adverse storm water impacts, for example, excessive run-off onto adjacent properties, soil erosion, scouring and silt deposition of streams, or reduction of surface or groundwater quality. The development applicant may be required to engage a qualified consultant engineer with expertise in hydrology and storm water management design to address these site development issues to the satisfaction of the Town Engineer and Town Council.

- (2) New development may be required to implement storm water detention measures to manage and control storm water runoff so that there is “no net increase” in storm water runoff as a result of the proposed development.
- (3) Each development shall be provided with a drainage system that is adequate to prevent the retention of surface water on the development site; Council may require a retention pond or similar engineering approach be incorporated into storm drainage systems.
- (4) The grading of land, excavation of ditches, and erection of buildings or structures will not be undertaken in a manner that significantly increases storm water runoff and erosion onto adjacent properties or into nearby watercourses.
- (5) As Portugal Cove South is not serviced with piped services, new development is subject to the groundwater assessment requirements of the Provincial Department of Municipal Affairs and Environment Groundwater Supply Assessment and Reporting Guidelines for Subdivisions Serviced by Individual Private Wells.

#### 61 STREET CONSTRUCTION STANDARDS

A new street may not be constructed except in accordance with the road design, specifications and standards adopted by the Authority.

#### 62 SUBSIDIARY APARTMENTS

A subsidiary apartment, as defined by Schedule A, may be permitted in a single dwelling only, and for the purposes of calculating lot area requirements, shall be considered part of the self-contained dwelling.

#### 63 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.

#### 64 WATERCOURSE PROTECTION

Any proposed development or land use activity in proximity to a stream, pond, lake, coastline, or wetland requires a natural buffer to be retained (no removal of vegetation; no alteration of the topography) as follows:

- (1) Along the coast, a 100-metre buffer is required, measured from the top of the bank or high water mark of the ocean, whichever is greater.



- (2) A 30-metre buffer is required for land located adjacent to a minor stream or drainage channel (depicted on a 1:50,000 topographic map).
- (3) A 15-metre buffer is required for land in the location of a minor stream or drainage channel (not showing on a 1:50,000 topographic map), unless approved by Water Resource Management Division, Department of Municipal Affairs and Environment.

**High Water Level** - For the purposes of interpretation, the high water level of a water body is taken to be the 1:100 year return period water level. For a fresh water body, this level includes water levels caused strictly by storm runoff or hydraulic effects of ice or both. In marine situations, the level must include maximum waves, wind setup, storm surge, and ultimate mean sea levels under current global climatic forecasts for a 1:100 year design.

**Larger Buffer Requirements** - The Authority may require a larger buffer area around a waterbody where identified floodplains, steep slopes or unstable soil conditions (for example) could result in damage to watercourses and fish or wildlife habitat as a result of development.

**Development not requiring a buffer area** - Buffer areas are not required for conservation structures such as those designed to control flooding and erosion, bridges, pathways and sewer lines, or where permitted, for the construction of wharves and docks. Such development shall meet provincial environmental guidelines, and be approved by the Water Resource Management Division, Department of Municipal Affairs and Environment. If fish habitat is affected, approval from Fisheries and Oceans Canada is required.

## 65 ZERO LOT LINE AND OTHER COMPREHENSIVE DEVELOPMENT

Council 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.

## PART IV – SIGNAGE/ ADVERTISEMENTS

### 66 PROVINCIAL HIGHWAY SIGN REGULATIONS

All signs or advertisements to be erected within the municipal planning area boundary of the Town of Portugal Cove South must be approved in accordance with these Regulations. Where provisions of the Town's Development Regulations are inconsistent with the regulations respecting advertising signs on or near public highways made or administered by provincial Departments under the Provincial Highway Sign Regulations, the more restrictive regulations shall apply.

### 67 PERMIT REQUIRED

Subject to the provisions of these Regulations, no advertisement shall be erected or displayed in the Planning Area unless a permit for the advertisement is first obtained from the Authority.

### 68 FORM OF APPLICATION

Application for a permit to erect or display an advertisement shall be made to the Authority.

### 69 ADVERTISEMENTS PROHIBITED IN STREET RESERVATION

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

### 70 PERMIT VALID FOR LIMITED PERIOD

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

### 71 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, image, message, or structural condition; or,
- b) Detrimental to the amenities of the surrounding area.



#### 72 ADVERTISEMENTS EXEMPT FROM CONTROL

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

- a) On a dwelling or within the curtilage of a dwelling, one nameplate not exceeding 0.2 m<sup>2</sup> in area size;
- b) On an agricultural holding or farm, a notice board not exceeding 1 m<sup>2</sup> in area size 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 size 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 one (1) m<sup>2</sup> in area size relating to the operation conducted on the land;
- e) On a dwelling or within the yard of a dwelling, one nameplate not exceeding 0.2 m<sup>2</sup> in area size in connection with the practice of a professional person carried on in the premises;
- f) On any site occupied by a church, school, library, art gallery, museum, institution or cemetery, one notice board not exceeding 1 m<sup>2</sup> in area size;
- 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 three (3) metres, whichever is the lesser;
- h) On any parking lot, directional signs and one sign not exceeding one (1) m<sup>2</sup> in size, identifying the parking lot.

#### 73 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.

#### 74 NON-CONFORMING USES

Notwithstanding other provisions of these Regulations, a permit may be issued for the erection or display of advertisements on a building or within the curtilage 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 V – SUBDIVISION OF LAND

### 75 PERMIT TO SUBDIVIDE 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. Note that any subdivision of 4 or more residential lots requires a Level I Ground Water Assessment under the Water Resources Act.

### 76 SERVICES TO BE PROVIDED

No permit shall be issued for the development of subdivided land 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.

### 77 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 these Regulations.

### 78 ISSUE OF PERMIT SUBJECT TO CONSIDERATIONS

A 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, municipal services, and utilities;
- c) The provisions of the Municipal Plan and Development Regulations affecting the site;
- d) The land use, physical form and character of adjacent developments;
- e) The transportation network and traffic densities affecting the site;
- f) The relationship of the project to existing or potential sources of nuisance;
- g) Soil and subsoil characteristics;
- h) The topography of the site and its drainage;
- i) Natural features such as lakes, streams, topsoil, trees and shrubs;
- j) Prevailing winds;
- k) Visual quality;



- l) Community facilities;
- m) Energy conservation;
- n) Such other matters as may affect the proposed development.

#### 79 BUILDING PERMITS REQUIRED

Notwithstanding the approval to a subdivision by the Authority, a separate building permit shall be obtained for each building or structure proposed to be erected in the area of the subdivision, and no building permit for any building or structure 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.

#### 80 FORM OF APPLICATION

- (1). Application for a permit to develop a subdivision shall be made to the Authority in accordance with Regulation 11.12.
- (2). Where an application to develop 3 or more lots with the construction of new road(s), the application must be accompanied by a Concept Plan, containing the following:
  - (a). A legal survey/ real property report of the land included within the subdivision
  - (b). A detailed description of the types and standards of development and services proposed for the subdivision
  - (c). The layout of roads, lots, open spaces, and other pertinent features of the development
  - (d). The phasing of the development
  - (e). The estimated cost of the works in the development by phase as certified by a professional engineer and verified by the Town's Engineer/ consultant.
- (3). Council may grant Approval-in-principle of the Concept Plan, and arrange for construction guarantees before the proponent developer proceeds to prepare final layout and construction drawings for consideration of the municipality and other relevant agencies in granting development approval and permitting.

#### 81 SUBDIVISION SUBJECT TO ZONING

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

#### 82 BUILDING LINES



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

### 83 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 percent 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 V-83(1)(d) 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 issued 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, or other watercourse, and this land may, at the discretion of the Authority, constitute the requirement of land for public use under Regulation V 83(1).
- (4) Before approving an application to subdivide land abutting or in the vicinity of a pond, Council will consider the effect of the proposed subdivision on public access to the pond. If there is concern that the development may impede public access to the pond, no permit will be issued



for the development unless provision has been made for a public right-of-way to the pond and for the transfer of ownership of the right-of-way to the Town.

- (5) Before approving an application to subdivide land abutting or in the vicinity of a trail system, Council will consider the effect of the proposed subdivision on the connectivity of the trail network. No permit will be issued for the development unless provision has been made for a public right-of-way and for the transfer of ownership of the right-of-way to the Town.

#### 84 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.

#### 85 SUBDIVISION DESIGN STANDARDS

No permit shall be issued for the development of subdivided land 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 metres;
- (c) The maximum length of any cul-de-sac shall be:
  - i) 200 metres 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 Affairs in connection with municipal five-year capital works program eligibility; and
  - ii) 300 metres 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 three (3) meters 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 five (5) degrees of a right angle and this alignment shall be maintained for at least 30 metres from the intersection;
- (h) No street intersection shall be closer than 60 metres to any other street intersection;
- (i) No more than four (4) streets shall join at any street intersection;
- (j) No residential street block shall be longer than 490 metres between street intersections;



- (k) Streets in residential subdivision shall be designed in accordance with the approval standards of the Authority, but in the absence of such standards, shall confirm to the following minimum standards:

**Street Design 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;
- (p) Where there is potential for additional future development, a road reserve of 15 metres shall be provided.
- (q) Any proposed subdivision of land shall consider the interests and referral requirements for provincial interests (see Schedule C, General Conditions – All Zones, Referrals and Conditions (2)).

86 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 street, 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. 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 the construction layout prior 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.

87 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 Professional Engineers and Geoscientists of Newfoundland and Labrador and in effect at the time the work is carried out.

88 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 her or 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.

89 TRANSFER OF STREETS AND INFRASTRUCTURE WORKS TO COUNCIL

- (1) The developer shall, following the approval of the subdivision of land and upon request of the Authority, shall 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 public streets or other public right-of-way, or for other public use;
  - (b) All services or public works including streets, water supply and distribution, sanitary sewers, and 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 her or 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.

90 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.

91 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 VI - USE ZONES

## 92 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 91(3), the permitted use classes, discretionary use classes, standards, requirements, and conditions applicable to each Use Zone are identified 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.

## 93 USE CLASSES

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

## 94 PERMITTED USES

Subject to these Regulations, the uses that fall within the Permitted Use Classes identified in the appropriate Use Zone Table in Schedule C shall be permitted by the Authority in that Use Zone.

## 95 DISCRETIONARY USES

Subject to these Regulations, the uses that fall within the Discretionary Use Classes identified 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 18(3) and has considered any objections or representations which may have been received on the matter. When approving or rejecting an application for a discretionary use, the Authority shall state in writing the basis for its decision and, as with other development decisions, shall notify the applicant of the right and process to appeal as per **GNL I-5** of these Regulations.

## 96 USES NOT PERMITTED

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





## SCHEDULE A – DEFINITIONS

The defined words of Schedule A are primarily intended to assist in the interpretation of specific terms utilized within these Development Regulations. Other words are defined to provide for reader clarity and additional land use understanding of planning terms and concepts supported by the Town of Portugal Cove South for managing future change within the community. In all instances, the definitions provided by the Minister’s Regulations or defined in the NL Urban and Rural Planning Act (2000) shall take precedent over any defined terms provided by Schedule A.

### A

**ACCESS:** means a way, intended for use by vehicles, pedestrians or animals in order to go from a road, street, or highway to land adjacent to it.

**ACCESSORY BUILDING:** means a detached subordinate building not used for human habitation, located on the same lot as the main building structure or use to which it is accessory, the use of which is naturally or customarily incidental and complementary to the main use of the building, land or structure, and shall include:

- a) In the case of residential uses: domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetable storage cellars, shelters for domestic pets, or radio and television antennae;
- b) In the case of commercial uses: workshops or garages;
- c) In the case of industrial uses: garages, offices, raised ramps, and docks.

**ACCESSORY USE:** means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use activity.

**ACT:** unless the context indicates otherwise, means the *Urban and Rural Planning Act, 2000*.

**ADJACENT:** means a property or land use having a common boundary with another property or land use; has similar meaning as adjoining.

**ADVERTISEMENT:** means 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:** means horticulture, fruit growing, seed growing, dairy farming, the breeding or rearing of livestock, including any 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, and “agricultural” shall be construed accordingly.

**AMUSEMENT USE:** means 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 HOSPITAL:** means a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

**ANIMAL UNIT:** means any one of the following animals or groups of animals:

- a) 1 bull
- b) 1000 broiler chickens or roosters (1.8 – 2.3 kg each)
- c) 1 cow (including calf)
- d) 100 female mink (including associated males and kits)
- e) 100 female rabbits (including associated males and litter)
- f) 4 goats
- g) X hogs (453.6 kg = 1 unit)
- h) 1 horse (including foal)
- i) 125 laying hens
- j) 4 sheep (including lambs)
- k) 1 sow or breed sow (including weaners and growers based on 453.6 kg = 1 unit)
- l) X turkeys, ducks, geese (2.268 kg = 1 unit)
- m) 3 llama or alpaca including offspring until weaning

**ANTENNA:** means a tower structure for transmitting and receiving signals for television, radio, mobile, cellular, telephone, digital, satellite and other telecommunications services to varied users. Such apparatus are intended to be sited and located on civic use and other building rooftops, on utility poles, and where appropriate as stand-alone facilities, and as approved by Industry Canada.

**APARTMENT BUILDING:** means a building containing three (3) or more dwelling units, but does not include a row dwelling.

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

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

**APPURTENANCES:** refer to architectural features added to the main body of a building, including awnings, canopies, balconies, turrets, spires, dormers and chimneys.

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

**AUTO BODY SHOP:** means a building or a clearly defined space on a lot used for the storage, repair and servicing of motor vehicles including body repair and painting but does not include an automobile service station or an automobile sales establishment.

**AUTOMOTIVE SALES:** means the use of a building or an open area for storage or display for sales purposes of motor vehicles, and shall include recreational vehicles and trailer sales.

**AUTHORITY:** means a council, authorized administrator or regional authority.

## **B**

**BACK LOT:** means a lot that does not abut a street line.

**BED AND BREAKFAST** means an owner-occupied establishment for paid temporary accommodation for up to four guest rooms that includes a common dining room for the use of overnight guests and involves the serving of a daily breakfast and daily interaction between the owner/occupier and the overnight guests.

**BERM:** means a mound of earth usually up to three metres (3 m) in height that is used to shield, screen or buffer undesirable views and to separate incompatible land uses. Berms can be used to provide visual interest and to decrease noise.



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

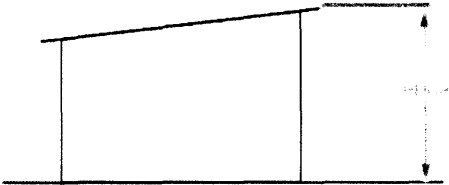
**BOARDWALK:** means an elevated public pedestrian walkway constructed over a public street or along a hiking trail, ocean front or beach.

**BUFFER:** means a neutral and preserved area of land that is generally undeveloped and is designed to separate and save from harm different adjacent land uses; the buffer area may be required to be enhanced with hard or soft landscaping improvements to provide for a more effective separation between adjacent land uses.

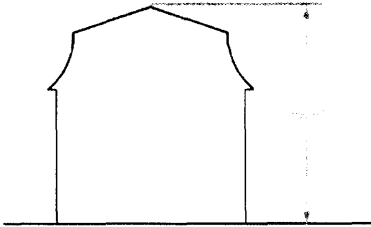
**BUILDING:** means every structure, erection, excavation, alteration, or improvement whatsoever placed on, over or under land, or attached, anchored or moored to land, and includes mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other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

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

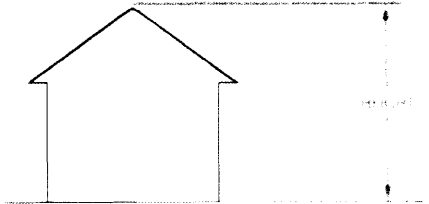
- i) highest point of the roof surface of a flat roof,



- 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;



**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.

## C

**CAMPGROUND:** means an area of land for the temporary accommodation of travel trailers, motorized homes, tents and trailers used for travel, recreational and vacation purposes, but does not include a mobile home park.

**CARPORT:** means a private garage consisting of a roof and roof supports, but generally without walls.

**CEMETERY:** means land used for interring of the dead.

**CHURCH:** means a building dedicated to religious worship and include a church hall, church auditorium, Sunday School, parish hall, rectory, manse and day nursery operated by the church.

**CIVIC USE:** means land or buildings used by Council, the Government of Newfoundland and Labrador, or the Government of Canada, for a purpose not otherwise defined in these Regulations.

**CLINIC:** means a building used for medical, dental, surgical or therapeutic treatment of human patients that does not include overnight facilities and does not include a professional office of a doctor in his or her residence.

**CLIMATE CHANGE:** represents the effects of global warming related to accelerated sea-level rise and changes in recent storm intensity and frequency. In this context, the particular implications for the Town of Portugal Cove South.

**COLLECTOR STREET:** means 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.

**COMMERCIAL GARAGE:** means a building or part of a building, other than a private garage, used for the repair of equipment or self-propelled vehicles and/or trailers, or where such vehicles are kept for remuneration, hire, or sale and may include the sale of gasoline or diesel oil.

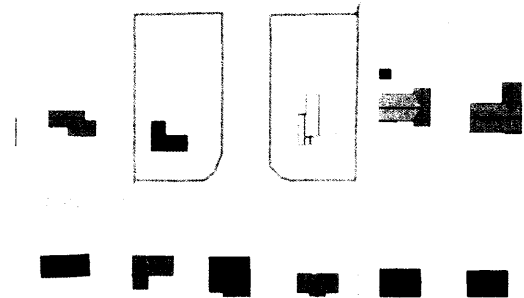
**CONSERVATION:** means land that is maintained in its natural state and may be identified as an environmentally sensitive area with characteristics such as steep slopes, wetlands, flood plains, high



water tables, forest areas, endangered species habitat, or areas of significant biological productivity or uniqueness that have been designated for protection from any activity that would significantly alter their ecological integrity, balance, or character.

**CONVENIENCE STORE:** means a building used as a retail store which is compatible with and serves the primary needs of the adjacent residential neighbourhood, and includes the sale of magazines, confectionary, and grocery items, a delicatessen or snack bar, provided that any eating facility is within a wholly enclosed building.

**CORNER LOT:** means a lot situated at the intersection of two or more streets, as illustrated by the attached sketch.



## D

**DAYCARE CENTRE or DAY NURSERY:** means 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 *Childcare Services Act*, but does not include a school as defined by the *Schools Act*.

**DEVELOPABLE AREA:** means the area of a lot or property that may be built upon and developed, excluding any required setbacks, and does not include any pond, lake, stream, wetland, bog, marsh, environmentally sensitive lands. Developable area does not include areas of the property characterized by unstable soils or geotechnical limitations, unless certified by an engineer.

**DEVELOPMENT:** means the carrying out of 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 premises 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 making 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.

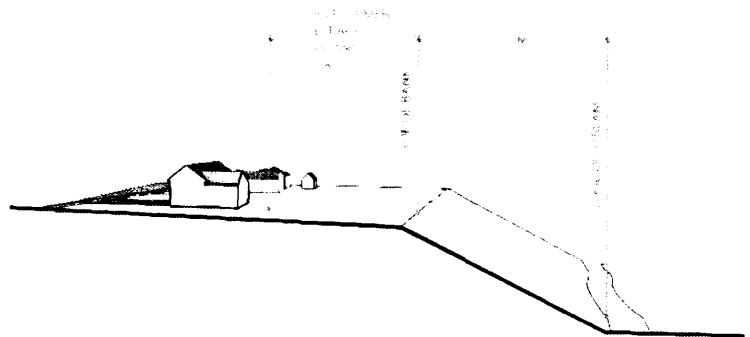
And shall exclude:

- d) The carrying out of works for the maintenance, improvement or other alteration of 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 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 of works 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 a building or land within the curtilage of a dwelling house for a purpose incidental to the enjoyment of the dwelling house as such

**DEVELOPMENT PERMIT:** means a permit issued by the Town that outlines the conditions for the use or development of land.

**DEVELOPMENT REGULATIONS:** means these Regulations and regulations and by-laws respecting development that have been enacted by the relevant authority.

**DEVELOPMENT SETBACK:** means that portion of a lot that is to be preserved as a natural undisturbed area from an Environmentally Sensitive Area or a water body within the Conservation use zone, and as prescribed in the Development Regulations in accordance with the required building setback distance intended for each type of land use for site development, as illustrated.



**DEVELOPMENT SCHEME:** means a secondary or subordinate plan to the Municipal Plan which provides more detailed planning in a portion of the municipal planning area. A development scheme is legally adopted pursuant to the *Urban and Rural Planning Act, 2000* and forms part of the Municipal Plan.

**DIRECTOR:** means the Director of Urban and Rural Planning.

**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.



**DOUBLE DWELLING:** means 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.

**DRIVE-THROUGH USE:** means the use of land, buildings, or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or a window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be in combination with other uses such as, shop, restaurant, or take-out food, but does not include a service station or a gas bar use.

**DWELLING:** means any house or building, or portion thereof, which is occupied in whole or in part, as the home, residence or sleeping place of one or more human beings.

**DWELLING UNIT:** means a self-contained single unit that consists of one or more habitable rooms used or designed as the living quarters for one household.

## E

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

**ESTABLISHED GRADE:** means:

- a) 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 entrenchments; or
- b) 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.

## F

**FAMILY and GROUP CARE CENTRE:** means a dwelling accommodating up to but not 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 Home", "Halfway House", and Foster Home".

**FENCE:** includes railing, wall, line of posts, wire, gate, boards or other similar substances used for the purpose of privacy and protection to separate or divide any parcel of land or part thereof from any other parcel of land or part thereof, immediately adjacent thereto or to establish a property boundary and shall include hedges, shrubs and landscaping features which are used for these purposes.



**FISHERY USES:** Refers to traditional uses related to the fishing industry such as boat moorage, wharves, docks, off loading facilities, boat repair, bait buildings, storage uses and similar supportive uses.

**FLAG LOT:** means a large lot which does not meet the minimum frontage standard of the Use Zone at the street line and where access to the lot is by a narrow right-of-way or driveway.

**FLANKING YARD:** means the side yard of a corner lot which side yard extends from the front yard the rear yard between the flanking lot line and the nearest main wall of any main building or structure.

**FLOOD PROOFING:** means the structural and/or non-structural measures incorporated in the design of a building or structure which reduce or eliminate the risk of flood damage by ensuring that the ground floor elevation is higher than the projected flood level and that the building can be exited without hindrance in the event of a flood.

**FLOODWAY:** means the inner portion of a Flood Risk Corridor where the risk of flood is greatest, on average once in twenty years, and where the flood depths and water velocities are greatest.

**FLOODWAY BUFFER:** means the outer portion of the *floodway fringe* and the outer limit of a fifteen metre (15 m) wide buffer that is to be undeveloped and wherever possible retain its natural vegetation.

**FLOODWAY FRINGE:** means the area between the *floodway* and the *floodway buffer* where the risk of flooding is lower, on average once in one hundred (100) years, and flood waters are shallower and slower.

**FLOODWAY RISK CORRIDOR:** means the area delineated on the zoning map that encompasses the *floodway*, *floodway fringe*, and natural buffers.

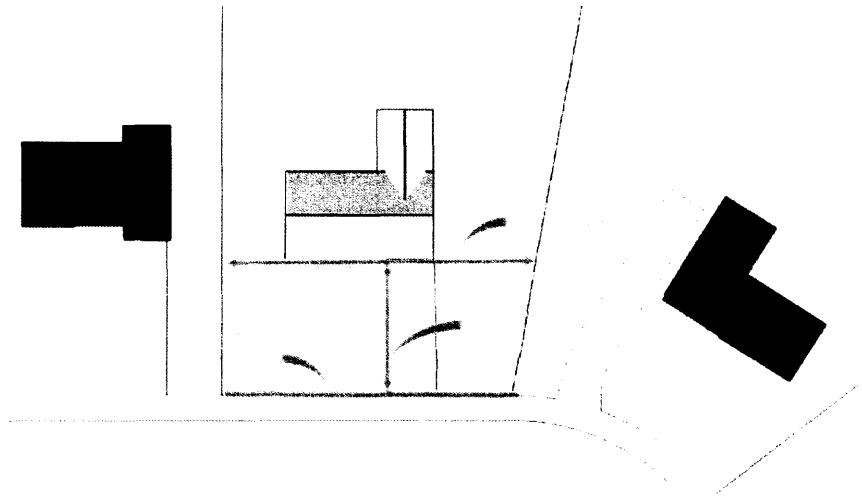
**FLOOR AREA:** means the total area of all floors in a building, measured to the outside face of exterior walls.

**FORESTRY USE:** means the use of land for the purpose of forest and woodland management, and includes the felling, cutting, trimming, extraction therefrom or the reforestation thereof.



**FRONTAGE:** means the horizontal distance between side lot lines measured at the building line.

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



**FUNERAL HOME:** means the use of a building for the preparation of human remains for interment or disposal and may include a funeral home, a crematorium and/or a chapel to conduct commemorative services.

## G

**GAS BAR:** means an establishment comprising gasoline pumps, with or without a shelter for an attendant, but does not include a facility for the repair of motor vehicles, a commercial garage, or a car wash.

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

**GENERAL ASSEMBLY:** means land or buildings used as gathering places for substantial numbers of people and, without limiting the generality of the foregoing, includes auditoriums, convention centres, public and private halls, gymnasiums, bowling alleys, and similar gathering places.

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

**GENERAL INDUSTRY:** means 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.

**GRANNY FLAT** means a self-contained accommodation within or built onto a house, suitable for an elderly parent.

**GROSS FLOOR AREA:** means the total area of all floors in a building measured to the outside face of exterior walls.

## H

**HAZARDOUS INDUSTRY:** means 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.

**HIGH WATER MARK:** The high water mark or level of a water body is taken to be the 1:100 year return period water level. For a fresh water body, this level includes water levels caused strictly by storm runoff or hydraulic effects of ice, or both.

**HOBBY FARMING:** means the pursuit of small-scale cultivation or production of plants and animals especially for relaxation and is considered non-commercial as it is outside of one's regular occupation.

**HOME OCCUPATION:** means a secondary use of a dwelling unit by at least one of the residents of such dwelling unit to conduct a gainful occupation or business activity.

**HOME OFFICE:** means a secondary use of a dwelling unit by at least one of the residents of such dwelling unit to conduct a gainful occupation or business activity with such occupation or business activity being restricted to office uses which do not involve visitation of clients to the site and employment of non-residents.

**HOTEL:** means a building wherein paid temporary accommodation is provided for more than sixteen (16) persons, which contains suites habitually let to transient persons, and which may contain one or more kitchens, dining rooms, lounges, and other public rooms, and this definition also includes a hostel for men and women.

## I



**IMPERVIOUS SURFACE:** Refers to any hard surfaced, man-made area that does not readily absorb or retain water, including but not limited to roofs, parking and driveway areas, asphalt, cement or any other hard and difficult to penetrate surface.

**INFILL DEVELOPMENT:** means economically efficient development or redevelopment of land occurring following completion of the initial development of the area, and where such development typically occurs on lands located within existing infrastructure serviced and built up areas.

**INFRASTRUCTURE:** For the purpose of these Development Regulations, refers to municipal and public infrastructure services of roads, sanitary sewer, municipal water and storm water drainage works, pumping and booster stations, pressure reducing facilities, solid waste treatment and similar municipal and other provincial works and services.

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

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

- a) Are involuntarily detained, or detained for penal or correctional services, or whose liberty is restricted; or
- b) Require special care or treatment because of age, mental or physical limitations or medical condition.

## K

**KENNEL:** means a building or premise where domestic household animals and birds are boarded for breeding or otherwise.

## L

**LAKE:** means a body of water similar to a pond where, for the purposes of these Development Regulations, are shown on 1:50,000 scale mapping and are included on the Future Land Use Map or the Land Use Zoning Map.

**LAND:** Includes land covered and not covered by water, and buildings and structures on, over, or under the soil and fixtures that form part of these buildings and structures.

**LANDSCAPING:** means any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening or other architectural elements, all of which is designed to enhance the visual amenity of a property or two provide a screen between properties in order to mitigate objectionable features between them.

**LAND USE ZONE:** means an area of the Town, identified on the Zoning Map, which defines the type of uses that may be carried out and the conditions that apply to development in that zone.

**LIGHT INDUSTRY:** means the use of any land or buildings for any general industrial use that can be carried out without hazard or intrusion and without detriment to the amenity of the surrounding area by reason of noise, vibration, smell, fumes, smoke, grit, soot, ash, dust, glare or appearance.

**LIVESTOCK STRUCTURE:** means a building or part of a building that is used for dairy farming, the breeding, rearing, and sheltering of livestock, including any creature kept for the production of food, wool, skins, or fur.

**LOCAL STREET:** means 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:** means a dwelling in which at least 2 rooms are regularly rented to persons other than the immediate family of the owner or tenant.

**LOT:** means any plot, tract or parcel of land which can be considered as a unit of land for a particular use or building. (See also Definitions for “Back Lot”, “Flag Lot”, “Corner Lot”).

**LOT AREA:** means the total horizontal area within the lot lines of the lot.

**LOT COVERAGE:** means the combined area of all buildings on the 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.

**LOT GRADING:** refers to an information requirement of all land development proposals that identifies the proposed extent of cut and fill of native soil on the property, and the extent excavation proposed for a development site, and is to include elevation contours of both the initial property grades and the proposed post construction grades of the property and how the grade changes to the property interface with adjacent lands and drainage patterns that result.



**LOT LINE:** means any line defining the boundaries of a lot or dividing a lot.

**LOUNGE:** means a room or area adjoining a restaurant set aside for the sale of alcohol for consumption on the premises, with or without food and where no area has been set aside for live dancing or entertainment, either in the lounge or adjoining restaurant.

## **M**

**MARINA:** means a public or private facility operated as a commercial recreational use, used for the docking, mooring and storage of boats, ships and any other marine craft and their accessory equipment.

**MARINE STRUCTURE:** means a wharf or onshore structure or facility located in the vicinity of coastal waters for a purpose related to marine transportation or services.

**MINERAL EXPLORATION:** means the search for naturally occurring mineral deposits. “Mineral Exploration (non-development)” includes prospecting, ground geophysical surveys, and geochemical sampling surveys, whereas “Mineral Exploration (development)” includes such activities as trenching and diamond drilling.

**MINERAL WORKING:** means land or buildings used for the working or extraction of construction aggregates or any naturally occurring substance; carries the same meaning as “**Pit and Quarrying**”.

**MINING:** Refers to land or buildings used for the extraction of ores, salts, oil and/or natural gas, or any naturally occurring mineral or substance.

**MOBILE HOME** means 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 SUBDIVISION:** means a mobile home development requiring the subdivision of land whether a 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.

**MUNICIPALITY:** Refers to the local government authority and also refers to the Town.

**MUNICIPAL PLAN:** means the Portugal Cove South Municipal Plan as approved by Council pursuant to the Act.

## N

**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.

## O

**OPEN SPACE:** means land set aside to protect and conserve natural areas. Open space may include woodlands, fields, walking trails, and passive recreational facilities, but shall not include structures such as buildings, tennis courts, parking lots, or other impervious land uses.

**OUTDOOR ASSEMBLY USE:** means land or buildings used as a gathering place for substantial numbers of people, and includes bleachers, grand stands, outdoor ice rinks and swimming pools, amusement parks and fair grounds, exhibition grounds, drive-in theatres, and similar gathering places.

**OUTDOOR STORAGE:** means the storage of merchandise, goods, inventory, materials or equipment or other items which are not intended for immediate sale, by locating them outside.

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

## P



**PARKING AREA:** means the use of land or a public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

**PERMITTED USE:** means a use that is listed within the permitted use classes set out in the Use Zone Schedules of these Regulations.

**PERSONAL CARE USE:** means use of a building or facility designed or converted for the accommodation and care of elderly persons and/or persons with special needs.

**PERSONAL SERVICE:** means a building or part of a building primarily engaged in providing services involving the care of a person or his or her personal goods or apparel and includes, but is not limited to, barbershops, hairdressing salons, beauty parlours, small appliance repair, or spas.

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

**PLACE OF WORSHIP:** means a church, synagogue, temple, mosque, or other facility that is used for formal religious services or prayer by persons of similar belief, and can include an accessory dwelling unit.

**PLANNING AREA:** means that provincially designated land area of Portugal Cove South that has been identified for land use management policies of the Municipal Plan and Development Regulations, and which corresponds to the Portugal Cove South municipal boundaries.

**PRINCIPAL BUILDING:** means a building in which is conducted the principal use of the lot on which it is located.

**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.

**PUBLIC USE:** means any lands, structure or building which is constructed for use by the general public, including but not limited to parks, playgrounds, trails, paths and other recreational and open spaces, scenic and historic sites, publicly funded buildings such as schools, hospitals, libraries and other public buildings and structures.





## Q

**QUONSET HUT:** means a lightweight prefabricated structure of corrugated steel having a semicircular cross section.

## R

**REAR YARD DEPTH:** means the distance located between the rear lot line and the rear wall of the main building on the lot.

**RECREATIONAL USE:** means the use of land for parks, playgrounds, tennis courts, athletic fields, golf courses, picnic areas, swimming pools, day camps, walking or hiking trails, and similar uses.

**RECYCLING DEPOT:** means premises on which recoverable materials such as newspaper, glassware, and metal cans are separated prior to shipment but does not include any processing of the materials or a salvage yard.

**REGISTRATION:** means the date upon which the notice of registration of the adoption of these Regulations or amendments thereof is published in the Newfoundland and Labrador Gazette, at which time the Regulations or amendments thereof come into effect.

**RESTAURANT:** means 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.

**RETAIL WAREHOUSE:** means a warehouse as defined by these Regulations in which the retail sale of commodities to the public is permitted.

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

- (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;

## S



**SALVAGE YARD:** means an area of land used for the storage, handling or processing of and sale of scrap material and without limiting the generality of the foregoing, may include waste paper, rags, bones, used bicycles, vehicles, tires, metals or other scrap material or salvage, but shall **not** include a hazardous waste material storage or disposal site.

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

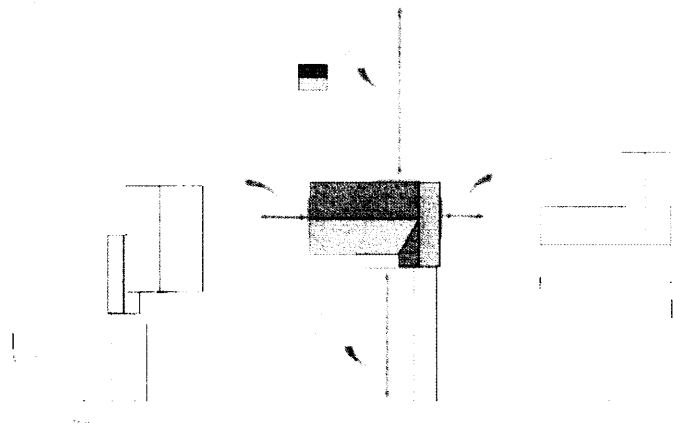
**SEMI-DETACHED DWELLING:** means a dwelling containing one unit and separated vertically from another adjoining unit by a common wall. Each unit may be situated on its own lot.

**SERVICE LEVY:** means a charge imposed by Council on real property, when the real property is made capable of being developed, or the density of such development is increased, by a public work, on or off the real property, of the Council designed to develop municipal services or expand the capacity thereof, or where the value of any real property is enhanced by an action of Council.

**SERVICE STATION:** means 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:** means a street constructed parallel to or close to another street for the purpose of limiting direct access to that street.

**SETBACK:** means the horizontal minimum separation distance between a building or structure on a lot and a front, rear or side lot line, as illustrated by the following sketch, or also meaning the separation distance that is to be maintained for development from the top of bank of an environmentally sensitive area or waterbody.



**SCHOOL:** means a public or private school (elementary, junior high, or high school), technical school, vocational school, college, or university, or any other school established and maintained by a religious denomination or by a non-profit organization.

**SCREENING:** means the method by which a view of one site from another adjacent site is shielded, concealed or hidden.

**SHOP:** means 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:** means a group of shops and complementary commercial uses with integrated parking lot and which is planned, developed and designed as a unit containing a minimum of 5 retail establishments.

**SHOWROOM:** means a building or part of a building in which samples or goods are displayed and in which orders may be taken for goods, wares or merchandise, including motor 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.

**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.

**SINGLE DETACHED DWELLING:** means a dwelling containing one main dwelling unit which is not attached to another dwelling.

**STREET:** means a street, road or highway or any other way designed or intended for public use for the passage of vehicles and pedestrians, owned by the Authority or other public agency and maintained at public expense, and is accessible to Fire Department vehicles and equipment.



**STREET LINE:** means the edge of a street, road or highway reservation as defined by the Authority having jurisdiction.

**STREET RIGHT-OF-WAY** means a strip of land acquired by reservation, dedication or forced dedication intended to be occupied or occupied by a public street, road or highway.

**STRUCTURE:** means anything that is erected, built or constructed of parts joined together or any such erection fixed to or supported by the soil or by any other structure, including buildings, walls, signs and fences.

**SUBDIVISION:** means the dividing of any land, whether in single or joint ownership, into two (2) or more smaller pieces of land for the purpose of development.

**SUBDIVISION PLAN:** means a plan that clearly outlines all details that are required to develop a parcel of land into a subdivision with individual properties.

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

## I

**TAKE-OUT FOOD SERVICE:** means 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.

**TEMPORARY STRUCTURE:** means a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

## U

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



**USE ZONE or ZONE:** means an area of land including buildings and water designated on the Zoning Map to which the uses, standards and conditions of a particular Use Zone Table in Schedule C of the Regulations relate.

**UTILITIES:** refers to electrical transmission and distribution lines, fibre optic transmission and similar utility corridor transmission services.

**UTILITY EASEMENT:** for the purpose of these Development Regulations, refers to a right of way legal instrument over land that allows the development and passage of all applicable utilities and municipal services and infrastructure.

## V

**VARIANCE:** means a departure, to a maximum of ten percent (10%), from the yard, area, lot coverage, setback, size, height, frontage, or any other numeric requirement of the applicable Use Zone Schedule of these Regulations.

## W

**WAREHOUSE:** means a type of light industrial use contained within a building or part of a building which is used for the housing, storage, display, adapting for sale, packaging or wholesale distribution of goods, wares, merchandise, foodstuffs, substances, articles or things.

**WATERSHED:** means the area of land drained by a given stream, river or lake.

**WETLAND:** means land that is seasonally or permanently covered by shallow water, as well as land where the water table is close to or at the surface. In either case, the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic or water tolerant plants. Wetlands may include swamps, marshes, bogs, fens, and other similar areas.

**WHEELCHAIR RAMP:** means a ramp to gain entry to a structure or dwelling for use by persons with ambulatory disabilities.

## Y

**YARD:** means any open, uncovered, unoccupied space appurtenant to a building.



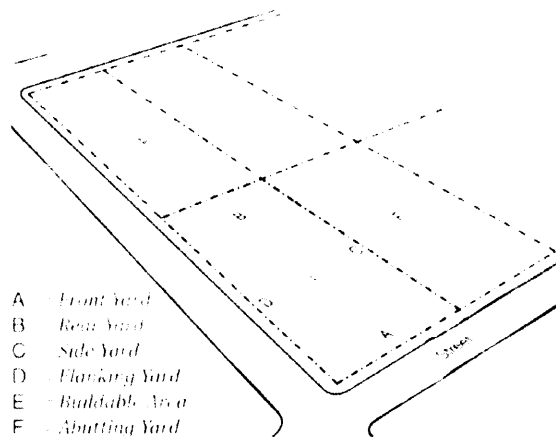
**YARD, REAR:** means the distance between the rear lot line and the rear wall of the main building on a lot.

**YARD, SIDE:** means the distance between the side lot line and the nearest side wall of a building on the lot.

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

**YARD, FLANKING:** means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flanking lot line and the nearest main wall of any main building or structure

**YARD, ABUTTING:** means the yard of an abutting lot which shares a lot line of subject property.



## Z

**ZONING MAP:** means the map(s) that are attached to and form part of the Regulations.

# 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*.

GROUP	DIVISION	CLASS	EXAMPLES
<b>A. ASSEMBLY USES</b>	1. Assembly Uses for the production and viewing of the performing arts	(a) Theatre	Movie Theatres Concert Hall
		(a) Cultural and Civic	Libraries Museums Art Galleries Court Rooms Meeting Rooms Municipal Government Offices & Buildings
	(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 Temples
	(e) Passenger Assembly		Passenger Terminals
	(f) Club and Lodge		Private Clubs and Lodges (non-residential)
	(g) Catering		Restaurants Bars Lounges
			(h) Funeral Home
	(i) Child Care		Day Care Centres
	(j) Amusement		Electronic Games Arcades Pinball Parlours Poolrooms
		(k) Protection	Police and fire stations
	3. Arena-type Uses	(a) Indoor Assembly	Arenas Multi-sports centres Armories Ice Rinks



<b>GROUP</b>	<b>DIVISION</b>	<b>CLASS</b>	<b>EXAMPLES</b>
<b>A. ASSEMBLY USES (continued)</b>	4. Open-air Assembly Uses	(a) Outdoor Assembly	Indoor Swimming Pools
			Bleachers
			Grandstands
			Outdoor Ice Rinks
<b>B. INSTITUTIONAL USES</b>	1. Penal and Correctional Institutional Uses	(a) Penal and Correctional Detention	Outdoor Swimming Pools
			Amusement Parks
			Fairgrounds
			Exhibition Grounds
			Drive-In Theatres
	2. Special Care Institutional Uses	(a) Medical Treatment and Special Care	Camping grounds
			R. V. Campgrounds
			Jails
			Penitentiaries
			Police Station (with detention quarters)
<b>C. RESIDENTIAL USES</b>	1. Residential Dwelling Uses	(a) Single Dwelling	Prisons
			Psychiatric Hospitals (with detention quarters)
		(b) Double Dwelling	Reformatories
			Children's Homes
	2. General Residential Uses	(a) Collective Residential	Convalescent Homes
			Homes for Aged
			Seniors Care Facilities
		(b) Boarding House Residential	Nursing homes
			Hospitals
			Infirmaries
2. General Residential Uses	(c) Commercial Residential	Orphanages	
		Psychiatric Hospitals	
		Sanatoria	
	(a) Single Dwelling	Single Detached Dwellings	
		Family and Group Homes	
		Semi-detached Dwellings	
(b) Double Dwelling	Duplex Dwellings		
	Family and Group Homes		
	Row Houses		
(c) Row Dwelling	Town Houses		
	Family and Group Homes		
	Apartments/ Condominiums		
(d) Apartment Building	Family and Group Homes		
	Residential Colleges and Schools		
	University and College Halls of Residence		
(a) Collective Residential	Convents and Monasteries		
	Nurses and Hospital Residences		
	Boarding Houses		
(b) Boarding House Residential	Lodging Houses		
	Hotels & Motels		
	Hostels		
(c) Commercial Residential	Tourist Cottages		
	Bed & Breakfast		
	Residential Clubs		





GROUP	DIVISION	CLASS	EXAMPLES		
<b>D. BUSINESS &amp; PERSONAL SERVICE USES</b>	1. Business, Professional, and Personal Service Uses	(d) Seasonal Residential	Summer Homes and Cabins Hunting and Fishing Cabins		
		(e) Mobile Homes	Mobile Homes, Mini Homes		
		(a) Office	Offices (including business & Government Offices) Banks		
		(b) Medical & Professional	Medical Offices & Consulting Rooms Nursing Clinic Dental Offices & Surgeries Legal Offices Similar Professional Offices		
			(c) Personal Service	Barbers Hairdressers Beauty Parlours Small Appliance Repairs Health spa Fitness gym Tailor	
				(d) General Service	Self-Service Laundries Dry Cleaners (not using flammable or explosive substances) Small Tool and Appliance Rentals Travel Agents
		(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		
<b>E. MERCANTILE USES</b>	1. Retail Sale and Display Uses	(i) Veterinary	Veterinary Clinics/ Surgeries		
		(a) Shopping Centre	Shopping Centres		
		(b) Shop	Retail Shops, Stores, Showrooms Department Stores		
		(c) Indoor Market	Market Halls Auction Halls		
			(d) Outdoor Market	Market Grounds Animal Markets Produce & Fruit Stands Fish Stalls Sale of Firewood Sale of local crafts	
		(e) Convenience Store		Confectionary Stores Corner Stores Gift Shops Specialty Shops	
		<b>F. INDUSTRIAL</b>		1. Industrial Uses involving Highly Combustible and	(a) Hazardous Industry



<b>GROUP</b>	<b>DIVISION</b>	<b>CLASS</b>	<b>EXAMPLES</b>
<b>USES</b>	Hazardous Substances and Processes		Chemical Plants Distilleries Feed Mills Lacquer, Mattress, Paint, Varnish, and Rubber Factories Spray Painting
		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 Sawmills and Planing mills Printing Plants Contractors' Yards Heavy Equipment storage General Industry outdoor storage
	3. Light, Non-hazardous or Non-Intrusive Industrial Uses	(b) Service Station (a) Light Industry	Gasoline Service Stations Gas Bars Light Industry Parking Garages Indoor Storage Warehouses Workshops
<b>G. NON-BUILDING USES</b>	1. Uses not Directly Related to Building	(a) Agriculture	Commercial Farms Hobby Farms Commercial Market Gardens & Nurseries
		(b) Forestry	Tree Nurseries Silviculture
		(c) Mineral Exploration	Prospecting
		(d) Mineral Working	Pits and Quarries Mines Oil Wells
		(e) Recreational Open Space	Playing Fields Sports Grounds Parks Playgrounds Trails Picnic areas Interpretative Signage
		(f) Conservation	Watersheds Buffer Strips Flood Plains Steep Slopes Wildlife Sanctuaries Wetlands

GROUP	DIVISION	CLASS	EXAMPLES
			Architectural, Historical and Scenic Sites
		(g) Cemetery	Cemeteries Graveyards
		(h) Scrap Yard	Car Wrecking Yards Junk Yards Scrap Dealers
		(i) Solid Waste	Solid Waste Disposal Sanitary Land Fill Incinerators
		(j) Animal	Animal Pounds Kennels Zoos Pet Grooming
		(k) Antenna	TV, Radio and Telecommunications Transmitting and Receiving Masts and Towers Antenna
		(l) Transportation	Airfields Railway Yards Marine facilities Docks and Harbours
		(m) Fisheries	Wharves Boat Moorage Boat Repair Off Loading Facilities Bait Buildings Fuelling Depot Storage Supportive Facilities Other Marine
		(n) Utilities	Wind Mills, Wind Turbines, Wind Farms, and related facilities



# SCHEDULE C - USE ZONES

Schedule C of these Development Regulations 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.

This aspect of the Development Regulations needs to be read in unison with the Town’s Zoning Map that applies varied zone designations to property throughout the community.

The schedule contains tables for the following Use Zones:

<b>Zone Title</b>	<b>Zone Symbol</b>	<b>Page</b>
Mixed-Use Development	MD	C • 5
Rural	RU	C • 12
Conservation	CON	C • 21

**All Use Zone Tables are to be read in conjunction with the General Conditions of this Schedule.**

## GENERAL CONDITIONS – ALL ZONES

### REFERRALS AND CONDITIONS FOR PERMITS

#### **(1). Municipal consideration**

No permit is issued by the Town of Portugal Cove South unless the development is deemed to be compliant with the Municipal Plan and Development Regulations, and basic conditions must be met, including but not limited to:

- (a) The conditions for the zone and other parts of the Development Regulations are satisfied;
- (b) In the case of a discretionary use, the application has been duly advertised and approved by the Authority – the use may be allowed, but all other conditions must also be satisfied;

- (c) The development of land shall consider future access and development of adjacent lands and shall not inhibit or prejudice the opportunity for future development.

**(2). Approvals by Provincial and Federal Government Agencies and Departments – Referrals**

Where applicable, relevant Provincial and Federal requirements must be satisfied to enable a development. Before a permit is issued by the Town of Portugal Cove South for any of the foregoing developments, approvals must be obtained from the various agencies and noted below. Note that this listing may not be entirely comprehensive, and so it does not remove the obligation of the applicant to ensure that all relevant approvals have been obtained.

(a) **General** – For any given development, it may be necessary to make referrals to and obtain approvals from the following departments and agencies:

- i. The Government Service Centre (Service NL) for any development requiring private waste disposal systems; Highway Sign Regulations; Protected Road Zoning Regulations (development within the building control line along Route 10);
- ii. The Department of Municipal Affairs and Environment – Environmental Assessment Division for activities deemed to have environmental impacts and/or Water Resources Division for issues concerning waterbodies, watercourses, or groundwater;
- iii. The Department of Transportation and Works – for any development within the right-of-way of Route 10 – Development near Highways);
- iv. The Department of Municipal Affairs and Environment, Department of Fisheries and Oceans Canada – Coast Guard and Fish Habitat Divisions (navigable waters and fish habitat) – for development in certain waterways and within the buffer areas of certain waterways;
- v. The Provincial Archaeology Office – for archaeological sites or resources, or any human burial remains.

(b) **Advertisements** – see “Highways – Development Near Highways”

(c) **Agriculture and Farming** – Approvals must be obtained from the Forestry and Agrifoods Agency (division of Department of Fisheries and Aquaculture) for any farming operation.

Except for infill development, any *residential development* within 600 metres of structure containing more than five (5) animal units, as defined in these Regulations, must be referred to the Soils and Lands Management Division of the Department.



Any *livestock structure (barn)* containing five (5) or more animal units must be located at least 600 metres from a non-farm dwelling, unless otherwise determined after referral to, and upon recommendation of, the Soils and Lands Management Division of the Department.

- (d) **Crown Lands** – Approval must be obtained for the use of Crown Lands from the Crown Lands Division, Lands Branch, Department of Municipal Affairs, and from the Government Service Centre (Service NL).
- (e) **Forestry** – Approvals for woodcutting or other forestry related activities must be obtained from the provincial Forestry and Agrifoods Agency (division of Department of Fisheries and Aquaculture). Any non-forestry activity in an area identified as productive forest must be approved by the Forestry Management Unit.
- (f) **Highways: Access approval required for development along provincial highways** – The Department of Transportation and Works must provide prior approval for access for any application for new access or upgrading of existing accesses along a provincial highway (Route 10 through Portugal Cove South) as per the “Policy for Access Management”.

**Offsite Promotional Signs** falling within designated control lines of any highway must be referred to an approved or exempted by the Lands Branch, Department of Municipal Affairs. Note that, in the case of conflict, nothing in these Regulations shall override Provincial highway signage regulations.

- (g) **Hydro**
  - i. No development permit shall be considered for any land located within the right-of-way of the distribution lines of NL Hydro.
  - ii. No developments, including fences, shall be permitted to interfere with NL Hydro right-of-way.
- (h) **Watersheds** – Development, including trails and similar activities, must be approved by the Water Resources Division of the Department of Municipal Affairs and Environment.
- (i) **Government Service Centre requirements for minimum Residential Lot Sizes** – Subject to the requirements of the Government Service Centre, the area of land

required per dwelling unit shall be determined, in accordance with the water and sewer services available as follows:

<b>Minimum Servicing Requirements</b>	<b>Lot Area</b>
With a municipal piped water supply, and connection to a municipal sewer	470 m <sup>2</sup>
With a municipal piped water supply, and sewage disposal by septic tank and tile field	1400 m <sup>2</sup>
With a well water supply and connection to a municipal sewer	1400 m <sup>2</sup>
With a well water supply and sewage disposal by septic tank and tile field	1860 m <sup>2</sup>

- (j) **Mining, Mineral Workings, Mineral Exploration** – Approvals and permits must be obtained from the Mines Branch, Mineral Lands Division of the Department of Natural Resources. To undertake Mineral Exploration, a proponent must seek “exploration approval”. For Mineral Workings, Quarry permits or leases may be subject to conditions and requirements, such as rehabilitation/ reclamation plans, and financial guarantees. Mineral Exploration can involve varying degrees of intensity and are differentiated as ‘development’ versus ‘non-development’ land use activities. Mineral Exploration (non-development) – which includes uses such as prospecting, assessments, or surveys, which would not normally be captured in the definition of ‘development’ – shall be permitted anywhere in the municipal planning area. See related definitions and regulations.
- (k) **Signs** – Offsite Promotional Signs in selected corridors must meet all provincial approvals, including Government Service Centre approval as per the Highway Sign Regulations, as well as meeting the approval of the municipal authority.
- (l) **Waterways** – Development in Waterways and in Waterways Reservations or Buffers:
- i. Any development within a body of water or involving the alteration of a body of water, or within 15 metres of a body of water or its high water mark, must be referred to the following agencies for approval or exemption:
    - Crown Lands Administration Division of the Department of Municipal Affairs for Crown Lands and referrals;
    - Coast Guard Canada, Transport Canada, Department of Transportation – Navigation Waters Act;
    - Habitat Management Division of the Department of Fisheries and Oceans;

- Water Resources Management Division of the Department of Municipal Affairs and Environment.

The following discussion of the Development Regulations introduces and details the distinct land use zones that apply to the Town's Planning Area.



## ZONE TITLE: MIXED DEVELOPMENT (MD)

### MD USE CLASSIFICATIONS

#### Permitted Use Classes

(see Regulation 94, and Zone Table Conditions below)

Single Dwelling, Double Dwelling, Mobile Home, Subsidiary Apartment, Granny Flat, Conservation, Recreational Open Space, and Utilities.

#### Discretionary Use Classes

(see Regulation 95, Regulation 18(3), and Zone Table Conditions below)

Home based business (Office; Medical, Professional, and Personal Service; Home Child Care);  
 General Assembly use division, General Assembly halls, Place of Worship, Club and Lodge, Protection, Catering, Cultural and Civic, Seniors Centre, Recreation facilities, Museum, Indoor Assembly, Outdoor Assembly, Bed & Breakfast,  
 Medical Treatment and Special Care Class (such as Children's Homes, Homes for Aged, Seniors Care),  
 Business or Personal Services use division (such as Government Offices, Fire Hall and fire-fighting training centre, Medical and Professional, Personal Service, General Service),  
 Mercantile Use group except Shopping Centre (such as Corner Stores and Markets),  
 Service Station, Agriculture, Forestry, Mineral Working, Cemetery, Animal, Antenna, Transportation (including marina), Fisheries and Wind Energy Turbines.

*(see Schedules A and B for definitions and examples of above Classes)*

*Also refer to **Town of Portugal Cove South Municipal Plan, 2017 Mixed Development policies MD-1 to MD-9; General Land Use Policies, Section 4.1 and Section 4.2 Specific Land Use Policies, particularly 4.2.1 Mixed Development.***

### CONDITIONS FOR THE MIXED DEVELOPMENT ZONE

#### 1. Development Standards:

##### - Residential Uses:

- Lot size for fully serviced lots: 450 square metres for a single family residence and 390 square metres per unit for a double dwelling.
- Lot sizes for semi-serviced or non-serviced residential lots are according the Service NL requirements ("Private Sewage Disposal and Water Supply Standards").
- Setbacks and sideyards for all residential development are as follows:
  - Building Line setback: 6 metres minimum
  - Side yard width: 2 metres minimum
  - Side yard on a flanking lot: 6 metres minimum
  - Rear yard depth: 9 metres minimum



- Lot coverage: 33%
- Building Height: 10 metres maximum

**– All Non-Residential Uses (Except Accessory Buildings)**

<b>Non-Residential Development Standards</b>	
Lot Area (minimum) – depends on lot servicing	As per GSC
Streetline Frontage (minimum)	20 m
Maximum Lot Coverage (including Accessory Buildings)	33 %
Building Frontline Setback (minimum)	4 m*
Flanking Yard Setback (minimum)	4 m*
Rearyard (minimum)	4 m*
Sideyard (minimum)	2 m*
Building Height (maximum)	15 m

\* To accommodate parking requirements, the frontline setback and the rear yard setback distances may need to be greater, depending on the location of the off-street parking and to respect the established streetline.

**2. Abutting Zone or Abutting Incompatible Uses**

Where a lot located within the Mixed Development zone abuts a residential lot, the following standards shall apply:

- a. The minimum setback of the commercial use from the abutting lot line shall be 10 m.
- b. No open storage or outdoor display shall be permitted in an abutting yard in the commercial use zone.
- c. No portion of a parking space within the mixed development use zone shall be permitted in any abutting yard except where a 2 m high fence is provided in which case there shall be no parking within 1.5 m of the side or rear lot line in the commercial zone

**3. Access**

No access to a street may be made without the permission of the Authority. Before granting an approval for an access, the Authority shall have regard to the safety and efficiency of the street for both vehicles and pedestrians. Access to a Provincial Highway shall be subject to the requirements and approval of the Department of Transportation and Works.

**4. Accessory Buildings** (See also 29 regarding Accessory Buildings).

- a. Accessory Buildings shall have a lot coverage of no greater than seven (7) percent up to a maximum of 103 square metres, or a height of no more than six (6) metres.
- b. Accessory buildings must be compatible with the main building in terms of design, colour, and materials.
- c. Accessory buildings shall not be closer to the front line than the main building, two (2) metres to the side lot line, and two (2) metres to the rear lot line.

**5. 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:

- a. 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;
- b. No advertisement shall exceed five (5) square metres in area.

**6. Advertisements Relating to Offsite Uses** (see also General Conditions for all Use Zones 2(f))

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:

- a. Each advertisement shall not exceed three (3) square metres in area;
- b. When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to the premises to which they relate;
- c. 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; and,
- d. Where situated on a Provincial Highway, Highway Signs are subject to the requirements of the Department of Transportation and Works, Government Service Centre of Service NL, and any other provincial requirement.



## 7. Archaeological Sites

If an archaeological site or historical artifacts are discovered during construction, development shall stop and the Heritage Division of the Department of Business, Tourism, Culture, and Rural Development shall be consulted. Development shall not proceed until the Heritage Division has evaluated the site.

## 8. Buffer – Non-residential areas/residential areas

Where a proposed non-residential use abuts a residential area or an existing dwelling unit, the owner of the site of the non-residential development may be required to provide a buffer strip between any non-residential building or activity and the residential area or dwelling. The buffer may include the provision of grass strips, hedges, trees or shrubs, or a structural barrier, considerate of sightlines and traffic safety requirements, as may be required by the Authority, and shall be maintained by the owner or occupier to the satisfaction of the Authority. Alternatively, Council may increase the sideyard and rearyard requirements on the non-residential site to provide additional separation from the abutting use.

## 9. Buffer – Designated Paths or Trail and Streams

(see also MD, Condition 19; and § 64 Watercourse Protection)

In addition to any other requirements of these Regulations, any developer within 50 metres of a trail or stream set out and named in the Zoning Maps shall be reviewed by the Authority as to its impact on the trail or stream, and the Authority in its discretion may refuse a permit, approve the permit, or attach such conditions as it deems necessary to the permit to protect the designated trail or system.

## 10. Comprehensive Development (See also § 85 regarding Subdivision of Land).

In order to ensure that the environment is protected and access and appropriate services are provided in the near or long term, the Authority may require that before any permit for development is issued that a comprehensive plan of development for an area in and around the proposed development be prepared and approved.

## 11. Discretionary Use Classes

The discretionary use classes or uses listed in the Use Zone Table may be permitted at the discretion of the Authority provided that they are 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. In particular, the Authority shall be satisfied that a discretionary use:

- a. Will not have a negative effect on adjacent uses because of noise, smoke, dust, vibrations, or unsightly appearance;

- b. Will not generate vehicle traffic to a volume that will affect residential amenity
- c. Will not cause unacceptable nuisance or hazard to adjacent residential uses.

## 12. Environmental Protection

(see also Regulation 32 Alterations to the Natural Environment, and 59 Site Grading, Soil Removal, and Soil Deposit/ Fill, 60 Storm water Management, 64 Watercourse Protection)

- 1) Before approving development of a site having a slope greater than 15 percent, the Authority shall require the submission of a review of the development proposal by a certified engineer, landscape architect or similar professional. The review shall evaluate the adequacy of site grading, drainage, and landscaping and the potential of the development to cause erosion onto and pollution of adjacent development and lands and bodies of water receiving run-off from the site, and other similar matters.
- 2) The Authority shall ensure that the proposal is not inappropriate by reason of:
  - a. Precipitating or contributing to a pollution problem in the area; or
  - b. Creation of erosion and/or sedimentation.
- 3) The Authority shall consider the suitability of the site in terms of steepness of grades, soil, and geographic conditions, location of watercourses, marshes, swamps, or bogs when reviewing a development proposal.

## 13. Home Based Businesses/ Home Occupations/ Home Offices

Medical, professional, and personal service uses, along with crafts and repairs, and office uses are permitted in this Zone, provided:

- a. The use is situated on a residential property and the primary use of the property remains residential;
- b. The use is entirely enclosed within the dwelling and/or the accessory building and the use does not change the appearance of the dwelling or accessory building;
- c. The floor area of the Home Business does not exceed 50 percent of the total floor area of the dwelling;
- d. No outdoor activities or storage associated with the use occurs;



- e. Activities associated with the use are not hazardous and do not cause noticeable noise, odor, dust, fumes, traffic, or inconvenience and are not a nuisance to the occupants of adjacent dwellings;
- f. Any retail sales are incidental and subsidiary to the approved use.

**14. Landscaping and Surfacing** (See also Regulation 13-32 Alterations to the Natural Environment, and 13-55 Screening and Landscaping, and 13-91 Grouping of Buildings and Landscaping)

Non-residential lots shall be landscaped or provided with a stable surface to prevent raising or movement of dust, clay, mud, or loose particles.

## 15. Services

On-site serviced development shall only be undertaken with the prior consent, approvals, and permits required by the Government Service Centre of Service NL, and the Town.

## 16. Open Storage

The Authority may permit open storage of materials and goods, subject to the following conditions:

- a. Open storage shall not occupy more than 50 percent of the site area and shall not be located in the front yard or in any required setback or buffer areas;
- b. Open storage shall be enclosed by a wall or fence not less than two (2) metres in height constructed of uniform materials approved by the Authority; and
- c. Open storage shall be maintained with a stable surface to prevent raising or movement of dust, clay, mud, or loose particles.

## 17. Parking and Loading

Adequate parking, as prescribed in Schedule D, and loading facilities shall be provided on the site of non-residential uses for all employees; vehicles used in or associated with the activity carried out on the site; and for vehicles of customers, clients, or other persons who visit the establishment.

*However, in an existing built-up area, the Authority may modify the parking requirement if it is satisfied that there is no negative impact on nearby uses.*

## 18. Subdivision of Land (See also § 85 Subdivision Design Standards)

- 1) A permit shall be required for any subdivision of land into two or more parcels.
- 2) Where required for a development, a road or other service shall be constructed at the Developer's expense to the satisfaction of the Authority.
- 3) The Authority may require that any road and service in a subdivision or development be a public road and services be conveyed to the Town at no cost upon satisfactory completion.
- 4) All new roads shall be paved with asphalt and shall have the following minimum dimensions or as specified in the Street Design standards of § 85:
  - a. Minimum right of way – 15 metres;
  - b. Minimum paved surface – 6 metres;
  - c. Sidewalks – 1.5 metres where sidewalks are required by the Authority.

**19. Watercourse Protection** (see also MD, Condition 9, and General Condition for All Use Zones III-64)

The minimum width of a buffer along a watercourse shall be 15 metres from the edge of the stream, river, pond, or other body of water. If the embankment is steep, then the buffer shall be measured from the top of the embankment.

The only uses that may be permitted in the buffer area of a watercourse are hiking trails, marinas, wharves, and similar uses, subject to the approval of the Water Resources Management Division of the Department of Municipal Affairs and Environment.

The Authority or the Provincial Government may subject development within the buffer area of a watercourse to an environmental review, and may approve, approve subject to conditions, or refuse such development.

**20. Marina Use**

A marina shall be permitted in this zone provided that it is compatible with the residential area. A marina can include a wharf and stage with an associated boat haul-out, but it does not include a commercial facility for the repair, maintenance, or servicing of vessels or ancillary commercial uses – whether or not such a facility is operated by a non-profit organization.

**21. Wind Energy Turbines**

Wind turbines are a discretionary use subject to:

- (a) freestanding towers or antennas not to exceed the specified maximum height for accessory structures;
- (b) the stated yards and setbacks of the zone; and,
- (c) appropriate safety and noise attenuation measures.

**22. Mobile Homes**

A. A mobile home must adhere to the lot size and servicing requirements of Service NL and the minimum setbacks, sideyards and rearyards of this zone.

B. A Mobile Home subdivision/park is permitted subject to the following conditions.

- (1) Lot size:





- (a) If the Mobile Home Subdivision or Mobile Home Park is fully serviced, then the lot sizes are as follows:

MOBILE HOME LOT REQUIREMENTS	
Lot area (m <sup>2</sup> ) minimum per dwelling unit	360
Lot Frontage (m) minimum per dwelling unit	12.2
Building line setback (m) minimum	6
Side yard width (m) minimum - one side	1.2
- second side	3.7
Rear yard depth (m) minimum	2.6
Lot coverage (%) maximum	33

- (b) If the Mobile Home Subdivision or Mobile Home Park is not fully serviced, then the lots must meet the standards set by Service NL for semi-service lots.

- (2) A perimeter buffer of 7.6 metres preferably consisting of natural vegetation shall be maintained along all boundaries of the mobile home subdivision/park. No mobile home, mini home or accessory building shall be located within this buffer.
- (3) The maximum density of the mobile home park shall be 16 mobile homes or mini homes per gross hectare.
- (4) No more than one mobile home or mini home shall be placed on each mobile home lot.
- (5) Vacant lots shall be maintained so not to become derelict or otherwise deteriorate.

#### **Mobile Home Lot Development Standards**

- (1) A mobile home lot must be provided with a mobile home stand capable of supporting the maximum anticipated load of the mobile home throughout all seasons of the year without settlement or other movement.

- (2) A mobile home stand must be designed to fit the dimensions of the particular mobile home positioned on the mobile home stand and must be paved or provided with some other hard surface.
- (3) A mobile home stand shall be required to be supported and secured by foundation walls, piers, posts or other means, carried to a depth sufficient to prevent movement by frost and sufficient to support the anticipated load at such points on its chassis frame as required.
- (4) Anchors in the form of eyelets embedded in concrete, screw augers or arrow head anchors, or alternative devices acceptable to the Authority must be provided at all corners of the mobile home stand and at additional points where necessary to secure the mobile home against the forces exerted by wind or other naturally occurring forces.
- (5) Anchors or devices must be connected to each anchor point of the mobile home chassis frame by a cable or other device approved by the Authority.
- (6) Anchors and connections must be made capable of withstanding a tension of at least 2,180 kilograms.
- (7) A mobile home shall be placed on an approved mobile home lot, and in a manner allowing it to be placed and removed from the lot without interfering with other lots.
- (8) Mobile homes will be blocked with approved materials so that there will be a minimum clearance of 0.6 metres from the underside of the steel beam frame to the ground. The maximum clearance will be 1.2 metres from the underside of the frame to the ground.
- (9) When a mobile home is in the correct position and secured in place, the open space beneath it will be skirted with minimum 1.25 centimetre plywood or equivalent, secured to a minimum 5 centimetre by 5 centimetre framing on 60 centimetre centres. The skirting must be acceptable to the Authority and have an accessible, removable panel to give access to service connections.
- (10) A mobile home shall have a minimum of 40 square metres for an outdoor living area. This area will be located at the rear or side (or combination of both) of the mobile home. The purpose of the living area is to provide an area for privacy, recreation and amenity
- (11) No attached structure shall have a floor area greater than 10 percent of the area of the lot upon which the mobile home is located or 70 square metres, whichever is the lesser. The minimum lot

clearances outlined in the Zone Table shall apply to an attached structure. Every attached structure shall be designed to be architecturally similar in appearance to the mobile home.

(12) Accessory Buildings: See Regulation 33, except that:

(a) The maximum height of an accessory building shall not exceed 4 metres in this zone;

(b) An accessory building will only be permitted in the rear yard of the mobile home or mini home.

It shall be no closer than 1.5 metres to another building and 1 metre from any property line.



**ZONE TITLE: RURAL (RU)**

**RU USE CLASSIFICATIONS**

**Permitted Use Classes**

(see Regulation VI.94, and Zone Table Conditions below)

Cemetery, Conservation, Forestry, Mineral Working (Condition 14), Mineral Exploration, Wharves, Marina, and Recreational Open Space

*(see Schedules A and B for definitions and examples of above Classes)*

**Discretionary Use Classes**

(see Regulation VI.95, Regulation VI.18(3), and Zone Table Conditions below)

Agriculture, Single Dwelling (Accessory Building), General Industry (Condition 12), Scrap Yard and Solid Waste, Animal, Antenna, Wind energy turbines

*(see Schedules A and B for definitions and examples of above Classes)*

*Also refer to **Town of Portugal Cove South Municipal Plan, 2017** Section 4.1: General Land Use Policies; and Section 4.2.2: Rural Land Use Policies.*

**CONDITIONS FOR THE RURAL ZONE**

**1. Development Standards – All Uses (Except Accessory Buildings)**

<b>Non-Residential Development Standards</b>	
Lot Area (minimum) – depends on lot servicing	As per GSC
Streetline Frontage (minimum)	20 m
Maximum Lot Coverage (including Accessory Buildings)	33 %
Building Frontline Setback (minimum)	8 m*
Flanking Yard Setback (minimum)	4 m*
Rearyard (minimum)	8 m*
Sideyard (minimum)	2 m*

\* To accommodate parking requirements, the frontline setback and the rear yard setback distances may need to be greater, or may need to be reduced to no less than 2 m, depending on the location of the off-street parking and to respect the established streetline.



## 2. Access

No access to a street may be made without the permission of the Authority. Before granting an approval for an access, the Authority shall have regard to the safety and efficiency of the street for both vehicles and pedestrians. Access to a Provincial Highway shall be subject to the requirements and approval of the Department of Transportation and Works.

## 3. Accessory Dwelling

An accessory single dwelling may be permitted as part of an approved resource-based use, when it is required as an ancillary use for the satisfactory operation of that use – for example, as a dwelling for a caretaker or a dwelling for the operator of an agricultural operation or mineral working use. The cessation, as defined under the *Urban and Rural Planning Act (2000)* and the *Municipalities Act*, of the primary or approved use shall also lead to the cessation of the use of the dwelling.

## 4. Advertisements Relating to Onsite Uses

The conditions 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:

- a) 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
- b) No advertisement shall exceed five (5) square metres.

## 5. Advertisements Relating to Offsite Uses (see also General Conditions for All Use Zones (2)f)

The condition 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:

- a) Each advertisement shall not exceed three (3) square metres in area;
- b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to the premises to which they relate;
- c) 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;
- d) Where situated on a Provincial Highway, Highway Signs are subject to the requirements of the Department of Transportation and Works, Government Service Centre of Service NL, and any other provincial requirement.

## 6. Agriculture

The Authority may permit an agriculture class use:

- a) Subject to Regulation 41
- b) Provided that the Authority is satisfied that such use will not have an adverse impact on residential uses or other uses in the neighbourhood as indicated by possible offensive odors, noises, vermin, unsightly appearance and possible contamination of water supply;
- c) Provided that the proposed use satisfies the requirements of the Provincial Government.

## 7. Archaeological Sites

If an archaeological site or historical artifacts are discovered during construction, development shall stop and the Provincial Archaeology Office of the Department of Business, Tourism, Culture and Rural Development consulted. Development shall not proceed until the Provincial Archaeology Office has evaluated the site.

## 8. Buffer – Designated Paths or Trails and Streams (see also Condition 19)

In addition to any other requirements of these Regulations, any development within 50 metres of a trail or stream set out and named in the Zoning Maps shall be reviewed by the Authority as to its impact on the trail or stream, and the Authority in its discretion may refuse a permit, approve the permit, or attach such conditions as it deems necessary to the permit to protect the designated trail or stream.

## 9. Discretionary Use Classes (see also Regulation 95, and Regulation 18(3))

The discretionary use classes or uses listed in the Use Zone Table may be permitted at the discretion of the Authority provided that they are 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.

## 10. Environmental Protection (see also Regulation 32 Alterations to the Natural Environment, 59 Site Grading, Soil Removal, & Soil Deposit/ Fill, 60 Storm water Management, and 64 Watercourse Protection)

- 1) Before approving development of a site having a slope greater than 15 percent, the Authority shall require the submission of a review of the development proposal by a certified engineer, landscape architect, or similar professional. The review shall evaluate the adequacy of site grading, drainage and landscaping, and the potential of the development to cause erosion onto and pollution of adjacent development and lands and bodies of water receiving run-off from the site, and other similar matters.



- 2) The Authority shall ensure that the proposal is not inappropriate by reason of:
  - (a) Precipitating or contributing to a pollution problem in the area;
  - (b) Creation of erosion and/or sedimentation.
- 3) The Authority shall consider the suitability of the site in terms of steepness of grades, soil and geographic conditions, location of watercourses, marshes, swamps, or bogs when reviewing a development proposal.

#### **11. Forestry**

Forestry and related uses shall be permitted by the Authority provided that the Authority is satisfied that such uses will not increase soil erosion, and further provided that the operation is in an approved wood-cutting area and meets the requirements of the Forestry and Agrifoods Agency under the Department of Fisheries and Aquaculture.

The Authority may if necessary require a detailed submission concerning the proposed forestry operation setting out the extent and nature of the forestry operation, including provisions for the mitigation of impacts.

#### **12. General Industry**

- 1) General Industry shall be restricted to the maintenance and repair of equipment, processing and storage related to agriculture, forestry or mineral working uses, or to those unsuitable to sites adjacent to urban uses. Examples of the latter are industrial uses involving hazardous substances such as bulk fuel storage, requiring large lots, or featuring outdoor activities such as heavy equipment storage or maintenance.
- 2) Unless the Authority is satisfied that the general industry use will not create a nuisance and will not adversely affect the amenity of the surrounding area, the Authority shall require the provision of buffering by the developer to the satisfaction of the Authority.

#### **13. Mineral Exploration (development) vs. (non-development) (see also Regulation 45)**

Mineral Exploration (non-development), in the form of prospecting where there is little to no visible impact of the land use, may be permitted anywhere within the municipal planning area.

Mineral exploration (development) may be permitted by the Authority provided:

- (a) All applicable Provincial Requirements are satisfied, including those of the Mineral Lands Division (Department of Natural Resources), and any other provincial departments/ agencies;



- (b) No exploration may proceed unless a permit is issued by the Authority for any facilities and access roads and/or other uses of land related to the activity of mineral exploration; however,
- (c) Exploration that requires the construction or erection of any sort of support facility such as a building, a drill rig, and/or access road shall not be permitted:
  - i. In environmentally sensitive areas, unless an environmental impact assessment has been prepared and approved under Provincial regulations;
  - ii. In areas that the Authority has set aside for recreational and/or residential purposes;
  - iii. Within 300 metres of existing or proposed residential areas.

**14. Mineral Working**

1) Separation from adjacent uses

Unless the Authority is satisfied that the working will not create a nuisance and will not adversely affect the amenity of the specified development or natural feature, no mineral working shall be located closer than the minimum distances set out below to the specified development or natural feature:

- a) Existing or proposed residential development:
  - i. Where no blasting is involved 300 metres
  - ii. Where blasting is involved 1000 metres
- b) Any other existing or proposed development 150 metres
- c) Public Highway or street 50 metres
- d) Protected road 90 metres
- e) Body of water or watercourse 50 metres

2) Screening

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

- (a) Where tree screens exist between the 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 of vegetation so that visibility of any part of the use from the surrounding uses or streets will be prevented. The tree screens must be maintained by the owner or occupier of the use to retain 30 metres 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 one (1) meter be planted to fill in the areas affected to the satisfaction of the Authority or, at the discretion of the Authority, condition b(ii) must be undertaken.
- (b) Where no tree screens exist of sufficient width and density to constitute a visual screen, 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.

- (c) 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.
- (d) Where effective screening for any mineral working or associated processing or manufacturing use cannot be installed or located as required in 'i) – iii)' above, the Authority may refuse to permit the use or associated activity.

### 3) 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) Water Pollution

No Mineral working or associated storm or sanitary drainage shall unacceptably reduce the quality of water in any body of water or watercourse. Any access road to a pit or quarry working which crosses a brook or stream shall be bridged or culverted at the crossing in accordance with Department of Municipal Affairs and Environment and any other government requirements.

### 5) Water Ponding

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

### 6) Soil Erosion

No mineral working shall be carried out in a manner so as to cause erosion of adjacent land.

### 7) Site Maintenance

The mineral working shall be kept clean of refuse, abandoned vehicles, and abandoned equipment and any derelict buildings.

### 8) Access Roads

During extended periods of shutdown, access roads to a mineral working shall be ditched or barred to the satisfaction of the Authority.

#### 9) Stockpiling Cover Material

All stumps, organic material, and topsoil including the rusty colored and iron stained layer, shall be stripped and stockpiled at least five (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.

#### 10) Operating Plant and Associated Processing and Manufacturing

- (a) The Authority may permit processing and manufacturing use associated with the 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 odor, or by reason of unsightly storage of materials.
- (b) 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.
- (c) The Authority may specify a minimum separation distance between operating plant or associated processing and manufacturing structure or equipment and adjacent developed area likely to be developed during the life of the mineral working.

#### 11) Termination and Site Rehabilitation

- (a) Upon completion of the mineral working, the following work shall be carried out by the operation:
  - i. All buildings, machinery, and equipment shall be removed;
  - ii. All pit and quarry slopes shall be graded to slopes less than 20 degrees or to the slope conforming to that existing prior to the mineral working.
  - iii. Topsoil and any organic materials shall be re-spread over the entire quarried area.
  - iv. The access road to the mineral working shall be ditched or barred to the satisfaction of the Authority.
- (b) If the mineral working contained reserves of material sufficient to support further extraction operations, the Authority may require the work described to be carried out only in areas of the site where extraction has depleted aggregate reserves.

### 15. Municipal Services

Unserviced or partially serviced development shall meet the standards and approval of the Government Service Centre, Service NL.

**16. Open Storage**

The Authority may permit open storage of materials and goods, provided the following conditions are met:

- a) Open storage shall not occupy more than 50 percent of the site area and shall not be located in the front yard or in any require setback or buffer areas;
- b) Open storage shall be enclosed by a wall or fence not less than two (2) metres in height constructed of uniform materials approved by the Authority; and
- c) Open storage shall be maintained with a stable surface to prevent raising or movement of dust, clay, mud, or loose particles.

**17. Parking and Loading**

Adequate parking, as prescribed in Schedule D, and loading facilities shall be provided on the site of non-residential uses for all employees; vehicles used in or associated with the activity carried out on the site; and for vehicles of customers, clients, or other persons who visit the establishment.

**18. Scrap Yard**

1) Separation from Adjacent Uses

Unless the Authority is satisfied that the use will not create a nuisance and will not adversely affect the amenity of the specified development or natural feature, no scrap yard shall be located closer than the minimum distances set out below to the specified development or natural feature:

Scrap Yard Use	Minimum Distance to Scrap Yard
Existing or proposed Residential Development	300 metres
Any other developed area or area likely to be developed during the life of the scrap yard	150 metres
Public Highway or street	50 metres
Protected road	90 metres
Body of water or watercourse	50 metres

2) Screening

A scrap yard shall be screened in the following manner where it is visible from a public street or highway, developed area, or area likely to be developed during the life of the use:

- (a) Where tree screens exist between the use and adjacent public highways and streets and other land uses (excepting forestry and agriculture), the tree screens shall be retained in a 30-metre



wide strip of vegetation so that visibility of any part of the use from the surrounding uses or streets will be prevented. The tree screens must be maintained by the owner or occupier of the use to retain 30 metres 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 one (1) meter be planted to fill in the areas affected to the satisfaction of the Authority or, at the discretion of the Authority, condition 2(b) must be undertaken.

- (b) Where no tree screens exist of sufficient width and density to constitute a visual screen, earthen berms shall be constructed to a height sufficient to prevent visibility of any part of the use from adjacent uses (excepting forestry and agriculture), or adjacent public highways and streets. The berms shall be landscaped to the Authority's satisfaction
- (c) Where natural topography creates a visual screen between a scrap yard and adjacent public highways and streets other land use (excepting forestry and agriculture), additional screening may be required.
- (d) Where effective screening for any scrap yard or solid waste disposal or storage use cannot be installed or located as required in 2a – 2c above, or where the site is highly visible from a distance, the Authority may refuse to permit the use or associated activity.

### 3) Fencing

The Authority may require a scrap yard site to be enclosed by a fence designed and constructed to its specifications and no less than 1.8 metres in height.

### 19. Watercourse Protection (see also General Condition III-64, and Condition 8)

The minimum width of a buffer along a watercourse shall be 15 metres from the edge of the stream, river, pond, or other body of water. If the embankment is steep, then the buffer shall be measured from the top of the embankment.

The only uses that may be permitted in the buffer area of a watercourse are hiking trails, marinas, wharves, and similar uses, subject to the approval of the Water Resources Management Division of the Department of Municipal Affairs and Environment.

The Authority and Provincial Government may subject development within the buffer area of a watercourse to an environment review, and may approve, approve subject to conditions, or refuse such development.

### 21. Wind Energy Turbines

Wind turbines are a discretionary use subject to:

- (a) the stated yards and setbacks of the zone; and,
- (b) appropriate setbacks from abutting uses, safety and noise attenuation measures.



## ZONE TITLE: CONSERVATION (CON)

### CONSERVATION USE CLASSIFICATIONS

#### Permitted Use Classes

(see Regulation 94, and Zone Table Conditions below)

Conservation, Recreational Open Space (Trails)

#### Discretionary Use Classes

(see Regulation 95, Regulation 18(3), and Zone Table Conditions below)

Agriculture, Forestry, Transportation, Recreational Open Space (building), Wind energy turbines, and Antenna

*(see Schedules A and B for definitions and examples of above Classes)*

*Also refer to **Town of Portugal Cove South Municipal Plan, 2017** Section 4.1: General Land Use Policies, and 4.2.3 Conservation/ Open Space Land Use Policies.*

### CONDITIONS FOR THE CONSERVATION ZONE

#### 1. Watercourse Protection (see also General Condition for All Use Zones III-64)

The minimum width of a buffer along a watercourse shall be 15 metres from the edge of the stream, river, pond, or other body of water. If the embankment is steep, then the buffer shall be measured from the top of the embankment.

The only uses that may be permitted in the buffer area of a watercourse are hiking trails, marinas, wharves, and similar uses, subject to the approval of the Water Resources Management Division of the Department of Municipal Affairs and Environment.

The Authority and Provincial Government may subject development within the buffer area of a watercourse to an environment review, and may approve, approve subject to conditions, or refuse such development.

#### 2. Buffer – Designated Paths or Trails and Streams

In addition to any other requirements of these Regulations, any development within 50 metres of a trail or stream set out and named in the Zoning Maps shall be reviewed by the Authority as to its impact on the trail or stream, and the Authority in its discretion may refuse a permit, approve the permit, or attach such conditions as it deems necessary to the permit to protect the designated trail or stream.

### 3. Discretionary Use Classes (see also Regulation 95, and Regulation 18(3))

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

#### 1) Agricultural Use

Traditional small-scale hobby and subsistence agricultural uses may be permitted such as vegetable gardens. Areas of steep slope where soil erosion may occur shall not be developed for agriculture uses, unless a soil erosion program can be developed and implemented.

#### 2) Docks and Wharves

Council may consider transportation uses, such as those associated with wharves, docks, boathouses, fishing stages and seashore coastal uses which may or may not form part of the fishing industry or other recreational boating uses.

#### 3) Recreational Open Space

Council will permit recreational open space uses such as trail development and non-building type uses. Council may consider building type recreational development at its discretion in keeping with its conservation and other policies expressed in the Municipal Plan.

### 4. Wind Energy Turbines

Wind turbines are a discretionary use subject to:

- (a) the stated yards and setbacks of the zone; and,
- (b) appropriate setbacks from other uses in and abutting the zone, plus appropriate safety and noise attenuation measures.

## SCHEDULE D – OFF-STREET PARKING REQUIREMENTS

1. The off-street parking requirements for uses in the various use classes outlined in Schedule B shall be as defined in the following table.
2. In the case of developments including uses in more than one use class, these standards shall be regarded as cumulative.
3. Adequate off-street provision for drop-off and pick-up of persons shall be provided in developments where required, such as uses within the educational facilities, passenger assembly, child care, medical treatment and special care, commercial residential and take-out food service-use classes.

GROUP	DIVISION	CLASS	MINIMUM OFF-STREET PARKING REQUIREMENT
A	1	(a) Theatre	One space for every 5 seats.
	2	(a) Cultural and Civic (b) General Assembly (c) Educational	One space for every 50 square metres of gross floor areas. One space for every 10 square metres of gross floor area. Schools - 2 spaces for every class room. Further education - 1 space for every 5 persons using the facilities (students, faculty and staff).
		(d) Place of Worship (e) Passenger Assembly	One space for every 5 seats. As specified by the Authority upon detailed review of new passenger assembly proposal.
		(f) Club and Lodge	One space for every 3 persons that may be accommodated at one time.
		(g) Catering	One space for every 3 customers that may be accommodated at one time.
3	(h) Funeral Home (i) Child Care (j) Amusement	One space for every 10 square metres of gross floor area. One space for every 20 square metres of gross floor area. One space for every 10 square metres of gross floor area.	
	4	(a) Indoor Assembly	One space for every 10 spectators that may be accommodated at one time.
B	1	(a) Outdoor Assembly	As specified by the Authority.
	2	(a) Penal and Correctional Detention	As specified by the Authority.
	2	(a) Medical Treatment and Special Care	One space for every 2 patients.



<b>C</b>	<b>1</b>	(a) Single Dwelling (b) Double Dwelling (c) Row Dwelling (d) Apartment Building	Two spaces for every dwelling unit. Two spaces for every dwelling unit. Two spaces for every dwelling unit. Three spaces for every 2-4 dwelling units.
	<b>2</b>	(a) Collective Residential (b) Commercial Residential (c) Seasonal Residential (d) Mobile Home	As specified by the Authority. One space for every guest room.  One space for every residential unit. Two spaces for every dwelling unit.
<b>D</b>	<b>1</b>	(a) Office (b) Medical and Professional (c) Personal Service (d) General Service (e) Communications (f) Police Station (g) Taxi stand (h) Take-out Restaurant (i) Veterinary	One space for every 20 square metres of gross floor area. One space for every 20 square metres of gross floor area.  One space for every 20 square metres of gross floor area. One space for every 20 square metres of gross floor area. As specified by the Authority. As specified by the Authority. As specified by the Authority. One space for every 20 square metres of gross floor area. One space for every 20 square metres of gross floor area.
<b>E</b>	<b>1</b>	(a) Shopping Centre (b) Shop (c) Indoor Market (d) Outdoor Market (e) Convenience Stores	One space for every 15 square metres of gross floor area. One space for every 20 square metres of gross floor area. As specified by the Authority. As specified by the Authority. One space for every 20 square metres of gross floor area.
<b>F</b>	<b>1</b>	(a) Hazardous Industry	One space for every employee.
	<b>2</b>	(b) General Industry (c) Service Station	One space for every employee. One space for every 20 square metres of gross floor area.
	<b>3</b>	(a) Light Industry	One space for every employee.