# DEVELOPMENT REGULATIONS 2014-2024

TOWN OF PORTUGAL COVE-ST. PHILIP'S

| SEPTEMBER 2014 |

TRACT

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# MAPS

**Map 2** - Zoning Map

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# OVERVIEW OF DEVELOPMENT REGULATIONS

The Development Regulations represent the companion community planning document to the Town of Portugal Cove – St. Philip's Municipal Plan (2014-2024). While the Municipal Plan provides for varied land use classes and policy statements of Town Council 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, density and terms, conditions and development standards for land and building proposals.

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 Town Council of Portugal Cove-St. Philip's. The Development Regulations apply to entirety of the Town's designated planning area, which coincides with the Town's municipal boundary area.

The primary components of the Development Regulations include the following:

- Mandatory inclusion of the Ministerial Regulations from the Province that serve as the template for the Town's Development Regulations;
- General Regulations;
- General Development Standards;
- Regulations pertaining to Signs and Advertisements;
- Regulations for Subdivision of Land; and,
- The permitted/discretionary uses, and terms, conditions and requirements for their use within the eleven specific use zones applicable to the Town's land base and bodies of water.

The document also provides for a number of information Schedules that form an integral part of the Development Regulations document, including definitions of planning terms, a classification listing of indicative uses of land and buildings, detail for the distinct use zones, off-street parking requirements and provisions for environmental protection.

Similar to the Municipal Plan, the Development Regulations additionally have a primary companion map, namely the Zoning Map. The Development Regulations provide for an additional map, Schedule E – Environmental Protection Overlay.

The Development Regulations represent a comprehensive local government management approach for regulating current and future land use development within the community. Users of the document will benefit from reading and comprehending the entirety of the Development Regulations to ascertain which aspects of the Regulations apply to a specific property or to a proposed land use development. The Planning & Development Department staff of the Town are available to assist as much as possible in interpretation of the Development Regulations.

# URBAN AND RURAL PLANNING ACT (2000) RESOLUTION TO ADOPT

**Town of Portugal Cove – St. Philip's Development Regulations (2014-2024)**

Under the authority of Section 16 of the Urban and Rural Planning Act (2000), the Town Council of Portugal Cove- St. Philip's adopts the Portugal Cove-St. Philip's Development Regulations (2014-2024).

The Development Regulations (2014-2024) were adopted by the Town Council of Portugal Cove- St. Philip's on the ____ day of _____, 2014.

Signed and sealed this ___ day of _____, 2014.

Mayor Moses G. Tucker: _____

Municipal Clerk (Judy Squires): _____

_____

Town of Portugal Cove- St. Philip's seal

# CANADIAN INSTITUTE OF PLANNERS (CIP) CERTIFICATION

I certify that the Town of Portugal Cove – St. Philip's Development Regulations (2014-2024) have been prepared in accordance with the requirements of the Urban and Rural Planning Act (2000) of the Province of Newfoundland and Labrador.

_____

Member of Canadian Institute of Planners (MCIP) signature

_____

MCIP seal

_____

Date signed and sealed

# 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

## SHORT TITLE

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

## DEFINITIONS

**2.** 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.

## APPLICATION

**3.**

(1) These regulations shall be included in the development regulations of an authority and shall apply to all planning areas.

(2) Where there is a conflict between these regulations and development regulations or other regulations of an authority, these regulations shall apply.

(3) Where another Act of the province provides a right of appeal to the board, these regulations shall apply to that appeal.

## INTERPRETATION

**4.**

(1) In development regulations and other regulations made with respect to a planning area the following terms shall have the meanings indicated in this section.

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

(b) "accessory building" includes:

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

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

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

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

(c) "accessory use" means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use;

(d) "building height" means the vertical distance, measured in metres from the established grade to the

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

(ii) deck line of a mansard roof, and

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

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

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

(g) "established grade" means,

(i) where used in reference to a building, the average elevation of the finished surface of the ground where it meets the exterior or the front of that building exclusive of any artificial embankment or entrenchment, or

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

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

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

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

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

(l) "lot coverage" means the combined area of all 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% 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.

## NOTICE OF RIGHT TO APPEAL

**5.**

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

a) person's right to appeal the decision to the board;
b) time by which an appeal is to be made;
c) right of other interested persons to appeal the decision; and
d) manner of making an appeal and the address for the filing of the appeal.

## APPEAL REQUIREMENTS

**6.**

(1) The secretary of the board at the Department of Municipal and Provincial Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. John's, 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.

## APPEAL REGISTRATION

**7.**

(1) Upon receipt of an appeal and fee as required under the Act and these regulations, the secretary of the board as referred to in 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.

## DEVELOPMENT PROHIBITED

**8.**

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

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

## HEARING NOTICE AND MEETINGS

**9.**

(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.

## HEARING OF EVIDENCE

**10.**

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

## BOARD DECISION

**11.**

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

## VARIANCES

**12.**

(1) Where an approval or permit cannot be given by an authority because a proposed development does not comply with development standards set out in development regulations, an authority may, in its discretion, vary the applicable development standards to a maximum of 10% if, in the authority's opinion, compliance with the development standards would prejudice the proper development of the land, building or structure in question or would be contrary to public interest.

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

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

## NOTICE OF VARIANCE

**13.**

Where an authority is to consider a proposed variance, that authority shall give written notice of the proposed variance from development standards to all persons whose land is in the immediate vicinity of the land that is the subject of the variance.

## RESIDENTIAL NON-CONFORMITY

**14.**

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

## NOTICE AND HEARINGS ON CHANGE OF USE

**15.**

Where considering a non-conforming building, structure or development under paragraph108(3)(d) of the Act and before making a decision to vary an existing use of that non-conforming building, structure or development, an authority, at the applicant's expense, shall publish a notice in a newspaper circulating in the area or by other means give public notice of an application to vary the existing use of a non-conforming building, structure or development and shall consider any representations or submissions received in response to that advertisement.

## NON-CONFORMANCE WITH STANDARDS

**16.**

Where a building, structure or development does not meet the development standards 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.

## DISCONTINUANCE OF NON-CONFORMING USE

**17.**

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.

## DELEGATION OF POWERS

**18.**

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.

## COMMENCEMENT

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

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# TOWN OF PORTUGAL COVE-ST. PHILIP'S LAND USE, ZONING, SUBDIVISION AND ADVERTISEMENT REGULATIONS (DEVELOPMENT REGULATIONS (2014-2024))

## APPLICATION

### 1. SHORT TITLE

These Regulations may be cited as the Town of Portugal Cove-St. Philip's Development Regulations (2014-2024).

### 2. INTERPRETATION

(1) Words and phrases used in these Regulations shall have the meanings ascribed to them in Schedule A. No definitions provided within Schedule A are intended to contravene parallel definitions included within the Urban and Rural Planning Act (2000).

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

### 3. COMMENCEMENT

These Regulations come into effect throughout the Portugal Cove-St. Philip's 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*.

### 4. MUNICIPAL CODE AND REGULATIONS

The Building Code including the Plumbing Code, the Fire Code, the Electrical Code, and any other ancillary code and any Building Regulations, 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-St. Philip's, shall, under these Regulations apply to the entire Planning Area.

### 5. COUNCIL

In these Regulations, "Council" means the Council of the Town of Portugal Cove-St.Philip's.

# PART I - GENERAL REGULATIONS

## 6. COMPLIANCE WITH REGULATIONS

No development shall be carried out within the Planning Area except in accordance with the Portugal Cove-St. Philip's Municipal Plan (2014-2024) and these Regulations.

## 7. PERMIT REQUIRED

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

## 8. PERMIT TO BE ISSUED

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

(1) the General Development Standards outlined in Part II of these Regulations, the requirements of Part V of these Regulations, and the use classes, standards, requirements, and conditions prescribed in Schedule C of these Regulations for the use zone in which the proposed development is located;

(2) the applicable 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 Council;

(6) the provisions of the St. John's Urban Region Regional Plan; and,

(7) the applicable approval requirements from the Province.

## 9. PERMIT NOT TO BE ISSUED IN CERTAIN CASES

(1) Neither a permit nor approval in principle shall be issued for development within the Planning Area when it is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or being beyond the natural development of the area at the time of application unless the applicant contracts to pay the full cost of construction of the services deemed necessary by Council and such cost shall attach to and upon the property in respect of which it is imposed.

(2) A permit shall not be issued for development within the Planning Area unless the owner of the property which is subject of the application remits payment of any and all outstanding taxes for the previous calendar year, and any and all other fees, or charges owed by the owner, whether or not the said taxes, fees or charges pertain to the property which is the subject of the application. Council may, in its sole discretion, waive this requirement upon the owner making satisfactory payment arrangements for such taxes, fees or charges.

**(Development Regulations Amendment No. 2, 2015)**

## 10. DISCRETIONARY POWERS OF COUNCIL

(1) In considering an application for a permit or for approval in principle to carry out development, Council shall take into account the policies expressed in the Municipal Plan and any further scheme, plan or regulations pursuant thereto, shall consider any applicable report and recommendation submissions from a qualified consultant, shall further consider recommendations from the Town Engineer, 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, Council may as a result of its consideration of the matters set out in this Regulation, conditionally approve or refuse the application.

(2) Council will determine the uses that may or may not be developed in a use zone and those uses shall be listed in the Development Regulations as discretionary, permitted or prohibited uses for that area.

(3) When approving or rejecting an application for a discretionary use, Council shall state in writing the basis for its decision.

## 11. VARIANCES (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 12, JANUARY 2, 2001)

(1) Where an approval or permit cannot be given by Council because a proposed development does not comply with the development standards identified within the development regulations, Council may vary the applicable development standards to a maximum of 10% if, in Council's opinion, compliance with the development standards would prejudice the proper development of the land, building or structure in question or would be contrary to public interest.

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

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

## 12. NOTICE OF VARIANCE (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 13, JANUARY 2, 2001)

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

## 13. SERVICE LEVY

(1) Council may require a developer to pay a service levy where development is made possible or where the density of potential development is increased, or where the value of 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 13(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) Council may require a service levy to be paid by the owner of the real property:
   (a) at the time the levy is imposed;
   (b) at the time development of the real property commences;
   (c) at the time development of the real property is completed; or,
   (d) at such other time as Council may decide.

## 14. FINANCIAL GUARANTEES BY DEVELOPER

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

(2) The financial provisions pursuant to Regulation 14(1) may be made in the form of:

(a) a cash deposit from the developer, to be held by Council; 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 Council; or,

(e) another form of financial guarantee that Council may approve.

## 15. DEDICATION OF LAND FOR PUBLIC USE

In addition to the requirements for conveyance and dedication of land under Regulation 90 (Subdivision Design Standards), Council may require the dedication of a percentage of the land area of any subdivision or other development for public use under Regulation 88 (Land for Public Open Space), and such land shall be conveyed to Council in accordance with the provisions of the Act.

## 16. REINSTATEMENT OF LAND

Where the use of land is discontinued or the intensity of its use is decreased, Council 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 Council and shall put the site in a clean and sanitary condition to the satisfaction of Council.

## 17. FORM OF APPLICATION

(1) An application for a development permit or for approval in principle shall be made to Council only by the owner or by a person authorized by the owner on such form as may be prescribed by Council, and every application shall include such plans, specifications and drawings as Council may require, and be accompanied by the permit fee required by Council.

(2) Council shall supply to every applicant a copy of the application forms referred to in Regulation 17(1) and a description of the plans, specifications and drawings required to be provided with the application and any information or requirements applicable to the application.

## 18. REGISTER OF APPLICATION

(1) Council 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.

## 19. DEFERMENT OF APPLICATION

(1) Council 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 Council and on which a decision has not been communicated to the applicant within eight weeks of the receipt thereof by Council, and on which consideration has not been deferred in accordance with Regulation 19(1), shall be deemed to be refused.

## 20. APPROVAL IN PRINCIPLE

(1) Council may grant approval in principle for the erection, alteration or conversion of a building if, after considering an application for approval in principle made under these Regulations, it is satisfied that the proposed development is, subject to the approval of detailed plans, in compliance with these Regulations.

(2) Where approval in principle is granted under this Regulation, it shall be subject to the subsequent approval by Council of such details as may be listed in the approval in principle, which shall also specify that further application for approval of these details shall be received not later than two years from the grant of approval in principle.

## 21. DEVELOPMENT PERMIT

(1) A plan or drawing which has been approved by Council 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 there-under.

(2) Council may attach to a permit or to approval in principle such terms, 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 Council deems necessary, a permit may be issued for a temporary development for a period not exceeding six months, which may be extended at the discretion of Council.

(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 III of these Regulations.

(5) The approval of any application and plans or drawings or the issue of a permit shall not prevent Council 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) Council 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 Council.

(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.

## 22. COMPLIANCE WITH LEGISLATION

(1) New development will comply with applicable acts and regulations including, but not limited to, the provincial *Water Resources Act*, *Environmental Assessment Act*, *Lands Act*, *Health and*

*Community Services 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) If Council feels that a proposed development may trigger the requirements of the *Environmental Assessment Act*, the proponent will be advised to consult with the Department of Environment and Conservation before a development permit will be issued.

(4) 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.

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

## 23. REASONS FOR REFUSING PERMIT

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

## 24. NOTICE OF RIGHT TO APPEAL (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 5, JANUARY 2, 2001)

Where Council makes a decision that may be appealed under Section 42 of the Urban and Rural Planning Act, Council 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.

## 25. APPEAL REQUIREMENTS (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 6, JANUARY 2, 2001)

(1) The secretary of the Appeal Board at the Department of Municipal Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. John's, Nfld., A1B 4J6 is the secretary to all Appeal Boards in the province and an appeal filed with that secretary within the time period

referred to in Regulation 42(4) of the Act shall be considered to have been filed with the appropriate Appeal Board.

(2) The fee required under Section 44 of the Act shall be paid to the Appeal Board that hears the decision being appealed by filing it with the secretary referred to in Regulation (1) or (2) within the 14 days referred to in Regulation 42(4) of the Act.

(3) The Appeal Board that hears the decision being appealed shall, subject to Regulation 44(3) of the Act, retain the fee paid to the Appeal Board.

(4) Where an appeal of a decision and the required fee is not received by an Appeal Board in accordance with this section and Part VI of the Act, the right to appeal that decision shall be considered to have been forfeited.

## 26. APPEAL REGISTRATION (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 7, JANUARY 2, 2001)

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

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

(3) Where Council has been notified of an appeal, Council shall within one week of notification forward to the appropriate board a copy of the application being appealed, all correspondence, council minutes, plans and other relevant information relating to the appeal including the names and addresses of the applicant and other interested persons of whom Council has knowledge.

(4) Upon receipt of the information under Regulation 26(3), the secretary of the board shall publish in a newspaper circulated in the Portugal Cove-St. Philip's area, a notice that the appeal has been registered.

(5) A notice published under Regulation 26(4) shall be published not fewer than 2 weeks before the date upon which the appeal is to be heard by the board.

## 27. DEVELOPMENT PROHIBITED (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 8, JANUARY 2, 2001)

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

## 28. APPEAL BOARD

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

## 29. APPEALS

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

(a) an application to undertake a development;

(b) a revocation of an approval or a permit to undertake a development;

(c) the issuance of a stop work order; and,

(d) a decision permitted under the Act or another Act to be appealed to the board.

(2) A decision of Council to adopt, approve or proceed with a municipal plan, a scheme, development regulations and amendments and revisions of them is final and not subject to an appeal.

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

(4) An appeal shall be filed with the Appeal Board not more than 14 days after the person who made the original application has received the decision being appealed.

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

(a) a summary of the decision appealed from;

(b) the grounds for the appeal; and,

(c) the required fee.

(6) A person or group of persons affected by the subject of an appeal or their representatives may appear before an Appeal Board and make representations concerning the matter under appeal.

(7) An Appeal Board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.

(8) An Appeal Board shall consider and determine appeals in accordance with the Act and the municipal plan, scheme and regulations that have been registered under Section 24, of the Act, and having regard to the circumstances and merits of the case.

(9) A decision of the Appeal Board must comply with the plan, scheme or development regulations that apply to the matter that has been appealed to that board.

(10) In determining an appeal, an Appeal Board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct Council to carry out its decision or make the necessary order to have its decision implemented.

(11) Notwithstanding Regulation (10), where Council 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 Council of the decision of the Appeal Board.

## 30. HEARING NOTICE AND MEETINGS (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 9, JANUARY 2, 2001)

(1) An Appeal Board shall notify the appellant, applicant, Council and other persons affected by the subject of an appeal of the date, time and place for the appeal not fewer than 7 days before the date scheduled for the hearing of the appeal.

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

## 31. HEARING OF EVIDENCE (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 10, JANUARY 2, 2001)

(1) An Appeal Board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under Regulation 30(1) or their representative may appear before the Appeal Board and make representations with respect to the matter being appealed.

(2) An Appeal Board shall hear an appeal in accordance with Section 43 of the Act and these regulations.

(3) A written report submitted under 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 Appeal Board.

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

## 32. RETURN OF APPEAL FEE

Where an appeal made by an appellant under Section 42 of the Act is successful, an amount of money equal to the fee paid by that appellant under regulation 25(2) shall be paid to him or her by Council.

## 33. NOTICE OF APPLICATION (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 13 AND 15, JANUARY 2, 2001)

When a change in non-conforming use is to be considered under Regulation 49, or when the development proposed is listed as a discretionary use in Schedule C of the Development Regulations, Council 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, and allow a minimum period of seven (7) days for response.

## 34. RIGHT OF ENTRY

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

## 35. RECORD OF VIOLATIONS

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

## 36. STOP WORK ORDER AND PROSECUTION

(1) Where a person begins a development contrary or apparently contrary to these Regulations, Council may order that person to stop the development or work connected therewith.

(2) A person who does not comply with an order made under Regulation 36(1) is guilty of an offence under the provisions of the Act.

## 37. DELEGATION OF POWERS (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 18, JANUARY 2, 2001

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

# PART II – GENERAL DEVELOPMENT STANDARDS

## 38. ACCESSES AND SERVICE STREETS

(1) Access shall be located to the specification of Council so as to ensure the greatest possible convenience and safety of the road network system and Council may prescribe the construction of service streets to reduce the number of accesses to collector and arterial streets.

(2) No driveway or other entryway to a parcel of land shall be closer than ten (10) metres (32.8 feet) to the street line of any street intersection.

## 39. 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. Accessory buildings, except for a temporary building for on-site construction drawings, equipment and tools storage as approved by Council, shall not be erected on a property before the principal building is constructed.

(2) No accessory building or part thereof shall project in front of any building line.

(3) Council may approve a location of an accessory building closer to the building line than the main dwelling where:

(a) Council considers that the proposed location complements the historical development pattern in the surrounding area, such as the heritage homes near the harbour areas that have reduced setbacks;

(b) Council considers that the location as required would pose a threat to road safety;

(c) Council finds that the physical limitations of the property would not allow for the development of an accessory building as required;

(d) Council considers that the proposed location as required would adversely affect the view from neighbouring homes, and

(e) At Council's discretion, when the property has a minimum lot area of 4,000 $m^2$ and a front yard that is sufficient enough so that the proposed location will not have an adverse effect on the enjoyment of surrounding properties or pose a threat to road safety.

**(Development Regulations Amendment No. 2, 2015)**

(4) Council will give written notice to all persons whose land is in the immediate vicinity of the proposed development, and allow a minimum period of seven (7) days for response before approving an accessory building in a location other than is required in Regulation 39(2).

## 40. ADVERTISEMENTS

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

## 41. BUFFER STRIPS

(1) 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 ten (10) metres (32.8 feet) wide between any residential activity and the industrial, commercial, or institutional area. The buffer shall include the provision of such natural or structural barrier as may be required by Council and shall be constructed and maintained by the owner or occupier to the satisfaction of Council.

(2) Where any new residential subdivision is permitted to abut the rear or side property boundaries of an existing residential lot, a natural vegetation buffer or other structural barrier such as privacy fence will be required by Council and shall be constructed and maintained by the owner or occupier to the satisfaction of Council.

## 42. BUILDING LINE AND SETBACK

(1) Council, by resolution, may establish a building line on a public street and may require new buildings to be located on that building line, whether or not the building line conforms to the standards set out in Schedule C of these Regulations.

(2) Council may exempt an individual building from having to locate on the building line if physical, heritage or other conditions make this location unsafe or impractical, or more in keeping with the character of the immediate neighbourhood.

## 43. GROUP HOME

A group home centre is permitted on approval by Council as a discretionary use in any single unit residential dwelling; the group home is to be adequate in size based upon the number of bedrooms to accommodate the number of persons living in the group, inclusive of staff, and provided that in the opinion of Council and from local residents' comments, 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. Council may require special access and safety features to be provided for the occupants before occupancy is permitted.

## 44. HEIGHT EXCEPTIONS

The height requirements prescribed in Schedule C of these Regulations may be waived in the case of telecommunication towers, masts and antennae, flagpoles, water towers, spires, belfries, wind generators, or chimneys, but any such waiver which results in an increase of more than ten percent (10%) in the permitted height of the structure shall only be authorized under the provisions of Regulation 10.

## 45. MINIMUM DISTANCE SEPARATIONS FOR COMMERCIAL LIVESTOCK FACILITIES

(1) No new livestock (including poultry) facility, planned to accommodate more than ten (10) animal units, shall be located within:
   (a) 300.0 metres (984.2 feet) of a public building, commercial building, or a dwelling other than a commercial building or dwelling located on the same lot as the livestock operation,
   (b) 300.0 metres (984.2 feet) of the boundary of any zone other than the Agriculture, Rural, and Protected Watershed zones,
   (c) 70.0 metres (229.7 feet) of the boundary of the property on which it is to be erected, and
   (d) 90.0 metres (295.3 feet) of the centre line of a public street.

(2) Regulation 45(1) does not apply to the expansion, conversion, or replacement of a livestock facility existing on the registration date of this Municipal Plan as long as the expansion, conversion, replacement, or addition does not reduce the existing separation distance between the livestock facility and the subject dwelling, public building, commercial building, property boundary, or public street.

(3) No new public building, commercial building, or dwelling, except a dwelling or commercial building located on the same lot as the livestock operation, may be located within 300.0 metres (984.2 feet) of an existing livestock facility that accommodates more than ten (10) animal units.

(4) The construction of new dwellings on lots in existence on the date of the registration of this Municipal Plan, which cannot meet the required minimum distance separation, will be

permitted where they meet all other provisions of this Municipal Plan and Development Regulations.

(5) In addition to the above requirements, new livestock facilities are subject to applicable Provincial acts and regulations.

## 46. 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 front yard, rear yard, side yard, frontage or lot area that is less than that permitted by these Regulations for the zone in which such lot is located.

(2) Where any part of a lot is required by these Regulations to be reserved as a yard, it shall continue to be so used regardless of any change in the ownership of the lot or any part thereof, and shall not be deemed to form part of an adjacent lot for the purpose of computing the area thereof available for building purposes.

## 47. LOT FRONTAGE

No new residential, commercial, public building or other primary use building shall be erected on a lot that does not front directly on a public road or street, except for historic existing lots that in the opinion of the Town Engineer and through approval of the Province where applicable, are able to otherwise provide access to a public street to the satisfaction of Council.

## 48. EXISTING LOT AREA AND SIZE EXCEPTIONS

Where, at the time of the coming into effect of these Regulations, a lot existed, which had a legal land survey, but which does not comply with the lot area and lot frontage requirements, then these Regulations shall not prevent the issuing of a permit by Council for the erection of a building thereon, provided that:

(a) the area of the lot is not less than seventy-five percent (75%) of the lot area standard set out in these Regulations,

(b) the lot frontage is not less than seventy-five percent (75%) of the lot frontage standard set out in these Regulations,

(c) the yards, floor area, and lot coverage of the proposed building are not less than the standards set out in these Regulations,

(d) the setback of the proposed building from a watercourse or wetland is not less than the required setbacks in these Regulations, and

(e) all necessary approvals have been acquired from the Services NL and other applicable Provincial or Federal agencies.

**(Development Regulations Amendment No. 2, 2015)**

## 49. NON-CONFORMING USE (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 14, 15, 16, 17, JANUARY 2, 2001)

(1) Notwithstanding the Municipal Plan, scheme or regulations made under the *Urban and Rural Planning Act, 2000*, Council shall, in accordance with regulations made under this *Act*, allow a development or use of land to continue in a manner that does not conform with a regulation, scheme, or plan that applies to that land provided that the non-conforming use legally existed before the registration under Section 24 of the *Act*, scheme or regulations made with respect to that kind of development or use.

(2) Notwithstanding Regulation 49(1), a right to resume a discontinued non-conforming use of land shall not exceed 12 months after that discontinuance.

(3) A non-conforming building, structure or development under the *Act* that is allowed to continue under Regulation 49(1):

(a) shall not be internally or externally varied, extended or expanded unless otherwise approved by Council;

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

(c) shall not be reconstructed or repaired for use in the same non-conforming manner where 50% or more of the value of that building, structure or development has been destroyed, except as provided for in Regulation 49(3)(h);

(d) may have the existing use for that building, structure or development varied by Council to a use that is, in Council's opinion, more compatible with the plan and regulations applicable to it;

(e) may have the existing building extended by approval of Council where, in Council's opinion, the extension is not more than 50% of the existing building;

(f) where the non-conformance is with respect to the standards included in these Regulations, shall not be expanded if the expansion would increase the non-conformity;

(g) where a building, structure or development does not meet the development standards included in development regulations, the building, structure or development shall not be

expanded if the expansion would increase the non-conformity, and an expansion must comply with the development standards applicable to that building, structure or development; and,

(h) where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the municipal plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed.

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

## 50. OFFENSIVE AND DANGEROUS USES

No building or land shall be used for any purpose which may be dangerous by causing or promoting fires or other hazards or which may emit noxious, offensive or dangerous fumes, smoke, gases, radiation, smells, ash, dust or grit, excessive noise or vibration, or create any nuisance that has an unpleasant effect on the senses unless its use is authorized by Council through consideration of the land uses of Schedule C, and Council's potential consideration of a report and recommendations on the proposed use prepared by a qualified consultant engaged by the development applicant, and such use is allowed by any other authority having jurisdiction.

## 51. 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 accommodate the proposed use and /or building, and to ensure that the flow of traffic on adjacent streets is not impeded by the on-street parking of vehicles associated with that building, structure or use.

(2) The number of parking spaces to be provided for any building, structure, use of occupancy shall conform to the standards outlined in Schedule D - Off-Street Parking Requirements of these Regulations.

(3) Each parking space, except in the case of single or double dwellings, shall be made accessible by means of a hard surfaced right-of-way at least three (3) metres (9.8 feet) in width. Parking for residential single and double dwellings shall be provided in the driveway area on the same lot as

the dwelling; no parking in the front yard lawn areas shall be permitted. Parking space for apartments shall be provided in the rear yard where possible.

(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 eight vehicles are required or permitted:
   (a) a parking space shall mean an area of land, not less than 15 m² (161.5 square feet) 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 development permit approval by Council;
   (c) the lights used for illumination of the parking area shall be so arranged as to divert the light away from adjacent development;
   (d) a structure, not more than 3 metres in height and more than 5 m² ( 53.8 square feet) 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 (4.9 feet) to the front lot line in any zone;
   (g) access to parking areas in non-residential zones shall not be by way of a residential zone;
   (h) the driving surface of a driveway access to a parking area from a public street shall not be less than 6 metres (19.7 feet) in width;
   (i) where a parking area is located within or abuts a residential zone, a natural or structural barrier at least 1.5 metres (4.9 feet) high shall be erected and maintained along all lot lines between the parking area and the adjacent residential property; and,
   (j) where strict application of the above parking requirements is impractical or undesirable, Council may 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 shall be used by Council for the provision and upkeep of alternative parking facilities within the vicinity of the development.

## 52. OFF-STREET LOADING REQUIREMENTS

(1) For every building, structure or use to be erected, enlarged or established requiring the shipping, loading or unloading of animals, goods, wares or merchandise, there shall be provided and maintained for the premises loading facilities on land that is not part of a street comprised of one or more loading spaces, 15 metres (49.2 feet) long, 4 metres (13.1 feet) wide, and having a vertical clearance of at least 4 metres (13.1 feet) with direct access to a street or with access by a driveway of a minimum width of 6 metres (19.7 feet) to a street.

(2) The number of loading spaces to be provided shall be determined on the basis of the size of the proposed building on the development site where one loading space is to be provided for development sites with building floor area space greater than 500 square metres (5,382.1 square feet), and two loading spaces to be provided for buildings with a floor area space greater than 2000 square metres (21,528.5 square feet).

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

## 53. PUBLIC PARKS AND PLAYGROUNDS, AND CONSERVATION USES

Nothing in these Regulations shall prevent the designation of conservation areas or the establishment of public parks and playgrounds 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, and are within the financial resource capacity of the Town for any future potential ongoing maintenance costs.

## 54. SCREENING AND LANDSCAPING

Council may, in the case of existing unsightly development, order the owner or occupier to provide adequate and suitable landscaping or screening; and for this purpose may require the submission of an application giving details of the landscaping or screening, and these Regulations shall then apply to that application. The provision of adequate and suitable landscaping or screening may be made a condition of any development permit where, in the opinion of Council, the landscaping or screening is desirable to preserve amenity, or protect the environment. Where a property owner of an unsightly property or premises does not comply to remedy the deficiency, Council may proceed to take other action, including upon failure of the property owner to comply with further notice from the Town, Council may enter the

site and clean up the property and place the cost of such municipal work on the annual taxation levy for the property and/or building.

## 55. SERVICES AND MUNICIPAL INFRASTRUCTURE

Within any zone, the provision of public or municipal services, infrastructure and utilities are permitted, subject to Regulation 89. This applies to electrical services, light standards, traffic control devices, utility poles, highways and municipal directional signage, municipal water, sewer and storm water systems and associated underground utilities and pump houses, group mail boxes, roads and highways, and similar such infrastructure, services and utilities required to service a growing community. The proposed design of the works and landscaping of any development of any land so used shall be reviewed by the municipality for its adequacy to protect the character and appearance of the area where the works are to be installed. Private utilities such as major pipelines and transmission lines should be discussed with local authorities early in the planning stages; fibre optic services are similarly to be communicated to the local authority, prior to Council consideration of support for installation of these utilities.

## 56. MINERAL EXPLORATION

Mineral exploration and staking are permitted in any zone subject to applicable provincial acts and regulations. Mineral exploration is not supported by the Town however in the more urban and built up areas of the community.

## 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 4 metres (13.1 feet) from the front lot line.

(c) Accesses shall not be less than 7 metres (22.9 feet) 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 (32.8 feet) and the lot line between entrances shall be clearly indicated.

## 58. SIDE YARDS

Except for comprehensively designed site developments, a side yard, which shall be kept clear of obstruction, shall be provided on the exposed sides of every building in every use zone in order to provide access for the maintenance of that building, and to provide separation distance to an adjacent property.

## 59. STREET CONSTRUCTION STANDARDS

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

## 60. SUBSIDIARY APARTMENTS

Subsidiary apartments, as defined by Schedule A, may be permitted upon Council approval as a discretionary use in single unit residential dwellings, and within a permitted commercial use only, and for the purposes of calculating lot area and yard requirements, shall be considered part of the self-contained dwelling. Council may also consider a granny suite as a form of a subsidiary apartment to help meet the emerging housing needs of seniors.

## 61. ZERO LOT LINE AND OTHER COMPREHENSIVE DEVELOPMENT

The erection of dwellings which are designed to form part of a zero lot line development or other comprehensive development site layout which does not, with the exception of dwelling unit floor area, meet all of the requirements of the Use Zone Table in Schedule C, will be considered on the basis that the dwellings are designed to provide both privacy and reasonable access to natural daylight and the overall density within the proposed development conforms to these Development Regulations. The standards outlined in the Use Zone Table will additionally apply where the proposed layout adjoins other development.

## 62. MULTIPLE USES ON ONE LOT

Where a single lot contains more than one permitted use, each specific use shall conform to the provisions of these Development Regulations that are applicable to that use.

## 63. VEHICLE BODIES

No truck, bus, semi-trailer, freight container, other vehicle body, or a structure of any similar nature, or a tent or similar use, shall be used as a residential dwelling unit for human habitation in any zone. This provision does not apply to recreational vehicles or trailers or tents and similar used for camping purposes on a temporary and interim seasonal basis.

## 64. SITE SUITABILITY

No building or structure or other development of land will be permitted on a site where it otherwise would be permitted under these Development Regulations where the proposed site is marshy, geologically unstable, excessively steep, or otherwise unsuitable for a proposed purpose by virtue of its soil, topography or environmental sensitivity, as identified by Schedule E – Environmental Protection

Overlay of the these Development Regulations, or as assessed by a qualified consultant, or as otherwise determined by Council .

## 65. ENVIRONMENTAL PROTECTION

(1) Land located within fifteen (15.0) metres (49.2 feet) of watercourses; thirty (30.0) metres (98.4 feet) of bodies of water and coastlines; designated flood risk areas; wetlands; and steep slopes shall be indicated on the map contained in Schedule E: Environmental Protection Overlay.

(2) Any development that may permitted on lands indicated by the Environmental Protection Overlay schedule will only be permitted subject to the terms and conditions stated in Schedule E of these Development Regulations.

## 66. AIRCRAFT NOISE EXPOSURE CORRIDOR

(1) No new residential development shall be permitted above the 35 Noise Exposure Forecast (NEF) Contour of the St. John's Airport, the bounds of which are delineated on the Zoning Map as part of these Development Regulations.

(2) All residential development located between the 30 NEF and 35 NEF Contours shall-comply with Canada Mortgage and Housing Corporation (CMHC) acoustic insulation requirements. All building permit applications for this area must include drawings stamped and certified by a qualified engineer or architect that indicates these requirements are incorporated into the building design.

(3) A seller of land above the 30 NEF contour is required to issue a notice to prospective purchasers concerning the restrictions on development in these areas. Council will not approve a subdivision of land in any area above the 30 NEF contour unless it receives a written undertaking from the owner that prospective purchasers will be notified of these development restrictions by way of a Notice placed upon the title of the subject properties.

## 67. STORMWATER 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 stormwater 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 stormwater 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 stormwater runoff and erosion onto adjacent properties or into nearby watercourses.

## 68. LINE OF VISION AT INTERSECTIONS

So as to not obstruct the view of motorists and pedestrians:

(a) All occupied and existing lands located within 7.0 metres (22.9 feet) of a street intersection shall be kept free of any shrubs, plants, and any trees that will impede the line of vision to be clear for motorists and pedestrians; and,

(b) No building or structure shall be permitted to be erected, moved, enlarged, or reconstructed on any land that is within 7.0 metres (22.9 feet) of a street intersection.

## 69. DEVELOPMENT IN THE VICINITY OF A PUBLIC RIGHT-OF-WAY

(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 development regulations, when upon the review by the Town’s Engineer, the development would impede public passage on a public right-of-way or interfere with any legal right of Council to develop or improve the right-of-way for public access and recreation.

(2) A minimum setback or set other terms and conditions may be required for a proposed development in the vicinity of a public right-of-way to ensure the development will not obstruct or otherwise impede public passage along the right-of-way.

## 70. SOIL REMOVAL AND DEPOSIT AND SITE GRADING

(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, or site grading, 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) Land intended for the activity or grading has a slope of less than 25%. Lands with a slope greater than 25% over a distance of five (5) or more metres, shall be protected and shall not be developed except for infill residential single dwelling development proposals as a discretionary use within the Traditional Community 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, such land is not designated by the St. John's Urban Region Regional Plan as 'Restricted', 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, so as to not impair existing surface drainage or create erosion either on the site or on adjacent sites.

## 71. WIND TURBINES

**(1) Private Wind Turbines**

Where permitted as a discretionary use by Council, the development of a private wind turbine (see definition in Schedule A) shall conform to the following standards and conditions:

| **Wind Turbine Development Standards** | | | | |
|---|---|---|---|---|
| **STANDARDS** | **Lot Size (m²)** | | | |
| | **<2000** | **2000** | **4000** | **>8000** |
| Maximum number of wind turbine(s) | 1 | 1 | 1 | 2 |
| Maximum power generating capacity of wind turbine(s) (kilowatts –KW) | 15KW | 20KW | 40KW | 100KW (total collective) |
| Maximum tower height (metres) | 10.25 | 12.25 | 18.5 | 30.5 |
| Minimum separation distance from Tower and neighbouring residence (metres) | 25 | 50 | 100 | 250 |
| Minimum separation distance of the swept arc of the blade from residence on same lot (metres) | 1 | 3 | 5 | 5 |
| Minimum distance of the swept arc of the blade from side yard (metres) | Side yard requirements as in land use zone | | | |
| Separation distance between towers (metres) | Not Applicable | | | 10 |
| Lowest point of sweep area of rotor blade to finish grade (metres) | 5 | 5 | 6 | 7 |

(a) The development of a private wind turbine(s) on a lot shall be for the primary use of the property owner. Electricity produced shall address the consumption needs of buildings and facilities located on the subject property. Surplus electricity shall be secondary in nature to the primary use and may be connected to the local power grid for the purpose of selling surplus power.

(b) All development shall meet applicable Federal and Provincial regulatory requirements, in particular those applying to safety and environmental concerns.

(c) The development of the wind turbine(s) shall not create hazards or negative impacts on neighbouring properties. In cases where there are potential conflicts or impacts between a proposed development and neighbouring property, the turbine developer may be required to provide to Council a qualified consultant report with recommendations to ensure that adequate buffers or screening are maintained to reduce the potential impacts on adjoining properties, and to provide for other mitigation measures that may be necessary to reduce the impacts.

(d) Wind turbine tower(s) shall be located on a lot with minimum visual impacts on neighbouring properties.

(e) The sweep area of the rotor blades on a wind turbine shall not cross over property lines.

(f) Wind turbine(s) shall not be permitted in front of the building line.

(g) Wind turbine tower(s) shall be designed and constructed to meet design loads for operational requirements including ice build-up. The blades shall either have de-icing capabilities or be constructed of a material (ex. poly carbonate composite) that resists ice build-up.

(h) Should the wind turbine cease operations for a period longer than 2 years, the turbine, towers, and any related infrastructure shall be removed from the property.

**(2) Commercial Wind Turbines**

Where permitted by Council as a discretionary use, the development of a commercial wind turbine (see definition in Schedule A) shall meet applicable Federal and Provincial regulatory requirements, the provisions of this Regulation 71, and all other terms and conditions determined as required by Council in consideration of the proposal, the proposed site and location, adjacent land uses, scenic views, rural character of the community and other factors relevant to such site approval consideration.

# PART III - ADVERTISEMENTS

## 72. PERMIT REQUIRED

(1) No advertisement, as defined by Schedule A, shall be erected or displayed on land, or upon or within water, in the Planning Area unless a permit for the advertisement is first obtained from Council.

(2) In addition to meeting the requirement of Regulation 72(1), no advertisement shall be erected or displayed along the visual corridor of a Provincial Road unless a permit has also been obtained from the appropriate Provincial authority.

## 73. FORM OF APPLICATION

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

## 74. ADVERTISEMENTS PROHIBITED IN STREET RESERVATION

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

## 75. PERMIT VALID FOR LIMITED PERIOD

A permit granted 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 Council for similar periods.

## 76. REMOVAL OF ADVERTISEMENTS

Notwithstanding the provisions of these Regulations, Council 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.

## 77. ADVERTISEMENTS EXEMPT FROM CONTROL

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

(a) on a single residential dwelling or within the courtyard of a dwelling, one nameplate not exceeding 0.2 $m^2$(2.1 square feet) in area size;

(b) on an agricultural holding or farm, a notice board not exceeding 1.0 m² (10.76 square feet) 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 1.0 m² (10.76 square feet) 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 1.0 m² (10.76 square feet) 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 m² (2.1 square feet) 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 1.0 m² (10.76 square feet) 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 3.0 m (32.28 square feet), whichever is the lesser;

(h) on any parking lot directional signs and one sign not exceeding 1.0 m² (10.76 square feet) in size, identifying the parking lot.

## 78. 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 applicable Use Zone Tables in Schedule C of these Regulations.

## 79. NON-CONFORMING USES

Notwithstanding other provisions of Part III, the erection or display of advertisements is permitted on a building or within the courtyard of a building or on a parcel of land, the use of which is a nonconforming 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 in accordance with other conditions determined upon review of the application for the subject non-conforming site.

# PART IV - SUBDIVISION OF LAND

## 80. PERMIT TO SUBDIVIDE REQUIRED

No land in the Planning Area shall be subdivided unless a permit for the development of the subdivision is first made by application, the proposal is reviewed and considered by the Town, external agency comments and approvals are provided, the terms, conditions and requirements for the subdivision development are addressed, and subdivision approval is obtained from Council.

## 81. SERVICES TO BE PROVIDED

(1) No permit shall be issued for the development of subdivided land unless provisions satisfactory to Council have been made in the application for connection to municipal services, or for verification of a safe supply of drinking water of sufficient quantity, a properly designed sewage disposal system as approved by Services NL, and a properly designed storm drainage system.

(2) Where the land to be subdivided is for the purpose of a residential subdivision to be serviced by individual wells, no permit shall be issued until a groundwater assessment report has been submitted as required under Regulation 97 of these Development Regulations.

(3) No permit shall be issued for the development of subdivided land of six (6) or more lots located less than 500.0 metres (1,640.4 ft) from existing water and/or sewer mains unless provision has been made to connect the development to these piped services at the expense of the developer, and the land is appropriately zoned for serviced or semi-serviced development. The installation, construction materials, system design, and other requirements must meet the approval of the Town's engineer.

## 82. 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 Council for connection to services, utilities and streets deemed necessary for the proper development of the subdivision, for provision of open space and all other applicable service levies and other charges imposed under Regulations 13 and 14.

## 83. PERMIT TO SUBDIVIDE SUBJECT TO CONSIDERATIONS

A permit to subdivide land will not be issued when the development of the subdivided land will not contribute to the orderly and sustainable growth of the municipality, will not demonstrate sound design principles, will cause undue environmental harm, or will result in an undue cost burden for the provision

of municipal services. When reviewing and evaluating a subdivision application, Council shall, without limiting the generality of the foregoing, consider:

(a) the location of the land and the proposed number of lots to be subdivided;
(b) the availability of and the demand created for municipal infrastructure, municipal services, and utilities;
(c) the provisions of the Municipal Plan and Development Regulations (2014-2024) affecting the site;
(d) the land use, physical form and character of the proposed site and the adjacent neighbourhood;
(e) the resulting traffic densities to be generated from the site development, the proposed subdivision road network , the potential need for off-site transportation improvements and how the subdivision will address pedestrian mobility, including the provision of right-of-way connections to existing and adjacent trail systems;
(f) the relationship of the project to existing or potential sources of nuisance;
(g) soil and subsoil characteristics of the parent property;
(h) the topography of the site and its drainage, and proposed storm water management;
(i) natural features on or adjacent to the site such as ponds, streams, rivers, wetlands, topsoil, trees and other vegetation, and any walkway or trail provision for continued public access to ponds;
(j) prevailing winds;
(k) visual quality and scenic views;
(l) availability of community facilities and schools to service the site;
(m) energy conservation and other sustainable planning initiatives;
(n) environmental impacts of the proposed subdivision development with respect to watercourses, wetlands, steep slopes, drainage patterns, coastal resources, protected species and loss or fragmentation of natural habitat, and proposed environmental management approach to the site to address potential impacts;
(o) assessment of ongoing capital and municipal financial costs related to the provision and maintenance of roads, other infrastructure, and services resulting from the subdivision;
(p) probable effects on the sustainability of important resource lands, particularly agricultural land, forestland, and aggregate resources;
(q) proposed open space provision; and,
(r) such other matters as may affect the proposed development.

## 84. BUILDING PERMITS REQUIRED

Notwithstanding the approval to subdivide land by Council, a separate building permit shall be obtained for each building or structure proposed to be erected on the subdivided land, 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 approval and development of the subdivided land.

## 85. NO PERMIT REQUIRED

The following land uses do not require development permit approval, but must comply with all applicable provisions and requirements of the Development Regulations and policies of the Municipal Plan (2014-2024), and with all applicable external Provincial approvals, as required:

(a) the removal of trees and other vegetation (not including trees and vegetation located within an environmental setback area and where any tree removal is to be in compliance with Regulation 90 (q));

(b) the grubbing of soil, placing of fill, and other altering of the landscape (in accordance with Regulation 70);

(c) a passive recreational use such as a walking trail or picnic area (as discussed and approved by the municipal Department of Recreation and Community Services);

(d) the clearing and development of agricultural land (as approved by the Province for Agricultural Development Area lands) a forestry use for personal cutting of fuel wood, Christmas trees and similar domestic uses;

(e) construction and installation of a driveway with access to a municipal street (in accordance with engineering standards);

(f) construction and installation of a septic system, as approved by Services NL; and,

(g) a conservation use to preserve natural areas.

## 86. FORM OF APPLICATION

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

## 87. SUBDIVISION SUBJECT TO ZONING

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

## 88. LAND FOR PUBLIC OPEN SPACE

(1) Where a parcel of land is proposed to be subdivided into four (4) lots or more, the developer shall dedicate to Council, at no cost to Council, a useable area of land equivalent to not more than 10% of the gross area of the subdivision or 25.0 m² (269 square feet) 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, Council shall determine the percentage of land to be dedicated;

(b) if, in the opinion of Council, no public open space is required, the land may be used for such other public use as Council may determine;

(c) the location and suitability of any land dedicated under the provisions of this Regulation shall be subject to the approval of Council but in any case, Council shall not accept land which, in its opinion, is incapable of development for any purpose;

(d) Council may accept from the developer in lieu of such area or areas of land the payment of a sum of money equal to the value of the land which would otherwise be required to be dedicated;

(e) financial contributions received by Council in accordance with Regulation 88(1)(d) shall be reserved by Council for the purpose of the acquisition or development of land for public open space or other public purpose.

**(Development Regulation No. 2, 2015)**

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

(3) Council may require a strip of land to be reserved and remain undeveloped along the banks of any watercourse, and this land may, at the discretion of Council, constitute the requirement of land for public use under Regulation 88(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.

## 89. 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 be reviewed by the Town's Engineer and shall receive the prior approval of Council which shall be satisfied on the question of safe construction and relationship to the adjoining buildings and other structures within the street reservation.

## 90. 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 12 percent;

(b) Cul de sacs shall have a turning circle with a driving surface diameter of not less than 30.0 metres (98.4 feet);

(c) The maximum length of any cul de sac shall be:

i) 300m (984.3 feet) 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 in connection with municipal five-year capital works program eligibility;

**(Development Regulation No. 4, 2017)**

ii) 300.0m (984.2 feet) in areas not served by or planned to be served by municipal piped water and sewer services; and

iii) greater in length as described in Regulation 90(2)(ii) where it can be determined that the cul de sac will round out an existing subdivision only and where no alternative means of access can be acquired;

iv) determined at the discretion of Council to a maximum of 300.0 m (984.2 feet) in areas served by or planned to be served by only one municipal service (semi-serviced development).

**(Development Regulation No. 2, 2015)**

(d) An emergency access for a cul de sac:

i) shall be located at the midway point of the cul de sac;

ii) have a right-of-way width of not less than six (6.0) metres (19.68 feet);

iii) shall connect directly with an adjacent public street;

iv) shall be no longer than the total length of the cul de sac;

v) shall be constructed to a standard specified by the Town Engineer and approved

vi) by Council; and

vii) shall be conveyed to the ownership of Council;

(e) No cul de sac shall be located so as to appear to terminate a collector street;

(f) A new subdivision shall have street connections with an existing public street(s);

(g) Every street intersection shall be constructed within 5 degrees of a right angle and this alignment shall be maintained for at least 30.0 metres (98.4 feet) from the intersection;

(h) No street intersection shall be closer than 60.0 metres (196.8 feet) to any other street intersection;

(i) No more than four streets shall join at any street intersection;

(j) No residential street block shall be longer than 450.0 metres (1,476.8 feet) between street intersections;

(k) Required public street reservations shall be conveyed to the ownership of Council;

(l) New residential streets shall be designed in accordance with the approved standards of Council, but in the absence of such standards, shall conform to the following minimum and maximum standards:

**Street Design Standards**

| Type of Street | Street Reservation | Pavement Width | Sidewalk Width | Sidewalk Number |
|---|---|---|---|---|
| Arterial Streets | 30 m | 15 m | 1.5 m | Minimum of 1<br>Maximum of 2 |
| Collector Streets | 20 m | 15 m | 1.5 m | 2 |
| Local Residential Streets:<br>where more than 50% of the units are single or double dwellings;<br>where 50% or more of the units are townhouses or apartments. | 15 m<br>20 m | 9 m<br>9 m | 1.5 m<br>1.5 m | 1<br>2 |
| Service Streets | 15 m | 9 m | 1.5 m | Minimum of 0<br>Maximum of 2 |

(m) No residential lot shall have a depth exceeding four times the frontage, except where existing subdivision patterns and lot configurations in the immediate neighbourhood area do not provide any alternative options for subdivision of land;

(n) No residential lot shall abut a local street at both front and rear lot lines;

(o) All designated archaeological sites on a property proposed to be subdivided shall be protected in accordance to the requirements of the Provincial Archaeological Office;

(p) Council may require any existing natural, historical or architectural feature or part thereof to be retained when a subdivision is developed;

(q) Council will require new subdivision lots to maintain existing trees and vegetation in the rear yard at a depth of 6.0 metres from the rear property line. Removal of trees and natural vegetation, or the development of an alternative landscape within this natural buffer, will require the approval of Council; and,

(r) Land shall not be subdivided in such a manner as to prejudice the development of adjoining land.

## 91. ENGINEER TO DESIGN WORKS AND CERTIFY CONSTRUCTION LAYOUT

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

(2) Upon approval by Council of the proposed subdivision, the Engineer shall certify all work of the construction layout prior to the construction of the said works; upon such certification, the developer shall proceed to the construction and installation of the works, at his own cost and in accordance with the approved designs and specifications and the construction layout certified by the Engineer, including all such water mains, hydrants, sanitary sewers, storm water management systems and all appurtenances and of all such streets and other utilities and works deemed necessary by Council to service the said area.

## 92. DEVELOPER TO PAY ENGINEER'S FEES AND CHARGES

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

## 93. STREET WORKS MAY BE DEFERRED

The construction and installation of all curbs and gutters, catch basins, sidewalks and paving specified by Council as being necessary, may be deferred upon approval by Council until a later stage of the work on the development of the subdivision, but if such deferment is granted, the developer shall deposit with

Council before approval of his application, an amount estimated by the Engineer as reasonably sufficient to cover the cost of construction and installation of the works. In the later stage of the work of development, Council 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 Council the amount of the excess. If the contract price is less than the deposit, Council shall refund the amount by which the deposit exceeds the contract price. Any amount so deposited with Council by the developer shall be placed in a separate account in a bank and all interest earned thereon shall be credited to the developer.

## 94. TRANSFER OF STREETS AND INFRASTRUCTURE WORKS TO COUNCIL

(1) The developer, following the approval of the subdivision of land and upon request of Council, shall transfer to Council by formal written agreement, at no cost to Council, and clear of all liens and encumbrances:
   (a) all lands in the area proposed to be developed or subdivided which are approved and designated by Council for public uses as public streets, future public street reservations, public right-of-ways, or for other public use;
   (b) all infrastructure services or public works, including streets, water supply and distribution, sanitary sewers, and storm drainage systems installed in the dedicated public areas of the subdivision, which are normally owned and operated by Council.

(2) Before Council shall accept the transfer of lands, infrastructure services, or public works of any subdivision, the Engineer shall, at the cost to the developer, test the streets, services and public works installed in the subdivision and certify his satisfaction with their installation.

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

## 95. RESTRICTION ON SALE OF LOTS

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

(a) the lot can be served with satisfactory water supply and an approved sewage disposal system; and
(b) safe and engineered access to a public street is provided for the lots.

## 96. 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 Council, shall not be changed without written application to and subsequent approval of Council.

## 97. GROUNDWATER SUPPLY ASSESSMENT AND REPORTING

A groundwater assessment report shall be required to be completed and submitted by the subdivision applicant to the Town as part of the subdivision approval process where a minimum sized subdivision is to be serviced by individual wells. The Groundwater Assessment Report must be prepared in accordance with the Department of Environment and Conservation's *Groundwater Supply Assessment and Reporting Guidelines for Subdivisions Serviced by Individual Private Wells.* Requirements to complete a Groundwater Assessment Report shall be based upon the following criterion:

(1) A groundwater assessment study will not be required for subdivisions less than five (5) lots, each having a minimum 2,203m$^2$ (1/2 acre) size, unless the area has documented drinking-water quality and/or quantity problems.

(2) A proposed subdivision from five (5) to fifteen (15) lots will require a Level I assessment, as defined in the *Groundwater Supply Assessment and Reporting Guidelines*.

(3) A proposed subdivision greater than fifteen (15) lots will require a Level II assessment, as defined in the *Groundwater Supply Assessment and Reporting Guidelines*.

The following table shows the assessment requirements based on the number of lots:

| Number of Lots | Level I Required | Level II Required | Number of Test Wells |
|---|---|---|---|
| **2-4** | No (may be required*) | No | 0 |
| **5-15** | Yes | (may be required**) | (may be required**) |
| **16-30** | Yes | Yes | 1 |
| **31-45** | Yes | Yes | 2 |
| **46-60** | Yes | Yes | 3 |
| **61-75** | Yes | Yes | 4 |
| **75-90** | Yes | Yes | 5 |
| **91-105** | Yes | Yes | 6 |
| *** a Level I study and/or a test well may be required if it has been determined that the location has a history of groundwater quantity/quality issues.**<br>**** a Level II study and/or a test well may be required if it has been determined that the location has a history of groundwater quantity/quality issues.** | | | |

# PART V - USE ZONES

## 98. 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 98 (3), the permitted use classes, discretionary use classes, standards and development requirements, and terms and conditions, applicable to each Use Zone are identified in the Use Zone Tables in Schedule C of these Regulations.

(3) If ambiguity arises concerning the context, application or interpretation of the use, standards, requirements and conditions applicable in a Use Zone, or where such specific information is not included within the Use Zone Tables in Schedule C, Town staff, where necessary, shall interpret the Use Zone Tables to address an inquiry based upon the intent of meaning within Schedules A, B, C, D and E as applicable, and if such interpretation is not accepted, Town staff shall provide the relevant background information and their interpretation in a recommendation for Town Council. Council shall consider the findings and interpretation of Town staff and render a final decision and interpretation on the matter.

(4) Where there is a conflict between these Development Regulations and the NL Ministerial Regulations, the Ministerial Regulations shall apply.

## 99. MAP INTERPRETATION

(1) The boundaries of the Use Zones shown on the land use Zoning Maps are general only and, except where they coincide with roads, shorelines, or other prominent physical features, are not intended to define exact limits. No zoning amendment shall be required to allow minor adjustments of the Use Zone boundaries. Other than such minor boundary adjustments, no development shall be permitted that does not conform to the Use Zone delineated on the land use Zoning Map.

(2) Where a lot is divided into more than one zone on the land use Zoning Map, each such portion of the lot shall be used in accordance with the zoning provisions of the applicable use zone established in Schedule C of these Development Regulations. Where a zone boundary is shown approximately at a lot line, it shall be deemed to be at the boundary of the lot line unless the

location of the zone can be justified otherwise (such as a portion of a property running into a watershed boundary).

## 100. USE CLASSES

The specific uses included in each Use Class as identified in the Use Zone Tables in Schedule C shall be determined in accordance with the definitions of varied land use planning terms provided within Schedule A, as well as reference where necessary to the classification of uses of land and buildings and examples outlined in Schedule B.

## 101. 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 in that Use Zone.

## 102. 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 Council 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 Council has given notice of the application in accordance with Regulation 33 and has considered any objections or representations which may have been received on the matter.

## 103. USES NOT PERMITTED

Uses that do not fall within the Permitted Use Classes or Discretionary Use Classes identified within the appropriate Use Zone Tables in Schedule C shall generally not be permitted in that Use Zone, unless a proposed use is very similar in meaning and intent with the listed permitted and discretionary uses. Use zone interpretation issues shall be addressed through adherence to Regulation 98(3).

# 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 for managing future change within the community. In all instances, the definitions provided by the Minister's Regulations of the NL Urban and Rural Planning Act (2000) shall take precedent over any defined terms provided by Schedule A.

## 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.

**ACCESSORY BUILDING:**

i) A detached subordinate building not used as a habitable 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, and is typically not constructed until the principal use building is erected;
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 represent indicative accessory use buildings;
iii) For commercial uses, workshops, equipment and tools storage, or garages are representative accessory use buildings; and,
iv) For industrial uses, garages, offices, equipment and tools storage, raised ramps and docks are deemed to be accessory use structures and buildings.

**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:** 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 an agricultural operation that is carried on for personal or commercial gain or reward or in the hope or expectation of gain or reward, and includes:

a) the clearing, draining, irrigating, or cultivation of land;
b) the raising of livestock, including poultry;
c) the raising of fur-bearing animals;
d) the raising of bees;
e) the production of agricultural field crops;
f) the production of fruit and vegetables and other specialty horticultural crops, including organic crops;
g) the production of eggs and milk;
h) the operation of agricultural machinery and equipment, including irrigation pumps;
i) storage, use, or disposal of organic wastes for farm purposes;
j) the preparation of a farm product for distribution from the farm gate, including cleaning, grading, and packaging;
k) the on-farm processing of farm products for the purpose of preparing farm products for wholesale or retail consumption;
l) the operation of pick-your-own farms, roadside stands, farm produce stands, and tourist operations as part of a farm operation; and
m) any other agricultural activity or process prescribed by Provincial regulation that is carried on for gain or reward or in the hope or expectation of gain or reward.

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

a) 1 horse, cow, steer, bull, mule, donkey, bison, buffalo, pig, fox, or mink including offspring until weaning
b) 3 llama or alpaca including offspring until weaning

c) 6 sheep or goats including offspring until weaning
d) 10 ostriches, emus or fur bearing animals, excluding fox or mink, including offspring until weaning
e) 20 hens , rabbits, chickens, turkeys, ducks or geese, or
f) 100 chicks.

**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 in accordance with the provincial Condominium Act, 2007, containing three or more dwelling units where individual dwelling unit access is typically from a common interior hallway and where an apartment building does not include a row dwelling.

**APPEAL BOARD:** 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 a public street or road constituting a main traffic artery in the town.

**ASSEMBLY:** means a Use which provides for the gathering of persons for religious, funeral, charitable, philanthropic, civic, cultural, artistic, recreational, child care, catering, service club, entertainment, educational and similar community group and organizational purposes; includes concert halls, drive-in theatres, libraries, museums, municipal government offices, churches, funeral homes, monasteries, cultural and community centres and events, banquet halls, outdoor concerts, auditoriums, schools and colleges, bus terminals, restaurants and lounges, day care centres, pool halls and amusement arcades, arenas, swimming pools, exhibition grounds, and varied similar community facilities, functions, hubs and events.

**AUTO BODY REPAIR:** represents a commercial use type of land for the repair, painting, fabrication and detailing of the body of auto motor vehicles.

**AUTOMOTIVE REPAIR:** means a commercial use of land for the repair and maintenance of motor vehicles; excludes occasional oil change and other minor repairs to motor vehicles by the owner/tenant of a residential property on land where such an owner/tenant resides.

## B

**BED AND BREAKFAST** means an owner-occupied or owner-managed establishment providing up to six (6) guest rooms of paid temporary accommodation for tourists or the travelling public. The establishment may include a self-serving dining area for the use by overnight guests. Catered dining may be considered on a limited-use basis. Other uses that may be considered under this definition include hospitality home and inn.

**BOARDING HOUSE RESIDENTIAL:** means a boarding or lodging house or a bed and breakfast residence in which at least 2 rooms are regularly rented to persons other than the immediate family of the owner or tenant.

**BUILDING:** means every structure, erection, 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 may also refer to an excavation of land whether or not that excavation is associated with the intended or actual construction of a building or structure previously referred to in this definition.

**BUILDING HEIGHT:** means, in relation to a building or structure, the vertical distance as 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.

**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.

## C

**CAFÉ:** means a small or inexpensive restaurant serving light or easily prepared meals, food and refreshments.

**CAMPGROUND:** means an area and use of land, managed as a unit, for the temporary overnight accommodation of the traveling public in tents, camper vehicles, recreational vehicles, and/or any combination of three (3) or more camps, trailers, or bunkhouse used on a short term or seasonal basis, and where the accessory uses could include a campground administrative office for guest registration, clubhouse, snack bar, laundry, convenience store, swimming pool, washrooms, showers and recreational facilities.

**CAR WASH:** means a commercial facility for washing, cleaning and detailing of automotive motor vehicles.

**CEMETERY:** means a facility or land area reserved and dedicated to the burial of the dead and includes a crematorium, mausoleum, mortuary and related maintenance facility.

**CHILD CARE FACILITY:** means a building or part of a building in which assembly services and activities are regularly provided to children of pre-school age during the full daytime period as defined under the *Child Care Services Act*, but does not include a school as defined by the *Schools Act, 1997*.

**CHURCH:** means a facility and amenity buildings that provide for the assembly of persons of any religious denomination for religious, place of worship and charitable purposes.

**CIVIC USE:** means a use providing for public assembly functions, office and governance services by federal, provincial and municipal governments, and also a school, college or library board, and may include a municipal office, varied government department offices, libraries, museums and archives, art galleries, courts of law, meeting rooms and associated community programs such as a food bank facility.

**CLUB OR LODGE:** means a building or structure used by a non-profit or private organization for fraternal, social, meeting or recreational purposes.

**COASTAL FEATURE:** means land adjoining or near the ocean that forms part of the coastal environment, including inter-tidal areas, beaches, beach banks, dunes, coastal marshes, coastal cliffs, rock platforms, and rock crevices.

**COLLECTOR STREET:** means a street or road 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 USE:** means a use providing for the sale or rental of goods or services, for the provision of personal and general services, or for the servicing and repair of goods and vehicles; without limiting the generality of the foregoing, includes retail sales, convenience stores, gift/specialty and other shops, department stores, shopping centres, offices, tourism facilities of hotels and motels, indoor and outdoor markets, household and non-household services and repairs, and such similar commercial uses; excludes an industrial use, agriculture, waste management, warehousing, and wholesale uses.

**COMMERCIAL RESIDENTIAL:** means any premises such as hotels and motels, hostels, tourist cottages and residential clubs operated to provide sleeping accommodation to the traveling or recreating public and includes services and facilities in connection with the accommodations.

**COMPACT DEVELOPMENT:** refers to a land use planning form of land and building development that seeks to maximize economically efficient use of municipal services and infrastructure, and of the land supply, through a denser and highly designed urban pattern of growth.

**COMPLETE COMMUNITY:** means a model of land use planning where a community becomes more resilient and sustainable by increasingly providing for a wide variety of housing choices for local residents, and by providing for increased opportunities to shop, to work, to attend school, recreate, volunteer, attend community and cultural events and fully partake in other community events without having to continually get into the automobile and drive to another community.

**CONGREGATE CARE:** means a care facility for senior and elderly residents where each resident has an individual residential apartment, and where the principal congregate care building also provides for common facilities for dining, recreation, social activities, and amenity uses such as woodworking rooms, hairdressing services and nursing offices.

**CONNECTOR:** means a local street that carries traffic to adjoining local streets and collector streets.

**CONSERVATION:** means a use of land that serves to protect, maintain, or improve an environmental resource or feature.

**CONSTRUCTION YARD:** means an area used for the storage of construction materials, supplies, equipment, tools, stockpiles of useable construction materials, and other items including temporary storage containers, construction trailers, and temporary office trailers.

**CONVENIENCE STORE:** means a retail commercial establishment supplying groceries, sundries, and other daily household necessities to the immediate surrounding area.

**CORNER LOT:** means a lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

**COUNCIL:** means the Council of the Town of Portugal Cove-St. Philip's having jurisdiction of the Portugal Cove-St. Philip's Municipal Plan and Development Regulations.

**CULTURAL USE:** means a local land use or activity that involves heritage, historic, artistic, musical, customary, ethnic, and social expression of local values for economic, tourism, community, and entertainment benefit and enjoyment.

## D

**DENSITY:** means a measurement of the intensity of use or development on a lot which is typically calculated as either lot coverage or the number of residential dwelling units per acre of land.

**DEPARTMENT STORE:** refers to a commercial business outlet that is customarily part of a larger regional or national chain of multiple commercial retail stores, and may include clothing apparel sales, house ware goods, hardware items, general merchandise, food and grocery, automotive accessories, furniture, flooring, sporting goods, pharmacy, office supplies and similar varied retail items.

**DEVELOPABLE AREA:** means the area of a lot or property that may be built upon and developed, and does not include any pond, river, stream, wetland, marsh, environmentally sensitive area, steep slopes, protected archaeological sites and unstable soils, and other similar portions of the property.

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

a) making of an access onto a highway, road or way,
b) erection of an advertisement or sign,
c) construction of a building,
d) parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation,

and excludes the:

e) carrying out of works for the maintenance, improvement or other alteration of a building, being works which affect only the interior of the building or which do not materially affect the external appearance or use of the building,
f) 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,
g) carrying out by a local authority or statutory undertakers of works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including the breaking open of street or other land for that purpose, and
h) use of a building or land within the courtyard of a dwelling house for a purpose incidental to the enjoyment of the dwelling house as a dwelling.

**DEVELOPMENT PERMIT:** refers to an application to Council where consideration to authorize and allow a land and/or building development to proceed in undertaken by Council, and where so authorized, the Town outlines identifies conditions and requirements for the applicant to adhere to as part of the Development Permit application approval.

**DEVELOPMENT REGULATIONS:** means land use regulations and by-laws respecting land use management, and land and building development, that have been enacted by the relevant authority under the Urban and Rural Planning Act (2000), and serve as a companion community planning document to 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, and where such use is considered for approval by Council.

**DISTANCE:** means the shortest separation, measured on a horizontal plane, between a lot line or street line and the nearest part of a building or structure.

**DOMESTIC ANIMALS:** means dogs, cats, birds, hamsters, gerbils, guinea pigs, fish, rabbits or other similar animals kept solely for the personal enjoyment and/or companionship of the resident of a property.

**DOUBLE DWELLING:** means a building containing two residential dwelling units, placed side by side, but does not include a self-contained dwelling containing a subsidiary apartment; a double dwelling is often also referred to as a duplex residential dwelling. A double dwelling requires appropriate land use zoning to permit its use.

**DRINKING ESTABLISHMENT:** means a commercial operation, assembly hall, club, or lounge in which the sale and consumption of liquor is licensed under the *Liquor Control Act*, and in which entertainment may be provided.

**DRIVEWAY:** means a vehicular passageway connected to a public or private thoroughfare, and providing ingress and egress from a lot.

**DWELLING UNIT:** means a self-contained single residential unit that consists of one or more habitable rooms that typically include a kitchen, a bathroom and sleeping room, where such rooms are used or designed as the living quarters for one household, and that provides for only one cooking facility or kitchen, and for the interpretation of the following use zones includes single dwellings in the form of a constructed residential house and a modular home.

## E

**ENGINEER:** means a professional engineer employed or retained by Town Council.

**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.

**ENVIRONMENTALLY SENSITIVE AREA:** means an area of land with significant ecological value that is easily disrupted by human activity, and may include steep slopes, riparian areas, cliffs, springs, wet and unstable soils, watercourses, water bodies and wetlands.

## F

**FENCE:** means a constructed barrier that divides and separates property, and which may provide privacy, security and protection: a fence is only to be constructed and installed in accordance with siting and height requirements of the Development Regulations; except for an agricultural or farm use for livestock and other similar animals, no fences within residential areas are to use barbed or razor wire materials.

**FISHERIES FACILITY:** means an onshore facility located next to or in the vicinity of coastal waters for a purpose related to commercial fishing or fish processing.

**FISHERY USES:** refer 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.

**FLOOR AREA:** means the total area of all floors in a building, measured to the outside face of exterior walls. For the purposes of these Development Regulations, interpretation of floor area is not intended to include the basement.

**FORESTRY:** means the general growing and harvesting of trees and, without limiting the generality of the foregoing, shall include the domestic cutting of fuel wood and Christmas trees, as well as commercial forestry operations of cutting pulp wood, lumber, and other products.

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

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

**FULL-SERVICE RESTAURANT:** means a building or part thereof where food is prepared and offered for retail sale to the public for immediate consumption either on or off the premises.

## G

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

**GARDEN CENTRE:** means the use of land, buildings, or structures or part thereof for the purpose of buying or selling plants, lawn and garden equipment, furnishings, and supplies.

**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.

**GENERAL SERVICE:** means a shop for servicing, repairing, installing, or renting things and equipment, including but not limited to the following examples:

a) radio or television service or repair shops
b) locksmith shops
c) small appliance service or repair shops
d) household and carpenter tool service or repair shops.

**GRADE:** means the finished level of the ground at the exterior walls of a building or structure. See also the definition for **Established Grade.**

**GREENHOUSE:** means a building whose roof and sides are made largely of glass or other transparent or translucent material for the cultivation of plants for subsequent sale, transplanting, or personal use.

**GROUP HOME:** 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 Homes", “Family and Group Homes”, and "Foster Homes".

# 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.

**HEIGHT:** generally means, in relation to a building or structure, the vertical distance as measured from mean grade to the highest point on such building or structure. See also the definition for **Building Height.**

**HIGH WATER MARK:** carries the same meaning and intent as **Natural Boundary**. Additionally 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.

**HISTORIC BUILDING:** means a building designated by Council as being of historic importance, or of cultural or heritage value. Within the traditional communities of both Portugal Cove and St. Philip's, while not specifically designated as historic, Council views much of the existing dwellings, buildings and structures as possessing heritage design and character.

**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 (HOME-BASED BUSINESS):** means a small-scale business owned and operated in a main residential dwelling by at least one of the owners of the dwelling or in an accessory building located on the same lot as the main dwelling, and where the home based business is a secondary use to the primary residential use of the dwelling.

**HORSE BOARDING STABLE:** means a building, structure, or premises used for the feeding, housing, and exercising of horses for gain or profit.

**HOUSEHOLD SIZE:** refers to the average number of residents living within one residential dwelling unit as determined by dividing the total population of Portugal Cove-St. Philip' s by the total number of residential dwelling units.

## 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 Council or by any federal or provincial authority or the agent thereof.

## K

**KEEPING OF LIVESTOCK:** means the raising, maintenance or use of livestock.

**KENNEL:** means a commercial use for any premises on which four (4) or more dogs over the age of six (6) months are boarded, bred, trained, or cared for, and does not include a veterinary clinic.

**KITCHEN:** means, at a minimum, a portion of a dwelling unit containing a fridge, stove or other cooking appliance, sink and lower and upper cabinets; each residential dwelling unit is to have a kitchen.

## 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 on the Environmental Protection Map of Schedule E.

**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 those buildings and structures.

**LANDSCAPED AREA:** means a portion of a development site which is reserved and used to enhance the visual appearance of the property through the planting and required ongoing maintenance of a combination of lawn, shrubs, flowering plants, trees, vegetative ground cover, and other horticultural and/or architectural treatments and elements.

**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:** means any species of poultry, cattle, sheep, swine, goats, llamas, or horses, which are normally been kept and raised on farms and used or intended for use as food or food related purposes, or for riding (e.g. horses), or for improving animal nutrition, breeding or management if intended for use for profit or otherwise.

**LIVESTOCK FACILITY:** means a building used or intended to be used to confine or house livestock or a confined livestock area and includes a structure or area used or intended to be used to store manure.

**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.

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

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

**LOT, CORNER:** means a lot having two or more adjacent sides fronting on two or more intersecting roadways;

**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 DEPTH:** means the shortest distance within the lot between the front lot line and the rear lot line.

**LOT FRONTAGE:** means the front portion of a lot or property determined as the width between two side lot lines measured at the building line of a lot, and which is intended to convey the width of the lot at

street line that directly abuts and joins an adjacent public street or road. See also the definition for **Frontage.**

**LOT LINE:** means a line forming a boundary of a property or parcel of land, and may either be a front, rear or side lot line.

**LOT LINE, FRONT:** means the lot line that is common to a street and the lot, and in the case of a corner lot, the shortest lot line facing the street shall be the front lot line.

**LOT LINE, REAR:** means the lot line that is opposite to the front lot line, and extends along the rear of the lot or property.

**LOT LINE, SIDE:** means a lot line that is not the front or rear lot line, and that extends from the front lot line at a street to the rear of the lot, and is common to an adjoining lot or street.

## M

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

**MINERAL WORKING:** means land or buildings used for the working or extraction of any naturally occurring substance.

**MINIMUM LOT SIZE:** means the smallest area into which a property may be subdivided.

**MIXED USE:** means a land use zone with primary principal uses for single and double residential dwelling units, conservation and recreational open space and containing varied commercial, industrial, assembly and other discretionary uses.

**MOBILE HOME:** means a transportable factory built and assembled CSA Z240 approved trailer structure on wheels intended for residential dwelling use. Mobile homes are not a permitted use as a residential dwelling within these Development Regulations. Double wide mobile homes that are placed and set up on a permanent poured concrete foundation, and approved for connection to utilities and infrastructure, and provincial approvals where applicable, may be considered for residential use within the Rural Residential Zone.

**MODULAR HOME:** means a residential dwelling of a minimum 6.5m (21.3 feet) width, constructed of finished sections of a complete dwelling that are factory built in accordance with CSA standards, and intended for transport to a residential lot and after placement on a poured concrete foundation and connected to infrastructure and utility services, as required and approved, is for use as a principal residence as a single dwelling.

**MOTOR VEHICLE:** means a motor vehicle defined by the Provincial Act related to automobiles and other motor vehicles.

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

## N

**NATURAL BOUNDARY:** refers to the visible high water mark of any pond, river, stream, wetland, marsh or other body of water where the presence or action of water of the water are so common and usual, and so long continued in all ordinary years as to mark upon the soil of the bed of the pond, river, stream, wetland, marsh or other body of water, a character distinct from that of its banks, in respect of vegetation, as well as in respect to the nature of the soil itself.

**NEW STREET:** A street that is newly-constructed at the time of development, and includes new extensions to existing streets.

**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.

**NON-FARM USE:** means a use of land on Town controlled designated agricultural lands such as a residential single dwelling.

**NOXIOUS USE:** means a use of land or building which, from its nature or operation, creates a nuisance, or is liable to become a nuisance, offensive or dangerous by the creation of noise or vibration, or by reason of the emission of gas, fumes, dust, or objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste, or other material.

**NURSING HOME:** means a special care facility or residence licensed under Provincial legislation, in which the proprietor supplies lodging primarily to seniors and elderly residents and in addition, may provide

nursing, medical, or similar care and treatment. For the purpose of these Development Regulations, the meaning shall also include senior care facilities and homes, convalescent homes, homes for aged and hospice facilities.

## O

**OFF STREET PARKING:** means an accessory use for a parking area which is designed to accommodate motor vehicles associated with a permitted use on a lot. The front lawn and yard area of residential dwelling units, with or without a subsidiary apartment, shall not be used for off street parking.

**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.

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

## P

**PARENT PARCEL:** means the original parcel of land that was, or is proposed to be, the subject of a plan of subdivision.

**PARK:** means an open space recreational area of land preserved for the ongoing active and passive recreational needs of local residents, but excludes golf courses and environmentally sensitive areas.

**PARKING LOT:** means an open area of a property or site which is designed in accordance with the standards established by the Development Regulations to accommodate the parking of motor vehicles of clients, customers, employees, members, residents or tenants, and where such vehicles have a gross vehicle weight of 4,500 kilograms (9,921 pounds) or less.

**PARKING SPACE:** means a space within a building or parking area on a property for the parking of one motor vehicle, and where the dimensions of the parking space are defined by Regulation 51(5)(a) of the Development Regulations.

**PASSIVE RECREATIONAL FACILITY:** means a recreation activity that generally does not require a developed site, and includes such uses as hiking, walking, and cross country ski trails, as well as outdoor

interpretation services, but not including sports fields, structures, or development to accommodate off-road motorized vehicles.

**PERMANENT STRUCTURE:** means a building or part thereof or any built structure which includes a foundation or permanent base of earth, rock, concrete or other materials.

**PERMITTED USE:** means a use that is listed within the permitted use classes set out in the use zone tables of these Development Regulations.

**PERSONAL SERVICE:** means a building or part thereof in which services are provided and administered to the individual and personal needs of persons, and without limiting the generality of the foregoing, includes barber shops, hairdressing establishments, beauty salons, workrooms for shoe repair and shoe shining shops, bakery shops, and photographic studios.

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

**PLACE OF WORSHIP:** means a building commonly used for public worship by any religious organization and may include a rectory or manse, place of worship hall, auditorium, day nursery or religious school associated with, or accessory thereto.

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

**POND FRONTAGE:** means the horizontal distance between two side lot lines measured at their points of intersection with the shoreline reservation or high water mark of the pond, whichever is greater.

**PRINCIPAL BUILDING:** means a building or structure containing the principal permitted use on a property, where all portions of such building or structure share a common foundation, well and roof structure.

**PROHIBITED USE**: means a use that is either not listed in a use zone within the permitted use classes or within the discretionary use classes of the Development Regulations, or it means a use that an authority specifies as not being permitted within a use zone.

**PUBLIC RIGHT-OF-WAY:** means a route across private or Crown land that may be followed, but not deviated from, by members of the public. A public right-of-way may serve the same function as a public street or road, but is not publicly-maintained. No new buildings for residential use shall be built on property with only public right-of-way access unless alternative and appropriate access, as approved by the Town Engineer and Town Council, and Provincial approvals as applicable, is provided

**PUBLIC STREET OR ROAD:** means a portion of land for the purpose of a street, road, or highway, which has the following characteristics:

a) it is designed for the passage of vehicles and pedestrians and is accessible to fire trucks and other emergency vehicles,
b) it includes all road related infrastructure, for example, the roadway itself, side ditches, culverts, and bridges,
c) its maintenance is the responsibility of Council or the Provincial Department responsible for highways and roads maintenance.

**PUBLIC USE:** means lands that are designated to provide and serve for the assembly, civic, cultural, spiritual, recreational, health care and educational needs of the community.

## Q

**QUALIFIED CONSULTANT:** means a registered and professionally designated individual who is trained to provide an informed opinion on a particular land use development issue or development proposal for parcel of land, through preparation and submission of a certified report with recommendations for Council's consideration; such Qualified Consultant may be required to be engaged by a development applicant or property owner as part of a Development Permit or other proposal application, and as a requirement of Council's consideration of a land use, environmental, agricultural, geotechnical, hydrological, architectural, civil or structural engineering, or similar matter.

## R

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

**RECREATION FACILITY:** means a building used for indoor sports activities and/or public assembly events.

**RECREATIONAL OPEN SPACE:** means a recreational use conducted outdoors that may be designed and equipped for the conduct of sports and/or leisure activities, and may include a multi-use trail, nature

interpretation centre, park, playground, outdoor skating rink, picnic area, playing field, tennis court, outdoor rink, or similar use.

**RECREATIONAL VEHICLE:** means a vehicle designed as a temporary seasonal dwelling for travel, recreational and vacation use, and which is either self-propelled or mounted on, or pulled by another vehicle, and includes a travel trailer, camping trailer, truck camper, motor home, fifth wheel trailer, camper van, converted school bus and boat. A Recreational Vehicle is not permitted to be used as a permanent dwelling unit within Portugal Cove – St. Philip's.

**RECYCLING FACILITY:** means the use of land for depositing, storing, separating, dismantling, salvaging, treating, renovating, or redistributing, discarded materials, such as paper, glass, plastics, timber, metals, manufacturing cut-offs, household goods and oils.

**REMAINDER LOT:** means the remaining area of a parent parcel of land that is being subdivided into one or more lots.

**RESIDENTIAL USE:** means a dwelling unit use providing fop the accommodation and home life of a person or persons as a family or not.

**RESIDENTIAL INFILL:** see **Infill Development**.

**RESIDENTIAL, SEASONAL:** means a residential use of one dwelling unit for temporary seasonal accommodation in a smaller summer cabin or cottage structure, or hunting and fishing cabins, and sited in detached non-urban rural locations, and not sited within a designated flood risk area or other environmentally sensitive areas, and where such use is not intended as permanent living quarters.

**RESIDENTIAL SUBDIVISION**: means the development of subdivided land into two or more parcels for the purpose of developing residential dwelling units.

**RESTAURANT, FULL-SERVICE:** means a building or part thereof where food is prepared and offered for retail sale to the public for immediate consumption either on or off the premises.

**RESTAURANT, TAKE-OUT:** means a building in which the primary purpose is the preparation and sale of meals or refreshments for consumption off the premises.

**RESOURCE USE:** means a use providing for the management and extraction of primary forest materials, and excludes all manufacturing and processing except preliminary grading.

**RETAIL:** means a commercial use providing for the sale of tangible goods, wares, merchandise, materials and other items where the customer can take away the purchased goods for their household or business use, and includes grocery and department stores, hardware and general merchandise stores, pharmacy, convenience, book and liquor stores, automotive parts, second hand stores and similar commercial goods stores. Within this definition, retail use excludes restaurants, adult entertainment stores and pawnshops.

**ROW DWELLING:** means three or more dwelling units at ground level in one building, each unit separated vertically from the others, and where very limited front façade design attention has been historically provided, and as a multi-dwelling housing form, row houses type of residential dwellings are intended to be replaced with more highly designed townhouse residential uses.

**RURAL:** means the more detached and forested geographical areas of the Town that are not serviced with sanitary sewer.

## S

**SALVAGE YARD:** means an industrial use of a building, warehouse, yard, or other premises where scrap metal, motor vehicles, and vehicular parts are collected and are wrecked, crushed, demolished, sorted, disassembled, repaired and resold.

**SERVICE STATION:** means an industrial use of any land or building for the sale of petroleum products, automotive parts and accessories, and may also include accessory uses for minor repairs of motor vehicles, washing and polishing of motor vehicles, and a convenience store.

**SERVICE STREET:** means a street constructed parallel to or in close proximity to a higher level collector or arterial street for the purpose of limiting direct access to the adjacent street.

**SETBACK:** means the horizontal minimum separation distance between a building or structure on a lot and from a front, rear or side lot line, or also meaning the separation distance that is to be maintained from development from the top of bank or high water mark of a watercourse, water body or from an environmentally sensitive area.

**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 an integrated and landscaped designed parking lot and which is planned, developed and designed as a commercial development site 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 a 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.

**SLOPE:** means the rate of vertical change of ground surface expressed as a percentage figure and determined by dividing the vertical distance by the horizontal distance. Within Portugal Cove-St. Philip's, where slopes exceed 25 % over a distance of 5 or more metres (16.4 feet), the slope shall be defined as a steep slope where no buildings, structures, or placement or removal of fill will be generally permitted. No development shall occur on any sloping lands that are designated as Restricted by the St. John's Urban Region Regional Plan.

**SLOPE, MINOR:** means those steep slopes that cover less than a one hectare (2.47 acres) area size, and where Council may consider, upon qualified consultant geotechnical review, grading of the land for such development as infill residential proposals within the traditional community locations.

**SMALL-SCALE AGRICULTURE:** see **Hobby Farming**.

**STORAGE:** is an accessory use and refers to the accumulation of goods and materials, and to the area where the goods and materials are kept. Storage is generally intended to be contained and enclosed within a building, but where located outside, the storage is intended to be screened from public view.

**STREET:** means a street, road or highway or any other way designed or intended for public use for the passage of motor vehicles and pedestrians, and which is accessible by fire department and other emergency vehicles, and is owned by the Authority or other public agency and maintained at public expense.

**STREET LINE:** means the edge of a public street or road reservation as defined by Council having jurisdiction.

**STREETSCAPE:** means the scene as may be observed along a public street, composed of natural and man-made components including the front façade of buildings, paved areas, landscaping and vegetative plantings, street hardware, storage locations and miscellaneous structures.

**SUBDIVISION OF LAND:** means the process (and result) of dividing land, whether in single or joint ownership, into two or more smaller pieces of land for the purpose of development.

**SUBSIDIARY APARTMENT:** means a separate residential dwelling unit with its own distinct access to the outdoors that is typically constructed within a basement of a residential house, or above a commercial unit, and is separated by a minimum firewall separation as defined by the National Building Code and where the subsidiary apartment is secondary in use and floor area size to a single unit residential dwelling or a commercial building. Council may also consider a subsidiary apartment for seniors in single unit residential homes in the form of a granny suite that is built as an attachment to the main floor of the principal single unit residential use building, and that includes a firewall separation between the two dwelling units.

**SUSTAINABLE DEVELOPMENT:** means development that meets the needs of the present without compromising the ability of future generations to meet their own needs, and considers the five pillars of sustainability of environmental, economic, social, cultural and governance influences.

## T

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

**TOP OF BANK:** means the point closest to the natural boundary of an environmentally sensitive area where a break in the slope of land occurs such that the grade beyond the break is flatter than 3:1 at any point for a minimum distance of 15 metres (49.2 feet) measured perpendicularly from the break.

**TOWN:** means the Town of Portugal Cove-St. Philip's, including both Town Council and municipal staff.

**TOWNHOUSE, RESIDENTIAL USE:** means a highly designed and landscaped multi dwelling unit use that consists of three or more dwelling units on a site or lot where the dwelling units may be attached or detached in accordance with the provincial Condominium Act, 2007, and if attached, there shall be a maximum of six dwelling units in one building; each dwelling unit within a townhouse residential use shall have a private entrance and direct ground level access to the outside and to private outdoor open space other than a balcony or sundeck; and where the front façade of the townhouse shall have strong individual unit design and architectural treatment to achieve a high design streetscape appearance of the townhouse development, and where parking and other accessory building amenities are provided within the rear area of the building area.

## 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 apply.

**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 an easement from all utilities and municipal services and infrastructure.

## V

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

**VETERINARY CLINIC:** means an establishment used by veterinarians, or practitioners in related specialties, for the purpose of practicing veterinary medicine and where animals are admitted for examination or treatment, and where limited laboratory and other diagnostic services may be offered on an outpatient basis, but excludes a kennel.

## W

**WALKWAY:** refers to a public access route for pedestrians or non-motorized vehicles, and which typically provides access connection between two streets, or from a street to community open space and recreational amenity or facility.

**WAREHOUSE**: means an industrial use where a building, structure or part thereof is used for the storage, distribution and wholesaling of merchandise or large quantities of goods.

**WATER BODY:** refers to ponds, lakes and the ocean.

**WATERCOURSE:** means the full width and length, including the bed, banks, side and shoreline, or any part, of a river, stream, spring, brook, reservoir, canal, or other natural or artificial channel open to the atmosphere, the primary function of which is the conveyance or containment of water, whether the flow is continuous or not.

**WATERSHED:** means the surface area contained within a divide above a specified point on a river, stream, or creek or other flowing body of water.

**WETLAND:** means land that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions, and includes swamps, marshes, bogs and estuaries; Wetlands are environmentally sensitive areas and are predominantly non-developable except for uses such as cranberry production, as approved by environmental and agricultural Departments of the Province of NL.

**WIND TURBINE**: means a wind turbine with a generator designed to extract kinetic energy from the wind and supply it in the form of electrical energy that is suitable for use by the electrical grid. The following are supplemental definitions related to wind turbines.

> **Blade:** means an element of a wind turbine, which acts as a part of an airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

**Sub-station:** means an electrical construction designed to collect and modify electrical energy produced by the wind turbines for the purpose of supplying it to the local power grid.

**Sweep Area**: means the area that the blades of a wind turbine travel through during one complete revolution.

**Tower:** means the tubular structure or metal grids, above grade, that supports the nacelle and rotor assembly of a wind turbine.

**Tower Foundation**: means the tower support structure, below grade, that supports the entire weight of the wind turbine. It shall also include any foundations or anchors used by supporting guide wires.

**Tower Height:** means the height from grade to the highest vertical point of the tower, excluding the wind turbine assembly or blades.

**Tower Total Height:** means the height from grade to the highest vertical point of the swept rotor arc. In the case of a wind turbine with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.

**Wind Turbine – Commercial:** means one or more wind turbine and generator, which has a collective energy rating of greater than 100 KW. Generated electricity is intended for use by the owner/developer and may be connected to the local power distribution grid for the purpose of selling surplus power. Wind turbine(s) shall include but not be limited to wind turbine generators, operations and maintenance buildings and any other structures associated with the development of wind power generated electricity.

**Wind Turbine – Private:** means a maximum of two wind turbines and generators, which have a collective energy rating 100 KW or less and are used to supply or supplement the supply of electricity to a private residence, business, other commercial uses, public, rural, mixed, open space and recreational uses, as well to a municipal or other civic building or facility. The electrical system may be connected to the local distribution power grid for the purpose of selling surplus power.

## Y

**YARD:** means, in relation to any building, structure, or use on a lot, that part of the lot between such building, structure, or use and a lot line that is created by a setback.

## Z

**ZERO LOT LINE**: means a form of development where buildings are permitted to be located on one or more lot lines with no yard and separation between the building and the lot line.

**ZONE:** means a defined area, including land or water, to which a uniform set of regulations pertaining to uses, density, development standards, and terms and conditions of use apply.

**ZONING MAP:** means the land use zone map or maps that are attached to, and form a part of the authority's Development Regulations, and is often referred to as the Land Use Zoning Map.

# 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 2005*.**

| GROUP | DIVISION | CLASS | EXAMPLES |
|---|---|---|---|
| **A. ASSEMBLY USES** | 1. Assembly Uses for the performing arts | (a) Theatre | Movie theatres<br>Concert hall |
| | 2. General Assembly Uses | (a) Cultural and Civic | Libraries<br>Museums<br>Art Galleries<br>Court Rooms<br>Meeting Rooms<br>Municipal Government Offices and Buildings |
| | | (b) General Assembly | Community Halls<br>Lodge Halls<br>Dance Halls<br>Gymnasia<br>Auditoria<br>Bowling Alleys<br>Service Clubs |
| | | (c) Educational | Schools<br>Colleges<br>(non- residential) |
| | | (d) Place of Worship | Churches and similar places of worship.<br>Church Halls<br>Temples |
| | | (e) Passenger Assembly | Passenger Terminals |
| | | (f) Club and Lodge | Private Clubs and<br>Lodges (non-residential) |
| | | (g) Catering | Restaurants<br>Bars<br>Lounges |
| | | (h) Funeral Home | Funeral Homes and Chapels |
| | | (i) Child Care | Day Care Centres |
| | | (j) Amusement | Electronic Games<br>Arcades<br>Pinball Parlours<br>Poolrooms |
| | 3. Arena-type Uses | (a) Indoor Assembly | Arenas<br>Multi-sports centres<br>Ice Rinks<br>Indoor Swimming Pools |

| GROUP | DIVISION | CLASS | EXAMPLES |
|---|---|---|---|
| **A. ASSEMBLY USES (cntd)** | 4. Open-air Assembly Uses | (a) Outdoor Assembly | Bleachers<br>Grandstands<br>Outdoor Ice Rinks<br>Outdoor Swimming Pools<br>Amusement Parks<br>Fair-grounds<br>Exhibition Grounds<br>Drive-in Theatres |
| **B. INSTITUTIONAL (CARE OR DETENTION) USES** | 1. Penal and Correctional Institutional Uses | (a) Penal and Correctional Detention | Jails<br>Penitentiaries<br>Prisons<br>Psychiatric<br>Reformatories |
| | 2. Special Care Institutional Uses | (a) Medical Treatment and Special Care | Children's Homes<br>Convalescent Homes<br>Homes for Aged<br>Seniors Care Facilities<br>Nursing home<br>Hospitals<br>Infirmaries<br>Orphanages<br>Psychiatric Hospitals<br>Sanatoria |
| **C. RESIDENTIAL USES** | 1. Residential Dwelling Uses | (a) Single Dwelling | Single Detached Dwellings<br>Modular Homes<br>Double-Wide Mobiles (Rural Res.)<br>Group Homes<br>Subsidiary Apartments (including Granny Suites) |
| | | (b) Double Dwelling | Semi-detached Dwellings<br>Double or duplex Dwellings<br>Group Homes |
| | | (c) Multi Dwelling | Town Houses |
| | | (d) Apartment Building | Apartments<br>Condominiums |
| | 2. General Residential Uses | (a) Collective Residential | Residential Colleges<br>University & College Halls<br>Convents & Monasteries<br>Nurses and Hospital Residences |
| | | (b) Boarding House Residential | Boarding Houses<br>Lodging Houses<br>Bed and Breakfast |
| | | (c) Commercial Residential | Hotels & Motels<br>Hostels<br>Tourist Cottages<br>Residential Clubs |
| | | (d) Seasonal Residential | Summer Homes & Cabins<br>Hunting & Fishing Cabins |

| GROUP | DIVISION | CLASS | EXAMPLES |
|---|---|---|---|
| | | (e) Mobile Homes | Mobile Homes |
| **D. BUSINESS & PERSONAL SERVICE USES** | 1. Business, Professional, and Personal Service Uses | (a) Office | Offices (including business and Government Offices)<br>Banks |
| | | (b) Medical & Professional | Medical Offices and Consulting Rooms<br>Nursing Clinic<br>Dental Offices & Surgeries<br>Legal Offices<br>Similar Professional Offices |
| | | (c) Personal Service | Barbers<br>Hairdressers<br>Beauty Parlours<br>Small Appliance Repairs<br>Health spa<br>Fitness gym<br>Tailor<br>Arts and crafts instruction |
| | | (d) General Service | Self-service Laundries<br>Dry Cleaners<br>Tool and Appliance Rentals<br>Travel Agents |
| | | (e) Communications | Radio Stations<br>Telephone Exchanges |
| | | (f) Police Station | Police Stations |
| | | (g) Taxi Stand | Taxi Stands |
| | | (h) Take-out Food Service | Take-out Food Service |
| | | (i) Veterinary | Veterinary Clinics |
| **E. MERCANTILE USES** | 1. Retail Sale and Display Uses | (a) Shopping Centre | Shopping Centres |
| | | (b) Shop | Retail Shops and Stores, Showrooms<br>Department Stores |
| | | (c) Indoor Market | Market Halls<br>Auction Halls |
| | | (d) Outdoor Market | Market Grounds<br>Animal Markets<br>Produce Stands<br>Fish Stalls |
| | | (e) Convenience Store | Confectionary Stores<br>Corner Stores<br>Gift Shops<br>Specialty Shops |
| **F. INDUSTRIAL USES (HIGH, MEDIUM AND LOW HAZARD)** | 1. Industrial uses involving highly combustible and hazardous substances and processes | (a) Hazardous Industry | Bulk Storage of hazardous liquids and substances.<br>Chemical Plants<br>Distilleries<br>Feed Mills<br>Lacquer, Paint, Varnish, |

| GROUP | DIVISION | CLASS | EXAMPLES |
|---|---|---|---|
| | | | and Rubber Factories<br>Spray Painting |
| | 2. General Industrial Uses involving Limited Hazardous Substances and Processes | (a) General Industry | Factories<br>Cold Storage Plants<br>Freight Depots<br>Fisheries Facilities<br>General Garages<br>Warehouses<br>Workshops<br>Laboratories<br>Laundries<br>Sawmills and planing mills<br>Printing Plants<br>Contractors' Yards |
| | | (b) Service Station | Gasoline Service Stations<br>Gas Bars |
| | 3. Light, Non-hazardous or Non-intrusive Industrial Uses | (a) Light Industry | Light Industry<br>Parking Garages<br>Indoor Storage<br>Warehouses<br>Workshops |
| **G. NON-BUILDING USES** | 1. Uses not directly related to building | (a) Agriculture | Commercial Farms<br>Hobby Farms<br>Market Gardens & Nurseries |
| | | (b) Forestry | Tree Nurseries<br>Silviculture<br>Harvesting |
| | | (c) Mineral Working | Pits and Quarries<br>Mines<br>Oil Wells |
| | | (d) Recreational Open Space | Sports Grounds<br>Parks<br>Playgrounds<br>Trails<br>Picnic areas<br>Interpretative Signage |
| | | (e) Conservation | Watersheds<br>Buffer Strips<br>Flood Plains<br>Steep Slopes<br>Wildlife Sanctuaries<br>Wetlands |
| | | (f) Cemetery | Cemeteries<br>Graveyards |
| | | (g) Scrap Yard | Car Wrecking Yards<br>Junk Yards<br>Scrap Dealers |
| | | (h) Solid Waste | Solid Waste Disposal<br>Sanitary Land Fill |

| GROUP | DIVISION | CLASS | EXAMPLES |
|---|---|---|---|
| | | | Incinerators |
| | | (i) Animal | Animal Pounds<br>Kennels<br>Zoos |
| | | (j) Antenna | TV, Radio and Telecommunications Transmitting and<br>Receiving Masts and Towers<br>Antenna |
| | | (k) Transportation | Airfields<br>Railway Yards<br>Marine facilities<br>Docks and Harbours |
| | | (l) Fisheries | Wharves<br>Boat Moorage<br>Boat Repair<br>Off Loading Facilities<br>Bait Buildings<br>Fueling Depot<br>Storage<br>Supportive Facilities<br>Other Marine |
| | | (m) Wind Turbine | Private Wind Turbine<br>Commercial Wind Turbine |

# SCHEDULE C - USE ZONES

Schedule C of these Development Regulations represents key information to the zoning management of land within Portugal Cove-St. Philip's. The eleven distinct land use zones that apply to land within the Town's Planning Area are introduced, including their zone acronym symbols. General zoning provisions that apply to all use zones are outlined, and each individual zone category is detailed for permitted and discretionary uses, terms and conditions for use, and where specified, prohibited uses of land.

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 overlay Schedule E: Environmental Protection Map should additionally be referenced to identify any limitations to the zoned use of land due to environmental limitations of water bodies, watercourses, steep slopes and other sensitive features to development.
The varied land use zones that apply to the Town are listed as follows:

| Zone Title | Zone Symbol | Page |
|---|---|---|
| Residential Medium Density | RMD | 93 |
| Residential Low Density | RLD | 100 |
| Residential Rural | RR | 106 |
| Residential Development Scheme Area | RDSA | 111 |
| Traditional Community | TC | 113 |
| Mixed Use | MIX | 121 |
| Public Use | PU | 128 |
| Recreation/Open Space | ROS | 130 |
| Protected Watershed | PW | 132 |
| Agriculture | AG | 134 |
| Rural | RUR | 138 |

The following requirements, General Provisions for all Use Zones, commence the detailed requirements for the varied land use zones.

## General Provisions for all Use Zones:

**(1) Occupancy and Maintenance Requirements**

All properties located within the Planning Area, including all land, buildings, structures, dwellings, fences, sheds, garages, parking lots, driveways, landscaping and all appurtenances shall be maintained in a state of good condition and repair, and as otherwise directed and ordered by Town Council as the enforcement authority. Failure to maintain buildings and property may necessitate remedial actions by the Municipality to address identified maintenance and occupancy issues on private property.

**(2) Uses Allowed**

Each property shall be used for the permitted uses outlined within the land use zone that applies to each property, and where approved by Council may utilize a discretionary use listed within the land use zone. Terms and conditions shall also apply to the allowed uses of land.

**(3) Principal Buildings Per Lot**

Within single and double dwelling residential zones, only one principal building may be permitted on a lot or property. Other use zones may allow more than one principal use building on a property but such siting shall be regulated by site layout and requirements for setback to property lines, parking, landscaping and buffers, environmental limitations, and other separation distance provisions.

**(4) Accessory Use**

An accessory building or structure may not be constructed on a lot prior to the establishment of the principal building and use of the land on a property. A temporary permit may be considered by Council for a building or structure to be placed on a property to house tools, equipment, serve as an office, first aid station and lunch room for workers constructing the main building use on the property. An accessory use building shall not be used for human habitation.

**(5) Siting For Buildings on Vacant Land Lots under Condominium Act**

Setbacks for buildings and structures in a bare land development under Part X of the NL Condominium Act, 2007 shall be measured from the internal lot boundaries and buildings in accordance with the setback requirements of the applicable zone.

**(6) Minimum Residential Floor Area**

(a) Any building to be erected and used for a single residential dwelling shall not contain less than 79.0 square metres (850.3 square feet) of finished floor area of the residential building.

(b) Any building to be erected and used for a double dwelling residential use shall not contain less than 60.0 metres (645.3 square feet) of finished floor area per dwelling unit.
(c) Any self-contained dwelling unit to be constructed as part of a larger Apartment or Townhouse building, and used within a multi-unit development, shall not contain less than 47.0 square metres (505.9 square feet) of finished floor area.

**(7) Use of Mobile Homes and Trailers**

No new building permits or occupancy permits to use or to occupy a mobile home or trailer as a dwelling unit or as living or sleeping quarters shall be permitted within the planning area of the Town. Double-Wide mobile homes that are to be placed on a permanent concrete foundation may be considered as a discretionary use within the Rural Residential Zone. Modular Homes, as defined by Schedule A, are allowed in all applicable zones as a permitted dwelling unit.

**(8) Agriculture Buffer**

(a) Development proposals within the 300.0 metre (984.2 feet) buffer area (refer to Regulation 45) established for confinement operations shall be assessed in consultation with the Agriculture Division, Department of Natural Resources.
(b) Depending on the vegetation characteristics, topography, and other natural conditions of the site, development may be limited to infilling on existing street frontages or to the rounding out of existing development.
(c) A seller of land within the agricultural buffer areas must issue a notice to prospective purchasers concerning the existence and nature of existing and potential confinement operations in the buffer area. Purchasers must acknowledge and agree to the presence of confinement operations in writing to the Town.

**(9) Complementary Yard Setbacks**

To maintain the rural and neighbourhood character of the community, where a site development of a higher density is to be sited adjacent to a lower density development with specific natural features such as trees and vegetation on side lot lines, through the development permit approval consideration process for the higher density use of land, additional landscaping and separation buffers may be required between the side lot lines of the two land uses.

**(10) Development with Pond Frontage**

(a) Development shall be sited and landscaped to minimize the visual impact of buildings viewed from the pond and from other land fronting on the pond. Council shall require

landscaping to meet this aim. The required landscaping may include selective retention of trees and shrubs between shoreline and buildings and appropriate planting.

(b) Council may require a plan of subdivision or a development application to be accompanied by a professionally prepared landscape drawing or similar quality plan showing vegetation to be retained, areas to be graded, and areas of planting, including plants to be used.

(c) Council may require a landscape deposit to ensure the approved landscape proposal is carried out to its satisfaction.

(d) The front yard setback may be established anywhere upland from the pond setback standard of 30.0 metres (98.4 feet) provided the on-site septic system is approved by Services NL. The 30-metre buffer around the pond (refer to Schedule E) shall remain in place to protect water quality. No further subdivision of this approved lot will be allowed whereby a backlot situation may be created. Council will review each application based on its own merits.

**(11) East Coast Trails & Inland Community Trails**

The East Coast Trail Association (ECTA) is developing a natural walking/hiking trail within the Town along the coastline as part of a larger coastal trail system. Much of the East Coast Trail will be protected through the thirty (30.0) metre (98.4 feet) coastal buffer established in Schedule E. This buffer will help protect the natural landscape and views from the trail, and ensure that future development does not negatively impact the trail.

Connections will also be encouraged between the East Coast Trail and the network of existing community walking and hiking trails further inland to create a community-wide linear park system. Where new developments intersect with existing or potential trails and trail connectors, as identified on the Land Use Zoning Map, Council shall encourage trail access through and adjacent to the development. Appropriate buffers will also be pursued to protect the Town's trails network.

Where trails pass through or near existing built up areas of the town, Council may seek to establish narrower trail buffers. In the less developed or rural areas of the Town, Council may establish wider trail buffers that will protect the natural character and integrity of the trail system.

**(12) Environmental Protection**

(a) All permitted and discretionary uses in the following use zones are subject to the terms and conditions contained in Schedule E. The Terms and Conditions of Schedule E for a specific property will supersede the requirements listed in each use zone of Schedule C.

(b) Lot Frontage and Access on a Public Street or Road (refer to Regulation 47, Part II – General Development Standards)

(c) Each newly created lot shall front onto a publicly-owned and maintained street and access to the lot is to be obtainable from a publicly-maintained street, unless the subject lot has such other access, such as an easement or right of way that is approved by Council on the basis of terrain, geographical or other similar limitations to the lot access.

**(13) New Streets**

New streets, as referenced in the Use Zone development standards, include new extensions to existing streets.

**(14) Water and Sewer Services**

(a) **Municipal Services**

On streets serviced with municipal water and/or sewer infrastructure services, no residential lot or new dwelling will be approved that is not connected to these services.

(b) **On-Site Services**

In areas not accessible to municipal services (more than 500.0 metres (1,640.4 feet)):

i) No residential lot, new dwelling or other new development will be approved that does not have on the same lot a private drinking water source and sewage treatment system that has received the necessary Provincial approvals and that meets the requirements set out in the Town's Development Regulations; and,

ii) Private domestic water wells and sewage treatment systems serving two or more homes located on separate lots will not be permitted.

**(15) Wind Turbines - Private**

Where permitted at the discretion of Council, the development of a private wind turbine (refer to definition in Schedule A) shall conform to the site development standards and conditions outlined in Regulation 71 of Part II – General Development Standards, as well as to conform to all additional terms and conditions that may be required by Council pursuant to its approval consideration of the private wind turbine on the basis of the specific site circumstances and neighbourhood character.

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

# ZONE TITLE: RESIDENTIAL MEDIUM DENSITY (RMD)

## RMD USE CLASSIFICATIONS

**Permitted Use Classes**
(see Regulation 101)

Single Dwelling, Recreational Open Space, Conservation
*(see Schedules A and B for definitions and examples of above Classes)*

**Discretionary Use Classes**
(see Regulation 33 and 102)

Agriculture, Antenna, Apartment Building, Boarding House Residential, Child Care (home occupations only), Convenience Store, Double Dwelling, General Service (home occupations only), Group Home (in Single Dwelling), Kennel(home occupations only), Light Industry(home occupations only), Medical and Professional(home occupations only), Medical Treatment and Special Care, Nursing Home, Office (home occupations only), Personal Service(home occupations only), Places of Worship, Subsidiary Apartment, Take-out Food Service, Townhouse, Private Wind Turbine
*(see Schedules A and B for definitions and examples of above Classes)*

Also refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014 -2024** Section 3.3: General Land Use Policies and, Section 3.4.1: Residential.

## RMD DEVELOPMENT STANDARDS

**RMD Fully-Serviced Lots**
**(municipal water & municipal sewer)**

| STANDARDS | Single Dwellings | | | Multiple Dwellings | | Apartment Buildings | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Existing Streets | New Streets | Pond Frontage | Double Dwelling | Row Dwelling | One Bdrm | Two Bdrm | Three Bdrm | Four Bdrm |
| **Min. Lot Area ($m^2$)** | 470 | 690 | 3,000 | 390* | 350* | 200* | 200* | 250* | 300* |
| **Min. Floor Area ($m^2$)** | 80 | 80 | 80 | 80* | 65* | 40* | 40* | 50* | 60* |
| **Min. Frontage (m)** | 15 | 23 | 30 | 13* | 12* | 36 | | | |
| **Min. Pond Frontage (m)** | | | 30 | | | | | | |
| **Min. Front Yard (m)** | 6 | 6 | 6 | 6 | 6 | 8 | | | |
| **Max. Front Yard (m)** | 32 | 32 | See General Provision 10 | 32 | 32 | 32 | | | |
| **Min. Side Yard (m)** | 2.5 & 1 | 2.5 | 6 | 2.5 | 2.5 | 5 | | | |
| **Min. Distance Between Dwellings (m)** | 3.5 | | | | | | | | |
| **Min. Rear Yard (m)** | 9 | 9 | 9 | 9 | 9 | 14 | | | |
| **Max. Lot Coverage (%)** | 33 | 33 | 33 | 33 | 33 | 33 | | | |
| **Max. Height (m)** | 10 | 10 | 10 | 10 | 10 | 10 | | | |
| *** per unit** | | | | | | | | | |

| RMD Semi-Serviced Lots (municipal water and on-site sewer) | | |
|---|---|---|
| STANDARDS | Single Dwelling | |
| | Existing & New Streets | Pond Frontage |
| Min. Lot Area ($m^2$) | 1,860 | 3,000 |
| Min. Floor Area ($m^2$) | 80 | 80 |
| Min. Frontage (m) | 23 | 30 |
| Min. Pond Frontage (m) | | 30 |
| Min. Front Yard (m) | 6 | 9 |
| Max. Front Yard (m) | 32 | See General Provision 10 |
| Min. Side Yard (m) | 2.5 | 6 |
| Min. Rear Yard (m) | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 |
| Max. Height (m) | 10 | 10 |

| RMD Semi-Serviced Lots (on-site water and municipal sewer) | | |
|---|---|---|
| STANDARDS | Single Dwelling | |
| | Existing & New Streets | Pond Frontage |
| Min. Lot Area ($m^2$) | 1,400 | 3,000 |
| Min. Floor Area ($m^2$) | 80 | 80 |
| Min. Frontage (m) | 23 | 30 |
| Min. Pond Frontage (m) | | 30 |
| Min. Front Yard (m) | 6 | 9 |
| Max. Front Yard (m) | 32 | See General Provision 10 |
| Min. Side Yard (m) | 2.5 | 6 |
| Min. Rear Yard (m) | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 |
| Max. Height (m) | 10 | 10 |

| RMD Un-Serviced Lots (on-site water AND on-site sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwellings | | |
| | Existing Streets | New Streets | Pond Frontage |
| Min. Lot Area ($m^2$) | 1,860 | 4,000 | 8,000 |
| Min. Floor Area ($m^2$) | 80 | 80 | 80 |
| Min. Frontage (m) | 23 | 23 | 30 |
| Min. Pond Frontage (m) | | | 30 |
| Min. Front Yard (m) | 9 | 9 | 9 |
| Max. Front Yard (m) | 32 | 32 | See General Provision 10 |
| Min. Side Yard (m) | 3 | 3 | 6 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 25 | 25 | 25 |
| Max. Height (m) | 10 | 10 | 10 |

**(Development Regulations Amendment No. 2, 2015)**

**Terms & Conditions**

**(1) Accessory Buildings** (see also Regulation 39, Part II – General Development Standards)

| Accessory Building Development Standards | | | | |
|---|---|---|---|---|
| **Standards** | **Less than 1,860m$^2$** | **1,861m$^2$ to 4,000m$^2$** | **larger than 4,000m$^2$** | |
| **Max. Floor Area** | 56m$^2$ or 9% of total lot size (whichever is less) | 70m$^2$ | 94m$^2$ | Discretion of Council with Public Notice where the proposed size is greater than 94m$^2$ |
| **Max. Height** | 4.0m | 4.5m | 5.0m | |
| **Min. Front Yard** | 6.0m | | | |
| **Min. Side Yard & Rear Yard** | 1.5m | | | |
| **Min. Distance from Another Building** | 3.0m | | | |

**(Development Regulations Amendment No. 2, 2015)**

(a) An accessory building shall be clearly incidental and secondary to a main building and shall be complementary to the main building in character, use, style and exterior finish;

(b) An accessory building shall be contained on the same lot as the main building;

(c) No residential lot shall have more than one accessory building except as authorized by Council;

(d) No truck, bus, semi-trailer, freight container, or other vehicle body shall be used as an accessory building;

(e) An accessory building will be permitted only in the rear yard or side yard of the main building except as otherwise authorized by Council;

(f) An accessory building will not occupy more than 50% of the available rear and side yard areas of a lot;

(g) An accessory building on a residential lot shall not be used for non-residential purposes unless otherwise authorized by Council;

(h) Except for minor vehicle maintenance, an accessory building shall not be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery for commercial purposes; and

(i) Unless otherwise approved by Council, electrical services to an accessory building shall only be provided through the same service as the main building.

**(2) Agriculture**

(a) Agriculture, if permitted as a Discretionary Use, will be limited to land use activities that Council deems to be compatible with the adjacent neighbourhood and surrounding areas;

(b) The construction of new buildings for agricultural uses and the clearing of new cropland will be limited to small-scale, non-commercial developments as determined by Council;

(c) The keeping of livestock, if permitted, will be limited to a maximum of two (2) animal units;

(d) The following development standards will apply to livestock facilities:

**Livestock Facilities – RMD Development Standards**

| Animal Units (AU) | Minimum Lot Size | Minimum Setback from any Lot Line |
|---|---|---|
| **(a) One or less AU of rabbits, ducks, chickens, turkeys and geese** | 4,000m$^2$ | 18m |
| **(b) Two or less AU of all species** | 10,000m$^2$ | 30m |

***Note: Refer to definition of Animal Unit (AU) in Schedule A***

**(1) Animal and Kennels**

Animals, other than usual domestic household pets, are permitted as a discretionary use only and will be limited to kennels and similar uses. Horses (maximum one) may be permitted as a pet, provided there are sufficient lands available for stable and exercising area. The establishment of a new kennel will be subject to the following:

(a) It will be permitted only as a home occupation;

(b) It will be permitted only on a lot of one (1) hectare or more; and,

(c) It must adhere to such other terms and conditions established by Council aimed at minimizing or mitigating potential noise, order or other impacts on neighbouring land uses.

**(3) Boarding House Residential**

A boarding house residential use, in the form of a bed and breakfast, boarding house or lodging house operation, may be permitted as a discretionary use subject to the following:

(a) The use shall not detract from the residential character of the neighbourhood in terms of height, scale or exterior design;

(b) The use shall not result in increased traffic congestion in the area;

(c) One additional parking space shall be provided for each guest room on the lot;

(d) The maximum number of guest rooms shall be six (6);

(e) At Council's discretion, a catered dining area, or other subsidiary use may be permitted, provided the uses are clearly incidental and subsidiary to the approved use and the hours of operation are limited;

(f) Off-street parking for a catered dining facility shall provide one space for every three (3) persons that may be accommodated at one time;

(g) No wholesale sales or storage of goods shall be carried out and any retail sales shall be incidental to the approved use;

(h) On-site advertisements shall be non-illuminated, with a maximum sign face area of 0.2m$^2$ and, shall meet all other requirements of Council in terms of shape and construction material; and,

(i) The establishment must be registered by Canada Select and approved by the Provincial Department of Tourism, Culture and Recreation.

**(4) Convenience Stores and Take-out Food Services**

A convenience store or take-out food service permitted at Council's discretion will be subject to the following conditions:

(a) The use may form part of, or be attached to, a self-contained single dwelling unit or stand on a separate lot;

(b) The development standards for a freestanding convenience store or take-out food service on a separate lot shall comply with the development standards established for a single dwelling in this Zone with respect to lot area, lot width, front yard setback, side yard and rear yard widths, lot coverage and height. The floor area for a freestanding convenience store or take-out food service shall not exceed $80m^2$;

(c) The use shall be subsidiary to the residential character of the area and shall not detract from the residential amenities of adjoining properties;

(d) Provision for off-street parking must meet the parking standards specified in Schedule D;

(e) In considering an application, Council will pay particular attention to site access and the effects of the uses on traffic flow; and,

(f) A convenience store or take-out food service which is part of, or attached to, a single dwelling shall not have a floor area exceeding twenty-five (25%) percent of the total floor area for that dwelling.

**(5) Home Occupations (Home-Based Businesses) - Child Care, General Service, Light Industry, Medical and Professional, Nursing Home, Office, and Personal Service**

The varied aforementioned uses that are included within the discretionary use class of this Zone may only be permitted as home occupations. Such businesses may be operated in the dwelling by its occupants, or in an accessory building subsidiary to the residence, subject to the following conditions:

(a) The use will be clearly subsidiary to the residential use and not detract from the residential character of the neighbourhood;

(b) The use will employ not more than three (3) persons on the premises, including people who normally inhabit the premises;

(c) The use will occupy no more than twenty-five percent (25%) of the total floor area of the dwelling unit, up to a maximum of forty-five square metres ($45m^2$);

(d) The use will not use water or generate sewage in excess of what can be accommodated by the existing water supply and sewage disposal system;

(e) No hazardous materials will be used;

(f) The activities will not cause noise, odours, fumes, electrical interference, or other unreasonable nuisances that could significantly affect neighbouring properties;
(g) Sufficient off-street parking space will be available on the premises for the needs of employees and clients, as set out in Schedule D;
(h) A child daycare service or nursing home use will be considered a home occupation only if it fully conforms to Provincial legislation and is compatible with neighbouring uses and does not create traffic safety concerns;
(i) The use will not include automobile repair, auto body repair, or automobile sales; and
(j) There shall be no open storage of materials, equipment or products.

**(6) Places of Worship**

Where permitted at the discretion of Council, a place of worship shall conform to the development standards for a single dwelling contained in this use zone, including: frontage, building line setback, side yard, rear yard, lot coverage and height requirements.

**(7) Townhouse Dwellings and Apartment Buildings**

In areas zoned Residential Medium Density (RMD), there shall be not more than twenty percent (20%) apartment units, townhouse residential units or a combination of apartment and townhouse units. The remainder will be single dwellings, double dwellings or a combination of single and double dwellings. Council shall monitor and control the clustering of multi-unit townhouse units and apartment buildings to prevent a concentration of these housing types in any one area.

Council will pay particular attention to the location and siting of higher density residential townhouse dwellings and apartment buildings. Preferred locations shall include those adjacent to major traffic corridors, near public use and commercial facilities, and on large site area corner lots.

**(8) Swimming Pool**

A swimming pool shall be permitted as an accessory use, subject to the following:
(a) The swimming pool shall be located in the rear yard of a residential property;
(b) The swimming pool shall not encroach upon any easements;
(c) The swimming pool shall not be located under any overhead power lines;
(d) The swimming pool shall have a minimum setback of two (2) metres from any property boundary; and,
(e) The area surrounding the swimming pool and pool deck must be fully enclosed by a fence (approximately two metres in height) to prevent people, especially children, from unauthorized access to the pool area.

**(9) Subsidiary Apartments** (see also Regulation 60, Part II – General Development Standards)
A subsidiary apartment, including in the form of a granny suite, will be considered subject to the following:

(a) The subsidiary apartment will be clearly secondary to the single unit residential dwelling or a permitted commercial use;
(b) Only one subsidiary apartment type will be permitted in a single unit residential dwelling or a single commercial building;
(c) The subsidiary apartment will be completely self-contained, with facilities for cooking, sleeping and bathing; and,
(d) The subsidiary apartment will be limited in floor area size to a maximum of 35% of floor area size of the single unit residential dwelling or the applicable commercial building.

**(10) Wind Turbines - Commercial**
Commercial wind turbines shall not be permitted in the Residential Medium Density (RMD) zone.

# ZONE TITLE: RESIDENTIAL LOW DENSITY (RLD)

## RLD USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Single Dwelling, Recreational Open Space, Conservation<br>*(see Schedules A and B for definitions and examples of above Classes* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Agriculture, Animal, Antenna, Boarding House Residential, Child Care(home occupations only), Convenience Store, Double Dwelling, General Service(home occupations only), Group Home (with Single Dwelling) Light Industry(home occupations only), Kennel(home occupations only), Medical and Professional(home occupations only), Medical Treatment and Special Care, Nursing Home, Office (home occupations only), Personal Service(home occupations only), Places of Worship, Subsidiary Apartment, Take-out Food Service, Private Wind Turbine<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies; and Section 3.4.1: Residential.

## RLD DEVELOPMENT STANDARDS

| **RLD Fully-Serviced Lots (municipal water & municipal sewer)** | | | | |
|---|---|---|---|---|
| **STANDARDS** | **Single Dwellings** | | | **Multiple Dwellings** |
| | **Existing Streets** | **New Streets** | **Pond Frontage** | **Double Dwelling** |
| **Min. Lot Area ($m^2$)** | 690 | 1,400 | 3,000 | 1,400* |
| **Min. Floor Area ($m^2$)** | 80 | 80 | 80 | 80* |
| **Min. Frontage (m)** | 23 | 23 | 30 | 23* |
| **Min. Pond Frontage (m)** | | | 30 | |
| **Min. Front Yard (m)** | 6 | 6 | 9 | 6 |
| **Max. Front Yard (m)** | 32 | 32 | See General Provision 10 | 32 |
| **Min. Side Yard (m)** | 2.5 | 3 | 6 | 3 |
| **Min. Rear Yard (m)** | 9 | 9 | 9 | 9 |
| **Max. Lot Coverage (%)** | 25 | 25 | 25 | 25 |
| **Max. Height (m)** | 10 | 10 | 10 | 10 |
| *** per unit** | | | | |

| RLD Semi-Serviced Lots (municipal water and on-site sewer OR municipal sewer and on-site water) | | | |
|---|---|---|---|
| **STANDARDS** | **Single Dwellings** | | |
| | **Existing Streets** | **New Streets** | **Pond Frontage** |
| **Min. Lot Area ($m^2$)** | 1,860 | 3,000 | 8,000 |
| **Min. Floor Area ($m^2$)** | 80 | 80 | 80 |
| **Min. Frontage (m)** | 30 | 30 | 30 |
| **Min. Pond Frontage (m)** | | | 30 |
| **Min. Front Yard (m)** | 9 | 9 | 9 |
| **Max. Front Yard (m)** | 32 | 32 | See General Provision 10 |
| **Min. Side Yard (m)** | 3 | 3 | 6 |
| **Min. Rear Yard (m)** | 9 | 9 | 9 |
| **Max. Lot Coverage (%)** | 25 | 25 | 25 |
| **Max. Height (m)** | 10 | 10 | 10 |

| RLD Un-Serviced Lots (on-site water AND on-site sewer) | | | |
|---|---|---|---|
| **STANDARDS** | **Single Dwellings** | | |
| | **Existing Streets** | **New Streets** | **Pond Frontage** |
| **Min. Lot Area ($m^2$)** | 1,860 | 4,000 | 8,000 |
| **Min. Floor Area ($m^2$)** | 80 | 80 | 80 |
| **Min. Frontage (m)** | 30 | 30 | 30 |
| **Min. Pond Frontage (m)** | | | 30 |
| **Min. Front Yard (m)** | 9 | 9 | 9 |
| **Max. Front Yard (m)** | 32 | 32 | See General Provision 10 |
| **Min. Side Yard (m)** | 3 | 3 | 6 |
| **Min. Rear Yard (m)** | 9 | 9 | 9 |
| **Max. Lot Coverage (%)** | 25 | 25 | 25 |
| **Max. Height (m)** | 10 | 10 | 10 |

**(Development Regulations Amendment No. 2, 2015)**

**Terms & Conditions**

**(1) Accessory Buildings** (see also Regulation 39, Part II – General Development Standards)

| Accessory Building Development Standards | | | | |
|---|---|---|---|---|
| **Standards** | **Less than 1,860$m^2$** | **1,861$m^2$ to 4,000$m^2$** | **larger than 4,000$m^2$** | |
| **Max. Floor Area** | 56$m^2$ or 9% of total lot size (whichever is less) | 70$m^2$ | 94$m^2$ | Discretion of Council with Public Notice where the proposed size is greater than 94$m^2$ |
| **Max. Height** | 4.0m | 4.5m | 5.0m | |
| **Min. Front Yard** | 6.0m | | | |
| **Min. Side Yard & Rear Yard** | 1.5m | | | |
| **Min. Distance from Another Building** | 3.0m | | | |

**(Development Regulations Amendment No. 2, 2015)**

(a) An accessory building shall be clearly incidental and secondary to main building and shall be complementary to the main building in character, use, style and exterior finish;

(b) An accessory building shall be contained on the same lot as the main building;

(c) No residential lot shall have more than one accessory building except as authorized by Council;
(d) No truck, bus, semi-trailer, freight container, or other vehicle body shall be used as an accessory building;
(e) An accessory building will be permitted only in the rear yard or side yard of the main building except as otherwise authorized by Council;
(f) An accessory building will not occupy more than 50% of the available rear and side yard areas of a lot;
(g) An accessory building on a residential lot shall not be used for non-residential purposes unless otherwise authorized by Council;
(h) Except for minor vehicle maintenance, an accessory building shall not be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery for commercial purposes; and,
(i) Unless otherwise approved by Council, electrical services to an accessory building shall only be provided through the same service as the main building.

**(2) Agriculture**

(a) Agriculture, if permitted as a Discretionary Use, will be limited to land use activities that Council deems to be compatible with the adjacent neighbourhood and surrounding areas;
(b) The construction of new buildings for agricultural uses and the clearing of new cropland will be limited to small-scale, non-commercial developments as determined by Council;
(c) The keeping of livestock, if permitted, will be limited to a maximum of two (2) animal units;
(d) The following development standards will apply to livestock facilities:

**Livestock Facilities – RLD Development Standards**

| Animal Units (AU) | Minimum Lot Size | Minimum Setback from any Lot Line |
|---|---|---|
| **(a) One or less AU of rabbits, ducks, chickens, turkeys and geese** | 4,000m$^2$ | 18m |
| **(b) Two or less AU of all species** | 10,000m$^2$ | 30m |

***Note: See definition of Animal Unit (AU) in Schedule A***

**(3) Animal**

Animals, other than usual domestic household pets, are permitted as a discretionary use only and will be limited to kennels and similar uses. Horses (maximum one) may be permitted as a pet, provided there are sufficient lands available for stable and exercising area. The establishment of a new kennel will be subject to the following:

(a) It will be permitted only as a home occupation;
(b) It will be permitted only on a lot of one (1) hectare or more; and,

(c) It must adhere to such other terms and conditions set by Council aimed at minimizing or mitigating potential noise, order or other impacts on neighbouring land uses.

**(4) Boarding House Residential**

A boarding house residential use, in the form of a bed and breakfast, boarding house or lodging house operation, may be permitted as a discretionary use subject to the following:

(a) The use shall not detract from the residential character of the neighbourhood in terms of height, scale or exterior design;
(b) The use shall not result in increased traffic congestion in the area;
(c) One additional parking space shall be provided for each guest room on the lot;
(d) The maximum number of guest rooms shall be six (6);
(e) At Council's discretion, a catered dining area, or other subsidiary use may be permitted, provided the uses are clearly incidental and subsidiary to the approved use and the hours of operation are limited;
(f) Off-street parking for a catered dining facility shall provide one space for every three (3) persons that may be accommodated at one time;
(g) No wholesale sales or storage of goods shall be carried out and any retail sales shall be incidental to the approved use;
(h) On-site advertisements shall be non-illuminated, with a maximum sign face area of $0.2m^2$ and, shall meet all other requirements of Council in terms of shape and construction material; and,
(i) The establishment must be registered by Canada Select and approved by the Provincial Department of Tourism, Culture and Recreation.

**(5) Convenience Stores and Take-out Food Services**

A convenience store or take-out food service permitted at Council's discretion will be subject to the following conditions:

(a) The use may form part of, or be attached to, a self-contained dwelling unit or stand on a separate lot;
(b) The development standards for a freestanding convenience store or take-out food service on a separate lot shall comply with the development standards established for a single dwelling in this Zone with respect to lot area, lot width, front yard setback, side yard and rear yard widths, lot coverage and height. The floor area for a freestanding convenience store or take-out food service shall not exceed $80m^2$;
(c) The use shall be subsidiary to the residential character of the area and shall not detract from the residential amenities of adjoining properties;
(d) Provision for off-street parking must meet the parking standards specified in Schedule D;

(e) In considering an application, Council will pay particular attention to site access and the effects of the uses on traffic flow; and,

(f) A convenience store or take-out food service which is part of, or attached to, a single dwelling shall not have a floor area exceeding twenty-five (25) percent of the total floor area for that dwelling.

**(6) Home Occupations (Home-Based Businesses) - Child Care, General Service, Light Industry, Medical and Professional, Nursing Home and Personal Service**

The varied aforementioned uses that are included within the discretionary use class of this Zone may only be permitted as home occupations. Such businesses may be operated in the dwelling by its occupants, or in an accessory building subsidiary to the residence, subject to the following conditions:

(a) The use will be clearly subsidiary to the residential use and not detract from the residential character of the neighbourhood;

(b) The use will employ not more than three (3) persons on the premises, including people who normally inhabit the premises;

(c) The use will occupy no more than twenty-five percent (25%) of the total floor area of the dwelling unit, up to a maximum of forty-five square metres ($45m^2$);

(d) The use will not use water or generate sewage in excess of what can be accommodated by the existing water supply and sewage disposal system;

(e) No hazardous materials will be used;

(f) The activities will not cause noise, odours, fumes, electrical interference, or other unreasonable nuisances that could significantly affect neighbouring properties;

(g) Sufficient off-street parking space will be available on the premises for the needs of employees and clients, as set out in Schedule D;

(h) A child daycare service and nursing home use will be considered a home occupation only if it fully conforms to Provincial legislation and is compatible with neighbouring uses and does not create traffic safety concerns;

(i) The use will not include automobile repair, auto body repair, or automobile sales; and

(j) There shall be no open storage of materials, equipment or products.

**(7) Places of Worship**

Where permitted at the discretion of Council, a place of worship shall conform to the development standards for a single dwelling contained in this use zone, including: frontage, building line setback, side yard, rear yard, lot coverage and height requirements.

**(8) Swimming Pool**

A swimming pool shall be permitted as an accessory use, subject to the following:

(a) The swimming pool shall be located in the rear yard of a residential property;

(b) The swimming pool shall not encroach upon any easements;

(c) The swimming pool shall not be located under any overhead power lines;

(d) The swimming pool shall have a minimum setback of two (2) metres from any property boundary; and

(e) The area surrounding the swimming pool and pool deck must be fully enclosed by a fence (approximately two metres in height) to prevent people, especially children, from unauthorized access to the pool area.

**(9) Subsidiary Apartments** (see also Regulation 60, Part II – General Development Standards)

A subsidiary apartment will be permitted subject to the following:

(a) The subsidiary apartment will be clearly secondary to the single unit residential dwelling or a permitted commercial use;

(b) Only one subsidiary apartment type will be permitted in a single unit residential dwelling or a single commercial building;

(c) The subsidiary apartment will be completely self-contained, with facilities for cooking, sleeping and bathing; and,

(d) The subsidiary apartment will be limited in floor area size to a maximum of 35% of floor area size of the single unit residential dwelling or the applicable commercial building.

**(10) Wind Turbines - Commercial**

Commercial wind turbines shall not be permitted in the Residential Low Density (RLD) zone.

# ZONE TITLE: RESIDENTIAL RURAL (RR)

## RR USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Single Dwelling, Recreational Open Space, Conservation<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Agriculture, Animal, Antenna, Child Care(home occupations only), Convenience Store, Double Wide Mobile (on permanent foundation), General Service (home occupations only),Group Home (with Single Dwelling) Medical and Professional (home occupations only), Nursing Home (home occupation only), Kennel (home occupations also), Office (home occupations only), Personal Service (home occupations only), Subsidiary Apartment, Take-out Food Service, Private Wind Turbine<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies; and Section 3.4.1: Residential.

## RR DEVELOPMENT STANDARDS

| **RR Un-Serviced Lots (on-site water & on-site sewer)** | | |
|---|---|---|
| **STANDARDS** | **Single Dwelling** | |
| | **Existing & New Streets** | **Pond Frontage** |
| **Min. Lot Area ($m^2$)** | 4,000 | 8,000 |
| **Min. Floor Area ($m^2$)** | 80 | 80 |
| **Min. Frontage (m)** | 30 | 30 |
| **Min. Pond Frontage (m)** | | 30 |
| **Min. Front Yard (m)** | 9 | 15 |
| **Max. Front Yard (m)** | 32 | See General Provision 10 |
| **Min. Side Yard (m)** | 3 | 6 |
| **Min. Rear Yard (m)** | 15 | 15 |
| **Max. Lot Coverage (%)** | 20 | 20 |
| **Max. Height (m)** | 10 | 10 |

**(Development Regulations Amendment No. 2, 2015)**

**Terms & Conditions**

**(1) Accessory Buildings** (see also Regulation 39, Part II – General Development Standards)

| Accessory Building Development Standards | | | | |
|---|---|---|---|---|
| **Standards** | **Less than 1,860m$^2$** | **1,861m$^2$ to 4,000m$^2$** | **larger than 4,000m$^2$** | |
| **Max. Floor Area** | 56m$^2$ or 9% of total lot size (whichever is less) | 70m$^2$ | 94m$^2$ | Discretion of Council with Public Notice where the proposed size is greater than 94m$^2$ |
| **Max. Height** | 4.0m | 4.5m | 5.0m | |
| **Min. Front Yard** | 9.0m | | | |
| **Min. Side Yard & Rear Yard** | 1.5m | | | |
| **Min. Distance from Another Building** | 3.0m | | | |

**(Development Regulations Amendment No. 2, 2015)**

(a) An accessory building shall be clearly incidental and secondary to main building and shall be complementary to the main building in character, use, style and exterior finish;

(b) An accessory building shall be contained on the same lot as the main building;

(c) No residential lot shall have more than one accessory building except as authorized by Council;

(d) No truck, bus, semi-trailer, freight container, or other vehicle body shall be used as an accessory building;

(e) An accessory building will be permitted only in the rear yard or side yard of the main building except as otherwise authorized by Council;

(f) An accessory building will not occupy more than 50% of the available rear and side yard areas of a lot;

(g) An accessory building on a residential lot shall not be used for non-residential purposes unless otherwise authorized by Council;

(h) Except for minor vehicle maintenance, an accessory building shall not be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery for commercial purposes; and

(i) Unless otherwise approved by Council, electrical services to an accessory building shall only be provided through the same service as the main building.

**(2) Agriculture**

(a) Agriculture, if permitted as a Discretionary Use, will be limited to land use activities that Council deems to be compatible with the adjacent neighbourhood and surrounding areas.

(b) The construction of new buildings for agricultural uses and the clearing of new cropland will be limited to small-scale, non-commercial developments as determined by Council.

(c) The keeping of livestock, if permitted, will be limited to a maximum of two (2) animal units.

(d) The following development standards will apply to livestock facilities:

**Livestock Facilities – RR Development Standards**

| Animal Units (AU) | Minimum Lot Size | Minimum Setback from any Lot Line |
|---|---|---|
| **(a) One or less AU of rabbits, ducks, chickens, turkeys and geese** | 4,000m$^2$ | 18m |
| **(b) Two or less AU of all species** | 10,000m$^2$ | 30m |

***Note: See definition of Animal Unit (AU) in Schedule A***

**(3) Animal**

Animals, other than usual domestic household pets, are permitted as a discretionary use only and will be limited to kennels and similar uses. Horses (maximum one) may be permitted as a pet, provided there are sufficient lands available for stable and exercising area. The establishment of a new kennel will be subject to the following:

(a) It will be permitted only as a home occupation;
(b) It will be permitted only on a lot of one (1) hectare or more; and
(c) It must adhere to such other terms and conditions set by Council aimed at minimizing or mitigating potential noise, order or other impacts on neighbouring land uses.

**(4) Boarding House Residential**

A boarding house residential use, in the form of a bed and breakfast, boarding house or lodging house operation, may be permitted as a discretionary use subject to the following:

(a) The use shall not detract from the residential character of the neighbourhood in terms of height, scale or exterior design;
(b) The use shall not result in increased traffic congestion in the area;
(c) One additional parking space shall be provided for each guest room on the lot;
(d) The maximum number of guest rooms shall be six (6);
(e) At Council's discretion, a catered dining area, or other subsidiary use may be permitted, provided the uses are clearly incidental and subsidiary to the approved use and the hours of operation are limited;
(f) Off-street parking for a catered dining facility shall provide one space for every three (3) persons that may be accommodated at one time;
(g) No wholesale sales or storage of goods shall be carried out and any retail sales shall be incidental to the approved use;
(h) On-site advertisements shall be non-illuminated, with a maximum sign face area of 0.2m$^2$ and, shall meet all other requirements of Council in terms of shape and construction material;

(i) The establishment must be registered by Canada Select and approved by the Provincial Department of Tourism, Culture and Recreation.

**(5) Convenience Stores and Take-out Food Services**

A convenience store or take-out food service permitted at Council's discretion will be subject to the following conditions:

(a) The use may form part of, or be attached to, a self-contained dwelling unit or stand on a separate lot;

(b) The development standards for a freestanding convenience store or take-out food service on a separate lot shall comply with the development standards established for a single dwelling in this Zone with respect to lot area, lot width, front yard setback, side yard and rear yard widths, lot coverage and height. The floor area for a freestanding convenience store or take-out food service shall not exceed $80m^2$;

(c) The use shall be subsidiary to the residential character of the area and shall not detract from the residential amenities of adjoining properties;

(d) Provision for off-street parking must meet the parking standards specified in Schedule D;

(e) In considering an application, Council will pay particular attention to site access and the effects of the uses on traffic flow;

(f) A convenience store or take-out food service which is part of, or attached to, a single dwelling shall not have a floor area exceeding twenty-five (25) percent of the total floor area for that dwelling.

**(6) Home Occupations (Home-Based Businesses) - Child Care, General Service, Medical and Professional, Nursing Home, Office, and Personal Service**

The varied aforementioned uses that fall within the discretionary use class of this Zone may be permitted as home occupations. Such businesses may be operated in the dwelling by its occupants, or in an accessory building subsidiary to the residence, subject to the following conditions:

(a) The use will be clearly subsidiary to the residential use and not detract from the residential character of the neighbourhood;

(b) The use will employ not more than three (3) persons on the premises, including people who normally inhabit the premises;

(c) The use will occupy no more than twenty-five percent (25%) of the total floor area of the dwelling unit, up to a maximum of forty-five square metres ($45m^2$);

(d) The use will not use water or generate sewage in excess of what can be accommodated by the existing water supply and sewage disposal system;

(e) No hazardous materials will be used;

(f) The activities will not cause noise, odours, fumes, electrical interference, or other unreasonable nuisances that could significantly affect neighbouring properties;

(g) Sufficient off-street parking space will be available on the premises for the needs of employees and clients, as set out in Schedule D;

(h) A child daycare service and nursing home use will be considered a home occupation only if it fully conforms to Provincial legislation and is compatible with neighbouring uses and does not create traffic safety concerns;

(i) The use will not include automobile repair, auto body repair, or automobile sales; and

(j) There shall be no open storage of materials, equipment or products.

**(7) Swimming Pool**

A swimming pool shall be permitted as an accessory use, subject to the following:

(a) The swimming pool shall be located in the rear yard of a residential property;

(b) The swimming pool shall not encroach upon any easements;

(c) The swimming pool shall not be located under any overhead power lines;

(d) The swimming pool shall have a minimum setback of two (2) metres from any property boundary; and

(e) The area surrounding the swimming pool and pool deck must be fully enclosed by a fence (approximately two metres in height) to prevent people, especially children, from unauthorized access to the pool area.

**(8) Subsidiary Apartments** (see also Regulation 60, Part II – General Development Standards)

A subsidiary apartment will be permitted subject to the following:

(a) The subsidiary apartment will be clearly secondary to the single unit residential dwelling or a permitted commercial use;

(b) Only one subsidiary apartment type will be permitted in a single unit residential dwelling or a single commercial building;

(c) The subsidiary apartment will be completely self-contained, with facilities for cooking, sleeping and bathing; and,

(d) The subsidiary apartment will be limited in floor area size to a maximum of 35% of floor area size of the single unit residential dwelling or the applicable commercial building.

**(9) Wind Turbines - Commercial**

Commercial wind turbines shall not be permitted in the Residential Rural (RR) zone.

# ZONE TITLE: RESIDENTIAL DEVELOPMENT SCHEME AREA (RDSA)

## RDSA USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>n/a<br>*(see Schedules A and B for definitions and examples of above Classes)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>See Terms and Conditions<br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies and Section 3.4.2: Development Scheme Areas.

**Terms & Conditions**

**(1) Development Scheme and Rezoning Required Prior to Development**

A. No development will be permitted in any area in the Residential Development Scheme Area zone until:

i. A development scheme for the subject area is completed in line with Policy RDSA-1 of the Municipal Plan and approved by Council, and

ii. The area is rezoned through an amendment to these Development Regulations.

B. The intended use of each of the affected Areas, as outlined in the Portugal Cove-St. Philip's Municipal Plan, is as follows:

| RDSA# | Location | Intended Zone |
|---|---|---|
| RDSA1 | Anglican Cemetery Road | RMD |
| RDSA2 | Farm Road/Churchills Road | RMD/RLD |
| RDSA3 | Carew Drive/Old Cart Road | RMD/RLD |
| RDSA4 | Neary's Pond/Western Round Pond | RR |
| RDSA5 | Old Broad Cove Road West | RMD |
| RDSA6 | Mitchell's Pond/Hugh's Pond | RLD/RR |
| RDSA7 | Thorburn Road/Skinner's Road | RMD |
| RDSA8 | St. Thomas Line | RMD |
| RDSA9 | Tucker's Hill | RMD/RLD/TC |
| RDSA10 | Voisey's Brook Park | MIX/RMD/RLD |

**(2) Development Scheme Requirements**

A development scheme will:

(a) Include a detailed site plan that meets the requirements listed in Policy RDSA-1 and considers for implementation the provisions of Policy RSDA-2 of the Municipal Plan;

(b) Adhere to all applicable Municipal Plan policies, General Development Regulations, and standards and conditions of the proposed new zone for the area; and

(c) Be subject to a planning and engineering evaluation that will assess the feasibility of the proposed development with respect to environmental impacts, storm drainage, traffic circulation, the expected costs of future municipal servicing and infrastructure maintenance.

**(3) Development Scheme Approval and Rezoning Amendment**

(a) Council will consider approving a rezoning application for an RDSA area only if it deems the proposed development scheme to be feasible and appropriate for the area;

(b) Council will prioritize development schemes that incorporate the principles of environmental preservation and sustainable community design as listed in Policy RDSA-2 of the Municipal Plan;

(c) The development scheme will be reviewed by Council to determine conformity to the Municipal Plan and Development Regulations;

(d) After the development scheme has been completed to Council's satisfaction, Council will initiate a process to approve the Development Scheme through a rezoning amendment to the Development Regulations;

(e) Prior to adopting the rezoning amendment, Council will give public notice in accordance with the *Urban and Rural Planning Act 2000,* make the development scheme available for public viewing, and consider all comments and representations received; and

(f) Council will reserve the option to identify terms and conditions to the rezoning amendment to ensure the area is developed in accordance with the development scheme, the objectives and policies of the Municipal Plan, and any particular needs identified for the subject area. Council will pay specific attention to the policies and requirements set out in Section 3.4.2 of the Municipal Plan.

# ZONE TITLE: TRADITIONAL COMMUNITY (TC)

## TC USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Cultural and Civic, General Assembly, Place of Worship, Single Dwelling, Recreational Open Space, Conservation<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102**)**<br><br>Amusement, Boarding House Residential, Catering, Cemetery, Child Care(home occupations also), Club and Lodge, Commercial Residential, Convenience Store, Double Dwelling, Educational, Fishery Uses, Funeral Home, General Service (home occupations also), Group Home (with single dwelling), Indoor Assembly, Indoor Market, Infill Residential, General Industry, Light Industry (home occupations also), Medical and Professional (home occupations also), Nursing Home, Office(home occupations also), Outdoor Assembly, Outdoor Market, Passenger Assembly, Personal Service(home occupations also), Retail, Shop, Subsidiary Apartment, Take-out Food Service, Theatre, Transportation<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies; and Section 3.4.3: Traditional Community.

## TC DEVELOPMENT STANDARDS

| **TC Fully-Serviced Lots (municipal water & municipal sewer)** | | | |
|---|---|---|---|
| **STANDARDS** | **Single Dwelling** | | **Multiple Dwellings** |
| | **Existing & New Streets** | **Pond Frontage** | **Double Dwelling** |
| **Min. Lot Area ($m^2$)** | 470 | 3,000 | 390* |
| **Min. Floor Area ($m^2$)** | 65 | 65 | 65* |
| **Max. Floor Area ($m^2$)** | see Condition 3 | | |
| **Min. Frontage (m)** | 15 | 30 | 20* |
| **Min. Pond Frontage (m)** | | 30 | |
| **Min. Front Yard (m)** | 6 | 6 | 6 |
| **Max. Front Yard (m)** | 32 | See General Provision 10 | 32 |
| **Min. Side Yard (m)** | 1 | 6 | 1 |
| **Min. Rear Yard (m)** | 9 | 9 | 9 |
| **Max. Lot Coverage (%)** | 33% | 33 | 33% |
| **Max. Height (m)** | 8 | 8 | 8 |
| *** per unit** | | | |

| TC Semi-Serviced Lots (municipal water and on-site sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwelling | | Multiple Dwellings |
| | Existing & New Streets | Pond Frontage | Double Dwelling |
| Min. Lot Area ($m^2$) | 1,860 | 3,000 | 1,400* |
| Min. Floor Area ($m^2$) | 65 | 65 | 65* |
| Max. Floor Area ($m^2$) | see Condition 3 | | |
| Min. Frontage (m) | 23 | 30 | 23* |
| Min. Pond Frontage (m) | | 30 | |
| Min. Front Yard (m) | 6 | 9 | 6 |
| Max. Front Yard (m) | 32 | See General Provision 10 | 32 |
| Min. Side Yard (m) | 2.5 | 6 | 2.5 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 | 33 |
| Max. Height (m) | 8 | 8 | 8 |
| * per unit | | | |

| TC Semi-Serviced Lots (on-site water and municipal sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwelling | | Multiple Dwellings |
| | Existing & New Streets | Pond Frontage | Double Dwelling |
| Min. Lot Area ($m^2$) | 1,400 | 3,000 | 1,400* |
| Min. Floor Area ($m^2$) | 65 | 65 | 65* |
| Max. Floor Area ($m^2$) | see Condition 3 | | |
| Min. Frontage (m) | 23 | 30 | 23* |
| Min. Pond Frontage (m) | | 30 | |
| Min. Front Yard (m) | 6 | 9 | 6 |
| Max. Front Yard (m) | 32 | See General Provision 10 | 32 |
| Min. Side Yard (m) | 2.5 | 6 | 2.5 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 | 33 |
| Max. Height (m) | 8 | 8 | 8 |
| * per unit | | | |

| TC Un-Serviced Lots (on-site water and on-site sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwelling | | Multiple Dwellings |
| | Existing & New Streets | Pond Frontage | Double Dwelling |
| Min. Lot Area ($m^2$) | 1,860 | 8,000 | 1,500* |
| Min. Floor Area ($m^2$) | 65 | 65 | 65* |
| Max. Floor Area ($m^2$) | see Condition 3 | | |
| Min. Frontage (m) | 30 | 30 | 30* |
| Min. Pond Frontage (m) | | 30 | |
| Min. Front Yard (m) | 9 | 9 | 9 |
| Max. Front Yard (m) | 32 | See General Provision 10 | 32 |
| Min. Side Yard (m) | 3 | 6 | 3 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 | 33 |
| Max. Height (m) | 8 | 8 | 8 |
| * per unit | | | |

**(Development Regulations Amendment No. 2, 2015)**

**Terms & Conditions**

**(1) Accessory Buildings** (see also Regulation 39, Part II – General Development Standards)

| Accessory Building Development Standards | | | | |
|---|---|---|---|---|
| **Standards** | **Less than 1,860m$^2$** | **1,861m$^2$ to 4,000m$^2$** | **larger than 4,000m$^2$** | |
| **Max. Floor Area** | 56m$^2$ or 9% of total lot size (whichever is less) | 70m$^2$ | 94m$^2$ | Discretion of Council with Public Notice where the proposed size is greater than 94m$^2$ |
| **Max. Height** | 4.0m | 4.5m | 5.0m | |
| **Min. Front Yard** | 9.0m | | | |
| **Min. Side Yard & Rear Yard** | 1.5m | | | |
| **Min. Distance from Another Building** | 3.0m | | | |

**(Development Regulations Amendment No. 2, 2015)**

(a) An accessory building shall be clearly incidental and secondary to main building and shall be complementary to the main building in character, use, style and exterior finish.
(b) An accessory building shall be contained on the same lot as the main building.
(c) No residential lot shall have more than one accessory building except as authorized by Council.
(d) No truck, bus, semi-trailer, freight container, or other vehicle body shall be used as an accessory building.
(e) An accessory building will be permitted only in the rear yard or side yard of the main building except as otherwise authorized by Council.
(f) An accessory building will not occupy more than 50% of the available rear and side yard areas of a lot.
(g) An accessory building on a residential lot shall not be used for non-residential purposes unless otherwise authorized by Council.
(h) Except for minor vehicle maintenance, an accessory building shall not be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery for commercial purposes.
(i) Unless otherwise approved by Council, electrical services to an accessory building shall only be provided through the same service as the main building.

**(2) Advertisements**

**2.1 Free-Standing Ground and Pylon Signs**

A. A ground sign means a sign supported by one or more upright poles or braces placed permanently on the ground;

B. A pylon sign means a ground sign that is greater in height than 2.75 metres;

C. One freestanding sign shall be permitted per lot. Additional freestanding signs may be permitted at the discretion of Council;

D. A ground or pylon sign is subject to the following conditions:

(a) The sign will not impair the visual or aesthetic quality of the lot or area;

(b) The sign will not create an obstruction for vehicular traffic entering or exiting the lot;

(c) The sign is processed in accordance with Part III of the General Regulations;

(d) The sign will have a maximum area of five (5) square metres.

**2.2 Mobile Signs**

A. A mobile sign is an illuminated or non-illuminated sign mounted upon a trailer chassis transported by towing attached to a motorized vehicle;

B. A mobile sign is subject to the following conditions:

(a) The sign must be equipped with retractable stabilizers and weighted down to prevent turning over due to wind loading;

(b) The trailer must be registered at the Motor Vehicle Registration Division of the Department of Works, Services and Transportation and must be in compliance with all regulations governing trailers;

(c) The maximum sign face area will be nine (9.0) square metres;

(d) The maximum overall height of a mobile sign from ground level will be three (3.0) metres;

(e) A mobile sign must not encroach upon easements, right-of-ways or abutting private properties;

(f) A mobile sign must not impair visibility of traffic or pedestrians.

**2.3 Projecting Signs**

A. A projecting sign is a sign that attaches and is perpendicular to the principal façade of a building;

B. A projecting sign is subject to the following conditions:

(a) It will have a maximum vertical clearance beneath the sign to the ground of three (3.0) metres;

(b) It will have a maximum overall projection from the building wall of two (2.0) metres;

(c) It will not project above or below the fascia of the building.

**2.4 Wall-Mounted Signs**

A. A wall sign is a sign that attaches to and is parallel to any principal façade of a building.

B. A wall sign is subject to the following conditions:

(a) It will have a maximum width equal to 20% of the mean height of principal façade and a maximum length of 50% of the mean length of principal façade.

(b) The sign is not to project above or below the fascia of the building.

**(3) Building Size and Appearance**

**3.1 Dwellings**

The ground area coverage of a new or expanding dwelling shall be no more than 20 percent larger than the average ground area coverage of all dwellings located within a radius of 60.0 metres of the new or expanding dwelling.

Council may set terms and conditions on the design and appearance of a proposed residential development to ensure compatibility with the character of the surrounding area. It may also reject proposals altogether if it feels the development will adversely affect the area's heritage character in design appearance and architectural style.

**3.2 Commercial and Public Buildings**

The permitted floor area and building mass of a new or expanding commercial or public building will be considered by Council on a case-by-case basis as an application is submitted. In review of the proposal, Council may define terms and conditions to ensure the proposed development complements, or is compatible with, the character of the surrounding area. It may also reject proposals altogether if it feels the development will adversely affect the area's heritage character in design appearance and architectural style.

**(4) Compatibility of Residential and Non-Residential Uses**

Buffering will be required between non-residential and residential uses. Developers shall be required to retain vegetation where possible and/or plant new vegetation within the buffer or erect a structural barrier or other hard landscaping features to adequately separate the residential and non-residential uses.

Outdoor storage will not be permitted in front yards unless it can be clearly demonstrated that such storage is vital to the operation. Storage may be permitted in side yards (so long as maintenance and access to on-site buildings are not impeded) and/or rear yards. Council may require fencing or other forms of screening for storage areas. The following additional criteria will be included in a review of any development proposal:

(a) Uses shall not be intrusive in terms of noise, odour and appearance; and
(b) Uses shall not result in traffic flow or parking problems for adjoining residents.

**(5) General and Light Industrial Uses**

General and light industrial uses of a traditional type and scale (e.g. related to fish harvesting, small-scale fish processing, marine transportation and warehouses) may be considered and allowed at the discretion of Council. Outdoor storage will not be permitted in front yards unless it can be clearly demonstrated that such storage is vital to the operation. Storage may be permitted in side yards (where access to and maintenance of on-site buildings is not impeded) and/or rear yards. Council may require fencing or other forms of screening to avoid unsightly appearances.

A minimum of ten (10.0) metres shall be required between general and light industrial uses and abutting residential uses. Vegetation and structural barriers may be required. The following additional criteria will be included in a review of any development proposal:

(a) Uses having close ties to traditional uses may be considered. For example, a marine-related business such as a tour boat or scuba diving operation or a small food processing business;
(b) The use shall not be intrusive in terms of noise, odour and appearance;
(c) The use shall not result in increased traffic flow or parking problems in the community.

**(6) Heritage Preservation**

(a) It is a priority of Council to preserve heritage sites and buildings in the Traditional Community (TC) zone;
(b) Council will consider a range of proposals for new and enhanced uses of historical sites and buildings that will facilitate their preservation, and will pursue all available options to prevent their demolition;
(c) Priority will be given to ensuring that new buildings proposed in the Traditional Community Zone conform to the character of the site and do not detract from historical buildings and land use character.

**(7) Home Occupations (Home-Based Businesses) - Child Care, General Service, Light Industry, Medical and Professional, Nursing Home and Personal Service**

The aforementioned uses that fall within the discretionary use class of this Zone may be permitted as home occupations. Such businesses may be operated in the dwelling by its occupants, or in an accessory building subsidiary to the residence, subject to the following conditions:

(a) The use will be clearly subsidiary to the residential use and not detract from the residential character of the neighbourhood;
(b) The use will employ not more than three (3) persons on the premises, including people who normally inhabit the premises;

(c) The use will occupy no more than twenty-five percent (25%) of the total floor area of the dwelling unit, up to a maximum of forty-five square metres ($45m^2$);
(d) The use will not use water or generate sewage in excess of what can be accommodated by the existing water supply and sewage disposal system;
(e) No hazardous materials will be used;
(f) The activities will not cause noise, odours, fumes, electrical interference, or other unreasonable nuisances that could significantly affect neighbouring properties;
(g) Sufficient off-street parking space will be available on the premises for the needs of employees and clients, as set out in Schedule D;
(h) A child daycare service and nursing home use will be considered a home occupation only if it fully conforms to Provincial legislation and is compatible with neighbouring uses and does not create traffic safety concerns;
(i) The use will not include automobile repair, auto body repair, or automobile sales; and
(j) There shall be no open storage of materials, equipment or products.

**(8) Non-Residential Development**

A non-residential development permitted as a discretionary use will be subject to the following conditions:

(a) Council may require special conditions to ensure it enhances, or does not detract from, the architectural and landscape heritage of surrounding buildings and sites;
(b) It must meet the minimum development standards established for a single dwelling or such higher standards as Council may require as terms and conditions in the review of individual applications;
(c) It must be located and designed to minimize the impact of traffic, appearance, noise, odour, lighting and signage on surrounding residential uses;
(d) It must be designed and maintained to a high standard with regard to safety, appearance, and compatibility with surrounding land uses;
(e) It must provide for adequate off-street parking in accordance with Schedule D;
(f) Outdoor storage associated with the use will not be permitted in the front yard unless adequately screened and otherwise authorized by Council. Storage may be permitted in side (so long as access to and maintenance of the on-site buildings is not impeded) and rear yards subject to terms and conditions aimed at reducing potential visual impacts on neighbouring properties;
(g) A non-residential development may be required to establish spatial buffers and/or screening (e.g. fencing) between the development and abutting residential uses;

(h) Permission to develop the non-residential use will be in accordance with a development permit issued by Council; and

(i) No change in the type or scale of the use will be permitted except in accordance with the development permit.

**(9) Minor Steep Slopes – Infill Residential**

For infill residential proposals that are in keeping with historic and heritage design and siting of the traditional community character, Council may consider development proposals on minor steep slopes that exceed twenty five percent (25%) over a distance of five (5.0) or more metres as detailed in Schedule E, and where such lands are not designated as Restricted on the St. John's Urban Region Regional Plan. Where Council considers such an infill residential application, the proposed development must meet all other terms and conditions of this use zone; must respect and minimize the impact on the natural heritage of the traditional communities of Portugal Cove and St. Philip's in Broad Cove; must meet all other requirements of these Development Regulations, as well as any necessary provincial approvals, and may be required to submit a qualified geotechnical/ engineering consultant report in support of the development proposal.

**(Development Regulations Amendment No. 2, 2015)**

This exception consideration only applies to residential infill development, as defined in Schedule A of these Development Regulations, and does not include residential subdivision developments that would require the mass removal of material from the development site.

**(10) Swimming Pool**

A swimming pool shall be permitted as an accessory use, subject to the following:

(a) The swimming pool shall be located in the rear yard of a residential property;

(b) The swimming pool shall not encroach upon any easements;

(c) The swimming pool shall not be located under any overhead power lines;

(d) The swimming pool shall have a minimum setback of two (2.0) metres from any property boundary; and

(e) The area surrounding the swimming pool and pool deck must be fully enclosed by a fence (approximately two metres (2.0m) in height) to prevent people, especially children, from unauthorized access to the pool area.

**(11) Subsidiary Apartments**

A subsidiary apartment will be subject to the following:

(a) The subsidiary apartment will be clearly secondary to the single unit residential dwelling or a permitted commercial use;

(b) Only one subsidiary apartment type will be permitted in a single unit residential dwelling or a single commercial building;

(c) The subsidiary apartment will be completely self-contained, with facilities for cooking, sleeping and bathing; and,

(d) The subsidiary apartment will be limited in floor area size to a maximum of 35% of floor area size of the single unit residential dwelling or the applicable commercial building.

**(12) Wind Turbines – Private and Commercial**

Private and commercial wind turbines shall not be permitted in the Traditional Community (TC) zone.

# ZONE TITLE: MIXED USE (MIX)

## MIX USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Double Dwelling, Single Dwelling, Recreational Open Space, Conservation<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |
| **Discretionary Use Classes**<br>**(**see Regulation 33 and 102)<br><br>Amusement, Antenna, Boarding House Residential, Catering, Cemetery, Child Care(home occupations also), Club and Lodge, Commercial Residential, Convenience Store, Cultural and Civic, Double Dwelling, Educational, Funeral Home, General Assembly, General Industry, General Service (home occupations also), Group Home (with Single Dwelling) Indoor Assembly, Indoor Market, Light Industry (home occupations also), Medical and Professional (home occupations also), Medical Treatment and Special Care, Nursing Home, Office, Outdoor Assembly, Outdoor Market, Passenger Assembly, Personal Service(home occupations also), Place of Worship, Retail, Service Station, Shop, Subsidiary Apartment, Take-out Food Service, Theatre, Veterinary, Private Wind Turbines<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024**, Section 3.3: General Land Use Policies; and Section 3.4.4: Mixed Use.

## MIX DEVELOPMENT STANDARDS

| **MIX Fully-Serviced Lots**<br>**(municipal water & municipal sewer)** | | | |
|---|---|---|---|
| **STANDARDS** | **Single Dwelling** | | **Multiple Dwellings** |
| | **New & Existing Streets** | **Pond Frontage** | **Double Dwelling** |
| **Min. Lot Area ($m^2$)** | 470 | 3,000 | 390* |
| **Min. Floor Area ($m^2$)** | 65 | 65 | 65* |
| **Min. Frontage (m)** | 15 | 30 | 20* |
| **Min. Pond Frontage (m)** | | 30 | |
| **Min. Front Yard (m)** | 6 | 9 | 6 |
| **Max. Front Yard (m)** | 32 | See General Provision 10 | 32 |
| **Min. Side Yard (m)** | 2.5 & 1 | 6 | 2.5 |
| **Min. Distance Between Dwellings (m)** | 3.5 | | |
| **Min. Rear Yard (m)** | 9 | 9 | 9 |
| **Max. Lot Coverage (%)** | 33 | 33 | 33 |
| **Max. Height (m)** | 10 | 10 | 10 |
| *** per unit** | | | |

| MIX Semi-Serviced Lots (municipal water and on-site sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwelling | | Multiple Dwellings |
| | Existing & New Streets | Pond Frontage | Double Dwelling |
| Min. Lot Area ($m^2$) | 1,860 | 3,000 | 1,400* |
| Min. Floor Area ($m^2$) | 65 | 65 | 65* |
| Min. Frontage (m) | 23 | 30 | 23* |
| Min. Pond Frontage (m) | | 30 | |
| Min. Front Yard (m) | 6 | 9 | 6 |
| Max. Front Yard (m) | 32 | See General Provision 10 | 32 |
| Min. Side Yard (m) | 2.5 | 6 | 2.5 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 | 33 |
| Max. Height (m) | 10 | 10 | 10 |
| * per unit | | | |

| MIX Semi-Serviced Lots (on-site water and municipal sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwelling | | Multiple Dwellings |
| | Existing & New Streets | Pond Frontage | Double Dwelling |
| Min. Lot Area ($m^2$) | 1,400 | 3,000 | 1,400* |
| Min. Floor Area ($m^2$) | 65 | 65 | 65* |
| Min. Frontage (m) | 23 | 30 | 23* |
| Min. Pond Frontage (m) | | 30 | |
| Min. Front Yard (m) | 6 | 9 | 6 |
| Max. Front Yard (m) | 32 | See General Provision 10 | 32 |
| Min. Side Yard (m) | 2.5 | 6 | 2.5 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 | 33 |
| Max. Height (m) | 10 | 10 | 10 |
| * per unit | | | |

| MIX Un-Serviced Lots (on-site water and on-site sewer) | | | |
|---|---|---|---|
| STANDARDS | Single Dwelling | | Multiple Dwellings |
| | Existing & New Streets | Pond Frontage | Double Dwelling |
| Min. Lot Area ($m^2$) | 1,860 | 8,000 | 1,500* |
| Min. Floor Area ($m^2$) | 65 | 65 | 65* |
| Min. Frontage (m) | 30 | 30 | 30* |
| Min. Pond Frontage (m) | | 30 | |
| Min. Front Yard (m) | 9 | 9 | 9 |
| Max. Front Yard (m) | 32 | See General Provision 10 | 32 |
| Min. Side Yard (m) | 3 | 6 | 3 |
| Min. Rear Yard (m) | 9 | 9 | 9 |
| Max. Lot Coverage (%) | 33 | 33 | 33 |
| Max. Height (m) | 10 | 10 | 10 |
| * per unit | | | |

**(Development Regulations Amendment No. 2, 2015)**

**Terms & Conditions**

**(1) Accessory Buildings** (see Regulation 39, Part II – General Development Standards)

| Accessory Building Development Standards | | | | |
|---|---|---|---|---|
| **Standards** | **Less than 1,860m$^2$** | **1,861m$^2$ to 4,000m$^2$** | **larger than 4,000m$^2$** | |
| **Max. Floor Area** | 56m$^2$ or 9% of total lot size (whichever is less) | 70m$^2$ | 94m$^2$ | Discretion of Council with Public Notice where the proposed size is greater than 94m$^2$ |
| **Max. Height** | 4.0m | 4.5m | 5.0m | |
| **Min. Front Yard** | 6.0m | | | |
| **Min. Side Yard & Rear Yard** | 1.5m | | | |
| **Min. Distance from Another Building** | 3.0m | | | |

**(Development Regulations Amendment No. 2, 2015)**

(a) An accessory building shall be clearly incidental and secondary to the main building and shall be complementary to the main building in character, use, style and exterior finish.

(b) An accessory building shall be contained on the same lot as the main building.

(c) No residential lot shall have more than one accessory building except as authorized by Council.

(d) No truck, bus, semi-trailer, freight container, or other vehicle body shall be used as an accessory building.

(e) An accessory building will be permitted only in the rear yard or side yard of the main building except as otherwise authorized by Council.

(f) An accessory building will not occupy more than 50% of the available rear and side yard areas of a lot.

(g) An accessory building on a residential lot shall not be used for non-residential purposes unless otherwise authorized by Council.

(h) Except for minor vehicle maintenance, an accessory building shall not be used for the repairing, painting, dismantling, or scrapping of vehicles or machinery for commercial purposes.

(i) Unless otherwise approved by Council, electrical services to an accessory building shall only be provided through the same service as the main building.

**(2) Advertisements**

**2.1 Free-Standing Ground and Pylon Signs**

A. A ground sign means a sign supported by one or more upright poles or braces placed permanently on the ground;

B. A pylon sign means a ground sign that is greater in height than 2.75 metres;

C. One freestanding sign shall be permitted per lot. Additional freestanding signs may be permitted at the discretion of Council;

D. A ground or pylon sign is subject to the following conditions:
   (a) The sign will not impair the visual or aesthetic quality of the lot or area;
   (b) The sign will not create an obstruction for vehicular traffic entering or
   (c) exiting the lot;
   (d) The sign is processed in accordance with Part III of the General Regulations;
   (e) The sign will have a maximum area of five (5.0) square metres.

**2.2 Mobile Signs**

A. A mobile sign is an illuminated or non-illuminated sign mounted upon a trailer chassis transported by towing attached to a motorized vehicle;

B. A mobile sign is subject to the following conditions:
   (a) The sign must be equipped with retractable stabilizers and weighted down to prevent turning over due to wind loading;
   (b) The trailer must be registered at the Motor Vehicle Registration Division of the Department of Works, Services and Transportation and must be in compliance with all regulations governing trailers;
   (c) The maximum sign face area will be nine (9.0) square metres;
   (d) The maximum overall height of a mobile sign from ground level will be
   (e) three (3.0) metres;
   (f) A mobile sign must not encroach upon easements, right-of-ways or abutting private properties;
   (g) A mobile sign must not impair visibility of traffic or pedestrians.

**2.3 Projecting Signs**

A. A projecting sign is a sign that attaches and is perpendicular to the principal façade of a building;

B. A projecting sign is subject to the following conditions:
   (a) It will have a maximum vertical clearance beneath the sign to the ground of three (3.0) metres;
   (b) It will have a maximum overall projection from the building wall of two (2.0) metres;
   (c) It will not project above or below the fascia of the building.

**2.4 Wall-Mounted Signs**

A. A wall sign is a sign that attaches to and is parallel to any principal façade of a building.

B. A wall sign is subject to the following conditions:

(a) It will have a maximum width equal to 20% of the mean height of principal façade and a maximum length of 50% of the mean length of principal façade.
(b) The sign is not to project above or below the fascia of the building.

**(3) Compatibility of Residential and Non-Residential Uses**

Buffering will be required between non-residential and residential uses. Developers shall be required to retain vegetation where possible and/or plant new vegetation within the buffer or erect a structural barrier or other hard landscaping features to adequately separate the residential and non-residential uses.

Outdoor storage will not be permitted in front yards unless it can be clearly demonstrated that such storage is vital to the operation. Storage may be permitted in side yards and/or rear yards. Council may require fencing or other forms of screening for storage areas. The following additional criteria will be included in a review of any development proposal:

(a) Uses shall not be intrusive in terms of noise, odour and appearance; and
(b) Uses shall not result in traffic flow or parking problems for adjoining residents.

**(4) Home Occupations (Home-Based Businesses) - Child Care, General Service, Light Industry, Medical and Professional, Nursing Home and Personal Service**

The aforementioned uses that fall within the discretionary use class of this Zone may be permitted as home occupations. Such businesses may be operated in the dwelling by its occupants, or in an accessory building subsidiary to the residence, subject to the following conditions:

(a) The use will be clearly subsidiary to the residential use and not detract from the residential character of the neighbourhood;
(b) The use will employ not more than three (3) persons on the premises, including people who normally inhabit the premises;
(c) The use will occupy no more than twenty-five percent (25%) of the total floor area of the dwelling unit, up to a maximum of forty-five square metres ($45m^2$);
(d) The use will not use water or generate sewage in excess of what can be accommodated by the existing water supply and sewage disposal system;
(e) No hazardous materials will be used;
(f) The activities will not cause noise, odours, fumes, electrical interference, or other unreasonable nuisances that could significantly affect neighbouring properties;
(g) Sufficient off-street parking space will be available on the premises for the needs of employees and clients, as set out in Schedule D;

(h) A child daycare service and nursing home use will be considered a home occupation only if it fully conforms to Provincial legislation and is compatible with neighbouring uses and does not create traffic safety concerns;
(i) The use will not include automobile repair, auto body repair, or automobile sales; and
(j) There shall be no open storage of materials, equipment or products.

**(5) Non-Residential Development**

A non-residential development permitted as a discretionary use will be subject to the following conditions:

(a) Council may require special conditions to ensure it enhances, or does not detract from, the neighbourhood residential character of surrounding homes and properties;
(b) It must meet the minimum development standards established for a non-residential use or such higher standards as Council may require in the review of individual proposals and in the context of the existing residential neighbourhood;
(c) It must be located and designed to minimize the impact of traffic, appearance, noise, odour, lighting and signage on surrounding residential uses;
(d) It must be designed and maintained to a high standard with regard to safety, building design, landscaping, site layout appearance, and compatibility with surrounding land uses;
(e) It must provide for adequate off-street parking in accordance with Schedule D;
(f) Outdoor storage associated with the use will not be permitted in the front yard unless otherwise authorized by Council in the review consideration of individual applications. Storage may be permitted in side and rear yards subject to terms and conditions aimed at reducing potential visual impacts on neighbouring properties and from public view of passing motorists;
(g) A non-residential development may be required to establish significant spatial buffers and/or screening (e.g. fencing) between the development and abutting residential uses;
(h) Permission to develop the non-residential use will be in accordance with a development permit issued by Council; and
(i) No change in the type or scale of the use will be permitted except in accordance with the development permit.

**(6) Swimming Pool**

A swimming pool shall be permitted as an accessory use, subject to the following:

(a) The swimming pool shall be located in the rear yard of a residential property;
(b) The swimming pool shall not encroach upon any easements;
(c) The swimming pool shall not be located under any overhead power lines;

(d) The swimming pool shall have a minimum setback of two (2.0) metres from any property boundary; and

(e) The area surrounding the swimming pool and pool deck must be fully enclosed by a fence (approximately two (2.0) metres in height) to prevent people, especially children, from unauthorized access to the pool area.

**(7) Subsidiary Apartments**

A subsidiary apartment will be subject to the following:

(a) The subsidiary apartment will be clearly secondary to the single unit residential dwelling or a permitted commercial use;

(b) Only one subsidiary apartment type will be permitted in a single unit residential dwelling or a single commercial building;

(c) The subsidiary apartment will be completely self-contained, with facilities for cooking, sleeping and bathing; and,

(d) The subsidiary apartment will be limited in floor area size to a maximum of 35% of floor area size of the single unit residential dwelling or the applicable commercial building.

**(8) Wind Turbines**

Commercial wind turbines shall not be permitted in the Mixed Use (MIX) zone.

# ZONE TITLE: PUBLIC USE (PU)

## PU USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Conservation, Cultural and Civic, Educational, General Assembly, Medical Treatment and Special Care, Place of Worship, Recreational Open Space<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Cemetery, Child Care, Club and Lodge (lodges only), Funeral Home, Indoor Assembly, Outdoor Assembly, Private Wind Turbine<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies; and, Section 3.4.5: Public Use.

## PU DEVELOPMENT STANDARDS

| STANDARDS | All Uses |
|---|---|
| **Min. Front Yard (m)** | 9 |
| **Max. Front Yard (m)** | 32 |
| **Min. Side Yard (m)** | 5 |
| **Min. Rear Yard (m)** | 10 |
| **Max. Lot Coverage (%)** | 40% |
| **Max. Height (m)** | 15 |

**Terms & Conditions**

**(1) Development Criteria**

A development will be subject to the following criteria:

(a) It must meet the minimum development standards or such higher standards as Council may require in the review of individual application submissions in the context of the proposed use and proposed site location;

(b) It must be located and designed to minimize the impact of traffic, noise, lighting, and signage on surrounding residential uses. Where necessary, Council may require screening through the provision of trees, shrubs, berms, landscaping, or fencing;

(c) It must be designed and maintained to a high standards with regard to safety, site design and building appearance, and compatibility with surrounding land uses;

(d) It must provide for adequate off-street parking in accordance with Schedule D;

(e) Permission to develop will be in accordance with a development permit issued by Council; and

(f) No change in the type or scale of the use will be permitted except in accordance with the development permit.

**(2) Wind Turbines - Commercial**

Commercial wind turbines shall not be permitted in the Public Use (PU) zone.

# ZONE TITLE: RECREATIONAL OPEN SPACE (ROS)

## ROS USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Conservation, Recreational Open Space<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Antenna, Catering, General Assembly, Indoor Assembly, Outdoor Assembly, Take-out Food Service, Private Wind Turbine<br><br>(see Schedules A and B for definitions and examples of above Classes) |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies; and Section 3.4.6: Recreation Use.

## ROS DEVELOPMENT STANDARDS

| STANDARDS | All Uses |
|---|---|
| **Min. Front Yard (m)** | 10 |
| **Max. Front Yard (m)** | 32 |
| **Min. Side Yard (m)** | 5 |
| **Min. Rear Yard (m)** | 10 |
| **Max. Height (m)** | 15 |

**Terms & Conditions**

**(1) Development Criteria**

A development will be subject to the following criteria:

(a) It must meet the minimum development standards or such higher standards as Council may require;

(b) It must be located and designed to minimize the impact of traffic, noise, lighting, and signage on surrounding residential uses. Where necessary, Council may require screening through the provision of trees, shrubs, berms, landscaping, or fencing;

(c) It must be designed and maintained to a high standards with regard to safety, appearance, and compatibility with surrounding land uses;

(d) It must provide for adequate off-street parking in accordance with Schedule D;

(e) Permission to develop will be in accordance with a development permit issued by Council; and,

(f) No change in the type or scale of the use will be permitted except in accordance with the development permit.

**(2) Site Layout and Buffering**

Council will ensure that the proposed developments will not adversely affect the natural and scenic quality of surrounding areas by requiring appropriate site layout, buffering, screening and landscaping.

**(3)** Wind Turbines - Commercial

Commercial wind turbines shall not be permitted in the Recreational Open Space (ROS) zone.

# ZONE TITLE: PROTECTED WATERSHED (PW)

## PW USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Conservation<br><br>*(see Schedules A and B for definition and examples of above Class)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Antenna, Forestry, Recreational Open Space<br><br>*(see Schedules A and B for definitions and examples of above Classes)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024**, Section 3.3: General Land Use Policies; and Section 3.4.7: Protected Watershed.

**Terms & Conditions**

**(1)** Development Approval

No development activity shall be undertaken within the designated protected watershed areas without the approval firstly of the Department of Environment and Conservation and then, by Council. Where the Windsor Lake Protected Water Supply Area falls within the Town's boundary, no development activity shall be undertaken without additionally the referral for comment and receipt of approval from the City of St. John's as authority for this watershed. Where the Great Pond Potential Water Supply Area falls within the Town's boundary, no development activity shall be undertaken without the referral to and approval of the Town of Torbay.

**(2) Forestry**

A forestry use which may be considered to be permitted as a discretionary use upon review by the applicable referral municipalities, the Province and by Council, will be limited to activities that are approved and receive applicable permits by external agencies and are deemed to be environmentally acceptable with relation to potential impacts on the existing or proposed municipal drinking water supplies.

**(3) Recreational Open Space**

A recreational open space use, which may be permitted as a discretionary use by Council, will generally be limited to passive recreational development such as hiking trails, picnic areas, lookout platforms or interpretative displays. External agencies will be consulted for any recreational open space proposal for comment, potential requirement considerations and endorsement.

**(4) Wind Turbines**

Commercial and private wind turbines shall not be permitted in the Protected Watershed (PW) zone.

# ZONE TITLE: AGRICULTURE (AG)

## AG USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Agriculture, Conservation<br><br>*(see Schedules A and B for definition and examples of above Class)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Animal, Antenna, Forestry, Outdoor Market, Mineral Working, Recreational Open Space, Single Dwelling (only on Town controlled lands), Private and Commercial Wind Turbines<br><br>*(see Schedules A and B for definition and examples of above Class)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024** Section 3.3: General Land Use Policies; and Section 3.4.8: Agriculture.

**Terms & Conditions**

**(1) Agricultural Lands**

Within the Town of Portugal Cove-St. Philip's Planning Area, designated and zoned agricultural lands include Agricultural Development Areas (ADA) managed by the Province, and non-ADA agricultural lands controlled by the Town. All proposed development on such lands shall occur in the following manner:

(a) All proposed development for Agricultural Development Area lands shall be referred to the Province.
(b) Council shall review and consider proposed development for Town controlled agricultural lands.

**(2) Buffer Areas**

(a) Depending on the vegetation characteristics, topography, and other natural conditions of the site, potential discretionary use consideration of single dwelling development on Town controlled agricultural lands shall be limited to infilling on existing street frontages and to the rounding out of existing development within the existing neighbourhood;
(b) A seller of land within the agricultural buffer areas must issue a notice to prospective purchasers concerning the existence and nature of existing and potential confinement operations in the buffer area.

**(3) Development Criteria**

A development, where approved, will be subject to the following criteria:

(a) It must meet the terms and conditions of the zone, and the minimum development standards applicable to the use;

(b) It must be located and designed to minimize the impact on existing agricultural uses, and effects of traffic, noise, lighting, and signage on surrounding residential uses. Where necessary, Council may require screening and varied landscape treatments through the provision of trees, shrubs, berms, or fencing;

(c) It must be designed and maintained to a high standards with regard to safety, appearance, and compatibility with surrounding land uses;

(d) It must provide for adequate off-street parking in accordance with Schedule D;

(e) Permission to develop will be in accordance with an approval received from the Province for ADA lands and a development permit issued by Council, and approval of Council for non-ADA lands; and

(f) No change in the type or scale of the use will be permitted except in accordance with the development permit.

**(4) Minimum Distance Separations for Commercial Livestock Facilities**

(a) New development and expansions of livestock facilities, including intensive poultry operations, located near residential and other non-agricultural uses will be subject to the minimum separation distance requirements specified in Regulation 45 of these Development Regulations;

(b) New development and expansions of residential and other non-agricultural uses located near livestock facilities will be subject to the minimum separation distance requirements specified in Regulation 45 of the Development Regulations.

**(5) Single Dwellings**

**A. Agricultural Development Areas**

(a) No single residential dwelling shall be permitted on Agricultural Development Area lands unless the proposal for the single dwelling has been approved by the Land Development Authority under the St. John's Urban Region Agriculture Development Area and provided for within the Town's Municipal Plan and Development Regulations.

**B. Dwellings Subsidiary to a Main Use**

At Council's discretion, a single dwelling may be permitted on Town controlled agricultural lands as a subsidiary use to a commercial agricultural operation, horse boarding stable, or kennel, subject to the following:

(a) It is clearly demonstrated to Council that the operation is a bona fide farm, horse boarding, or commercial kennel operation from which the owner derives a major portion of his or her income,

(b) It is clearly demonstrated to Council that full-time habitation on the site is necessary for the successful operation of the agricultural operation, horse boarding stable, or kennel, and

(c) The dwelling must have a minimum floor area of 65m² and a minimum building line setback of 10.0 metres.

**C. Dwellings not Subsidiary to a Main Use**

At Council's discretion, a single dwelling, unrelated to a commercial agricultural operation, horse boarding stable, or kennel, may be permitted on Town controlled lands:

(a) Only if Council is satisfied that it will not have an adverse impact on existing agricultural operations or future agricultural development of the surrounding area,

(b) Only if the proposed lot fronts directly on an existing public street, and

(c) Only if it meets the same standards for single dwellings as specified for the Residential Rural zone.

### (6) Small Livestock Facilities – Lot Size and Setback

A. No new livestock facility, planned to accommodate ten animal units or less, shall be developed except in accordance with the following lot and setback standards:

| **Small Livestock Facilities<br>AG Development Standards** | | |
|---|---|---|
| **Animal Units (AU)** | **Minimum Lot Size** | **Minimum Setback from all Lot Lines** |
| **(a) one (1) or less AU rabbits, ducks, chickens, turkeys and geese** | 0.4 hectares | 18m |
| **(b) two (2) or less AU of all species other than in (a)** | 1 hectare | 30m |
| **(c) > two (2) to four (4) AU of all species** | 2 hectares | 50m |
| **(d) > four (4) to six (6) AU of all species** | 3 hectares | 70m |
| **(e) > six (6) to eight (8) AU of all species** | 4 hectares | 85m |
| **(f) > eight (8) to ten (10) AU of all species** | 5 hectares | 100m |
| **Note: see definition of Animal Unit (AU) in Schedule A** | | |
| **See Regulation 45 for development standards of livestock facilities containing more than ten (10) AU** | | |

### (7) Wind Turbines – Private and Commercial

Where permitted at the discretion of Council, the development of a private and/or a commercial wind turbine (see definition in Schedule A) shall meet applicable Federal and Provincial regulatory requirements, in particular those applying to safety and environmental concerns, and to Regulation 71 of these Development Regulations, as well as to all potential additional terms and conditions that may be required by Council upon their review of a proposal, and upon evaluation of the site and

neighbourhood character and nearby existing land uses, as part of discretionary use approval consideration.

**(8) Forestry**

A forestry use, which may be considered to be permitted as a discretionary use upon review by the Province and by Council, will be limited to activities that are approved and receive applicable permits by external agencies and are deemed to be environmentally acceptable with relation to potential impacts on the existing agricultural operations

# ZONE TITLE: RURAL (RUR)

## RUR USE CLASSIFICATIONS

| |
|---|
| **Permitted Use Classes**<br>(see Regulation 101)<br><br>Agriculture, Conservation, Forestry, Recreational Open Space<br><br>*(see Schedules A and B for definition and examples of above Class)* |
| **Discretionary Use Classes**<br>(see Regulation 33 and 102)<br><br>Animal, Antenna, Cemetery, Commercial Residential (tourist cottage only), General Industry (resource-based only), Light Industry (resource-based only), Mineral Working, Outdoor Assembly, Single Dwelling, Veterinary, Private and Commercial Wind Turbines<br><br>*(see Schedules A and B for definition and examples of above Class)* |

Refer to **Town of Portugal Cove-St. Philip's Municipal Plan 2014-2024**, Section 3.3: General Land Use Policies; and Section 3.4.9: Rural.

**Terms & Conditions**

**(1) Animal**

The establishment of a new kennel in the RUR zone will be subject to the following:

(a) It will be permitted only on a lot of one (1.0) hectare or more; and

(b) It must adhere to such other terms and conditions set by Council aimed at minimizing or mitigating potential noise or other impacts on neighbouring land uses.

**(2) Development Criteria**

A development will be subject to the following criteria:

(a) It must meet the terms and conditions of the zone and adhere to the minimum development standards for the proposed use;

(b) It must be located and designed to minimize the impact of traffic, noise, dust, lighting, and signage on surrounding rural uses. Where necessary, Council may require screening through the retention and provision of trees, shrubs, berms, landscaping, or fencing, and for resource uses, potential limitation on hours of operation;

(c) It must be designed and maintained to a high standard with regard to environmental impacts, safety, appearance, and compatibility with surrounding land uses;

(d) Permission to develop will be in accordance with a development permit issued by Council; and

(e) No change in the type or scale of the use will be permitted except in accordance with a development permit.

**(3) Mineral Working Uses**

**3.1 Mineral Working Sites**

A mineral working use will be subject to the following, unless otherwise required by the Department of Environment and Conservation of Province of NL and authorized by Council:

(a) No new mineral working operation will be developed without the required approvals from the Province of NL and a development permit issued by Council. The development, operation, termination, and rehabilitation of the mineral working site will only be carried out in accordance with terms and conditions specified in the development permit. The development permit will be revoked if the operator does not comply with the terms and conditions of the development permit;

(b) No extraction will take place in a wetland;

(c) No extraction will take place within 50.0 metres of high water mark of a watercourse or wetland;

(d) No extraction will take place within 50.0 metres of a public street or highway;

(e) No extraction will take place within 200.0 metres of a residential, commercial, or public building, or the boundary of any of the following zones:

i. Residential Medium Density
ii. Residential Low Density
iii. Residential Rural
iv. Residential Development Scheme Area
v. Traditional Community
vi. Mixed Use
vii. Public Use

(f) An undisturbed buffer strip will be maintained at least 30.0 metres wide between the final perimeter of a pit or quarry and the boundary of the lot on which it is located. Council may permit this buffer width to be reduced by up to 50% with the written consent of the adjacent property owner;

(g) Topsoil removed prior to extraction will be appropriately stockpiled for future rehabilitation of the site;

(h) Where a proposed mineral working site is located in the vicinity of a public street or highway, or an existing or proposed residential, commercial, or recreational area, Council

will require the owner to provide for natural or artificial screening to obstruct visibility of the site;

(i) No mineral working shall create excessive drainage or erosion onto adjacent properties or into nearby watercourses. An access road to a mineral working site shall be ditched, bridged, and culverted in accordance with the regulations of the Department of Environment and Conservation;

(j) No mineral working activity shall cause the accumulation or ponding of water in any part of the site. Settling ponds will only be permitted with approval from the Department of Environment and Conservation;

(k) The mineral working site shall be kept clean of refuse, abandoned vehicles, abandoned equipment and derelict buildings;

(l) During seasonal or other extended periods of shutdown, the slope of any sand or gravel embankment shall not have a gradient steeper than 60% for the full depth thereof; and

(m) Other such conditions as Council considers necessary upon detailed review of the proposal and the proposed site location.

### 3.2 Mineral Working Processing Plant

A. Council, at its discretion, may permit a mineral working processing plant (e.g. washing and screening plant, crusher) provided that the use will not significantly affect surrounding land uses by reason of noise, vibration, fumes, dust, odour, water drainage, unsightly storage of materials, or general appearance.

B. Council may specify a minimum separation distance between a processing plant and an existing residential, commercial, public, or recreational area.

### 3.3 Site Rehabilitation

A. A development application for a new mineral working site will not be approved unless it includes an acceptable plan for site reclamation and rehabilitation;

B. Council will require the reclamation and rehabilitation work to be implemented either after the termination of the mineral working operation or at progressive stages of excavation;

C. Upon full completion of the mineral working, the following work shall be carried out by the operation:

(a) All buildings, machinery and equipment shall be removed;

(b) All pit and quarry banks shall be graded to a slope of less than 60 percent;

(c) The entire excavated area will be rehabilitated in accordance with the reclamation and rehabilitation plan;

(d) The access road to the site will be decommissioned or barricaded to the satisfaction of Council.

**(4) Minimum Distance Separations for Commercial Livestock Facilities**

A. New development and expansions of livestock facilities located near residential and other non-agricultural uses will be subject to the minimum separation distance requirements specified in Regulation 45 of the Development Regulations.

B. New development and expansions of residential and other non-agricultural uses located near livestock facilities will be subject to the minimum separation distance requirements specified in Regulation 45 of the Development Regulations.

**(5) Single Dwellings**

**A. Subsidiary Dwelling**

At Council's discretion, a single dwelling may be permitted as a subsidiary use to a commercial agricultural operation, horse boarding stable, or kennel, subject to the following:

(a) It is clearly demonstrated to Council that the operation is a bona fide farm, horse boarding, or commercial kennel operation from which the owner derives a major portion of his or her income;

(b) It is clearly demonstrated to Council that full-time habitation on the site is necessary for the successful operation of the agricultural operation, horse boarding stable, or kennel; and

(c) The dwelling must have a minimum floor area of 65 $m^2$ and a minimum building line setback of 10 metres.

B. Single Dwelling Not Subsidiary to a Main Use

Council may consider single dwellings as a discretionary use within the Rural designated areas where the proposed dwelling is not subsidiary to a primary use, based upon the following indicative criterion:

(a) The single dwelling development cannot be located on lands with potential for forestry, agriculture, mineral extraction, conservation and recreation, or within protected water supply areas;

(b) The proposed site for single dwelling development is not environmentally sensitive, and the site can accommodate the development with minimal impact on the natural landscape;

(c) The site has adequate soil conditions and groundwater supply; and,

(d) The single dwelling development is not intended for seasonal residential or cottage use.

(e) Only if Council is satisfied that it will not have an adverse impact on existing or future development of the surrounding area for uses listed in the Permitted or Discretionary Use Classes;

(f) Only if the proposed lot fronts directly on an existing public street, and

(g) Only if it meets the same standards for single dwellings as specified for the Residential Rural zone.

**(Development Regulations Amendment No. 2, 2015)**

**(6) Small Livestock Facilities – Lot Size and Setback**

A. No new livestock facility, planned to accommodate ten animal units or less, shall be developed except in accordance with the following lot and setback standards:

| **Small Livestock Facilities<br>RUR Development Standards** | | |
|---|---|---|
| **Animal Units (AU)** | **Minimum Lot Size** | **Minimum Setback from all Lot Lines** |
| **(a) one (1) or less AU rabbits, ducks, chickens, turkeys and geese** | 0.4 hectares | 18m |
| **(b) two (2) or less AU of all species other than in (a)** | 1 hectare | 30m |
| **(c) > two (2) to four (4) AU of all species** | 2 hectares | 50m |
| **(d) > four (4) to six (6) AU of all species** | 3 hectares | 70m |
| **(e) > six (6) to eight (8) AU of all species** | 4 hectares | 85m |
| **(f) > eight (8) to ten (10) AU of all species** | 5 hectares | 100m |
| **Note: see definition of Animal Unit (AU) in Schedule A** | | |
| **See Regulation 45 for development standards of livestock facilities containing more than ten (10) AU** | | |

**(7) Wind Turbines – Private and Commercial**

Where permitted at the discretion of Council, the development of a private and/or a commercial wind turbine (refer to definition in Schedule A) shall meet applicable Federal and Provincial regulatory requirements, in particular those applying to safety and environmental concerns, and to Regulation 70 of these Development Regulations, as well as to all potential additional terms and conditions that may be required by Council upon their review of a proposal, and upon evaluation of the site and neighbourhood character and nearby existing land uses, as part of discretionary use approval consideration.

**(8)Forestry**

A forestry use, which is a permitted use within the Rural zone, will be limited to activities that are approved and receive applicable permits by external agencies and are deemed to be environmentally acceptable with relation to potential impacts on the existing agricultural operations, environmentally sensitive and existing residential neighbourhoods.

# 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. Other requirements for parking spaces are outlined within Regulation 51, Part II – General Development Standards of these Development Regulations.

(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 | One space for every 50 square metres of gross floor areas. |
| | | (b) General Assembly | One space for every 10 square metres of gross floor area. |
| | | (c) Educational | Schools - 2 spaces for every class room.<br>Further education - 1 space for every 5 persons using the facilities (students, faculty and staff). |
| | | (d) Place of Worship | One space for every 5 seats. |
| | | (e) Passenger Assembly | As specified by Council 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. |
| | | (h) Funeral Home | One space for every 10 square metres of gross floor area. |
| | | (i) Child Care | One space for every 20 square metres of gross floor area. |
| | | (j) Amusement | One space for every 10 square metres of gross floor area. |
| | **3** | (a) Indoor Assembly | One space for every 10 spectators that may be accommodated at one time. |
| | **4** | (a) Outdoor Assembly | As specified by Council upon detailed review of Outdoor Assembly proposal. |
| **B** | **1** | (a) Penal and Correctional Detention | One space per 100 square metres of gross floor area |
| **C** | **1** | (a) Medical Treatment and Special Care | One space for every 20 square metres of gross floor area. |
| | **2** | (a) Single Dwelling | Two spaces for every dwelling unit. |
| | | (b) Double Dwelling | Two spaces for every dwelling unit. |
| | | (c) Townhouse Dwelling | Two spaces for every dwelling unit. |
| | | (d) Apartment Building | Three spaces for every 2-dwelling units. |
| | | (e) Subsidiary Apartment | One space for every apartment unit or granny suite. |

| | | | |
|---|---|---|---|
| **C (ctd)** | **3 (ctd)** | (a) Boarding House Residential | One space for every residential unit. |
| | | (b) Commercial Residential | One space for every rental room. |
| | | (c) Seasonal Residential | One space for every residential unit. |
| | | (d) Mobile Home | Two spaces for every dwelling unit. |
| **D** | **1** | (a) Office | One space for every 20 square metres of gross floor area. |
| | | (b) Medical and Professional | One space for every 20 square metres of gross floor area. |
| | | (c) Personal Service | One space for every 20 square metres of gross floor area. |
| | | (d) General Service | One space for every 20 square metres of gross floor area. |
| | | (e) Communications | As specified by Council upon detailed review of Communications proposal. |
| | | (f) Home Occupation | One space per non-resident employee plus two spaces for the dwelling unit. |
| | | (g) Taxi Stand | As specified by Council upon detailed review of Taxi Stand proposal |
| | | (h) Take-out Restaurant | One space for every 15 square metres of gross floor area. |
| | | (i) Veterinary | One space for every 20 square metres of gross floor area. |
| **E** | **1** | (a) Shopping Centre | One space for every 20 square metres of gross floor area. |
| | | (b) Shop | One space for every 20 square metres of gross floor area. |
| | | (c) Indoor Market | As specified by Council upon detailed review of Indoor Market proposal. |
| | | (d) Outdoor Market | As specified by Council upon detailed review of Outdoor Market proposal. |
| | | (e) Convenience Stores | One space for every 20 square metres of gross floor area. |
| **F** | **1** | (a) Hazardous Industry | One space for every employee. |
| | **2** | (a) General Industry | One space for every employee. |
| | | (b) Service Station | One space for every 20 square metres of gross floor area. |
| | **3** | (a) Light Industry | One space for every employee. |

# SCHEDULE E - ENVIRONMENTAL PROTECTION OVERLAY

## INTENT

The intent of this Schedule is to preserve the environmental integrity of the Town of Portugal Cove-St. Philip's by defining the necessary terms and conditions to protect environmentally sensitive areas from the negative impacts and influences of development. It is also the intent of this Schedule to provide for a flexible framework and approach that will not interfere with permitted development on land that is deemed not to have environmentally sensitive features.

This Schedule E and its companion Environmental Protection Overlay Map provides Council with additional specific controls over environmental protection by appending the regulations of this Schedule to the Town's Development Regulations. Schedule E allows Council to impose conditions on the use of land related to environmentally sensitive areas without affecting the underlying zone or creating an entirely new zone. This Schedule also provides enhanced flexibility as the environmental map may change without requiring property owners to go through a rezoning process.

All use zones, as defined in Schedule C of the Town's Development Regulations and identified on the Zoning Map, are subject to the terms and conditions of this Schedule. Where any property and lands in an area are designated as environmentally sensitive on the Schedule E: Environmental Protection Overlay Map, the following terms and conditions shall apply:

## ENVIRONMENTAL PROTECTION MAP

The Environmental Protection Overlay Map contained in Schedule E is a GIS-based topographic map and includes the following layers:

(a) A thirty (30.0) metre coastline buffer;
(b) A fifteen (15.0) metre buffer for watercourses showing on 1:50,000 scale mapping;
(c) A thirty (30.0) metre buffer for water bodies showing on 1:50,000 scale mapping;
(d) Steep slopes greater than 25% over a distance of five metres;
(e) Designated Flood Risk Area as defined by the Department of Environment and Conservation and the Town's *Stormwater Management Plan*; and,
(f) Wetlands showing on 1:50,000 scale mapping.

Where there is uncertainty regarding the existence of an environmentally sensitive area, such as a steep slope, watercourse or wetland, field verification by a qualified consultant will be required at the expense of the developer or land owner. If the qualified consultant determines that the size and area extent of

the environmentally sensitive area needs to be adjusted, or that it does not exist, the map will be refined and the land in question will no longer be subject to the appropriate terms and conditions of this Schedule, but shall continue to be subject to the requirements outlined in the appropriate use zone in Schedule C.

When a change to the Environmental Protection Overlay Map is required to reflect field verification that has taken place, Council shall notify the public of the proposed revision through the insertion of a public notification into a local newspaper. The notification shall state the place and time during which the proposed revision can be inspected and provide seven (7) days for the public to provide written feedback on the revision. After considering public comment, Council may choose to pass a motion, by a majority of its members, to adopt the map revision.

**(1) Coastlines**

Where a cliff's edge exists, the 30.0m buffer will be established from the top of cliff ("walkable land"). Where no cliff's edge exists, the 30.0m buffer will be established from the ordinary high water mark of the ocean.

No development shall be permitted within thirty (30.0) metres of the ocean (Conception Bay) with the exception of conservation structures, such as those designed to control flooding and erosion, as well as bridges, pathways and sewer lines. All development occurring within this limit is subject to the approval of the Department of Environment and Conservation, and Council. Where fish habitat may be affected, approval shall also be required by the Federal Department of Fisheries and Oceans.

**(2) Watercourses**

Watercourses include waterways such as creeks, streams and rivers. An environmental buffer of fifteen (15.0) metres from the ordinary high water mark of all watercourses showing on 1:50,000 scale mapping has been established in the Environmental Protection Overlay Map. No development activity shall be undertaken within this buffer without the approval firstly of the Federal Department of Fisheries and Oceans and then, by Council (at its discretion).

**(Development Regulations Amendment No. 2, 2015)**

Where there is uncertainty regarding the existence of a watercourse identified on the Environmental Protection Overlay Map, field verification by a qualified consultant will be required at the expense of the developer. If the qualified consultant determines that the size and area extent of the watercourse needs to be adjusted, or that the watercourse does not exist, the buffer area established in the Environmental Protection Overlay Map will either be refined, or where the sensitive feature does not exist, the buffer

shall not apply, and the land will be subject to the terms and conditions of the use zone indicated on the Land Use Zoning Map.

**(3) Water Bodies**

An environmental buffer of thirty (30.0) metres from the high water mark of water bodies, such as ponds and lakes, showing on 1:50,000 scale mapping has been established in the Environmental Protection Overlay Map.No development activity shall be undertaken within this buffer without the approval firstly of the Federal Department of Fisheries and Oceans and then, by Council (at its discretion).

**(Development Regulations Amendment No. 2, 2015)**

**(4) Steep Slopes**

No buildings, structures or placement or removal of fill will be permitted on any lands designated as Restricted by the St. John's Urban Region Regional Plan, or within ten (10.0) metres of the top or bottom of slopes that exceed twenty-five percent (25) over a distance of five (5.0) or more metres. Areas designated as steep slopes are identified on the Environmental Protection Overlay Map.

In certain cases, Council may use its discretion and may require a development applicant to engage a geotechnical engineer or other qualified consultant to determine and certify whether a steep slope is "minor" in nature and whether it may be graded appropriately and in line with Regulation 70 of the Town's Development Regulations. "Minor" steep slopes are defined as those slopes that are less than one hectare in area. Where a steep slope is not deemed to be "minor," such as slopes that form part of a continuous range of hill tops or coastline that are larger than one hectare in area, no buildings, structures or placement or removal of fill shall be permitted.

**(5) Designated Flood Risk Areas**

The Province has formally identified and mapped areas across Newfoundland and Labrador that are subject to flooding. The Town of Portugal Cove-St. Philip's also identified areas that are subject to flooding in its *Stormwater Management Plan*. The Town's Stormwater Management Plan however does not replace the 1996 Hydrological Study, in that the design of new structures should be based upon flows provided within the 1996 Report until such time that a new Hydrological Study has been undertaken and updated corresponding mapping has been produced.

The Environmental Protection Overlay Map indicates two designated flood risk areas in the Town of Portugal Cove-St. Philip's that represent the areas identified by both the Province and the Town. Any

development activities within these areas should be in accordance with the Department of Environment and Conservation's Policy for Floodplain Management W.R. 96-1 and the *Water Resources Act*.

Areas that are likely to be flooded once in any twenty-year interval are "designated floodways," while areas likely to be flooded once in any hundred-year interval are identified as "floodway fringe" areas.

A 'Floodway' is defined by the Department of Environment and Conservation as that portion of a flood plain where the most frequent flooding occurs, and where the flow of water is fastest. This 'Floodway' area is determined on the basis of the 1 in 20 year (1:20) return flood period.

A 'Floodway Fringe' is defined as the portion of a flood plain where less frequent flooding occurs and where the flow of water is considered to be tranquil. The 'Floodway Fringe' area is determined on the basis of where flooding occurs up to 1 in 100 years (1:100) on average.

A permit is required under Section 48 of the *Water Resources Act* for any activities in or within fifteen (15.0) metres of these Designated Flood Zones.

Development within the Floodway shall be restricted to public uses and public works, and any proposed use of a facility and site will not involve any storage of pollutants such as fuels, chemicals, pesticides, etc.

Development within the Floodway Fringe designation shall meet the following conditions:

(a) The ground floor elevation of the structure is higher than the 1:100 year flood level;
(b) The structure will not interfere with flow of water or displace water such that it creates a worse flooding situation for other properties;
(c) The structure and associated utilities must be designed and constructed in accordance with approved flood proofing guidelines of the Province, and entrances and exits from the building can be safely used without hindrance in the event of a flood; and,
(d) The proposed use of the facility and site will not involve any storage of pollutants such as fuels, chemicals, pesticides, etc.

**(6) Wetlands**

Wetlands, which include bogs, fens, marsh, swamps, and shallow water, perform varied integral ecological functions such as: collect and store runoff, moderate and attenuate downstream flood flows, reduce downstream flooding and erosion, clean and purify water, recharge groundwater zones, and provide unique habitat for plants and animals.

Wetland development means the carrying out of an activity or operation which includes the construction of ditches, mechanical disturbance of the ground, alteration of normal water level fluctuations, infilling, drainage, dredging, channelization, and removal of vegetation cover and/or organic matter on a wetland for social or economic benefits, or the making of any change in the use or the intensity of use of any wetland which affects its hydrologic characteristics or functions.

The Province's Water Resources Act has provisions within Sections 30, 48 and 64 that directly address wetlands. For example, developers and/or property owners must apply under Section 48 of the Water Resources Act for work proposed within wetland areas. The Department of Environment and Conservation additionally has a 'Policy for Development in Wetlands'. The Department promotes avoidance of development within wetland areas and generally does not recommend approval for residential development on wetland areas.

Where Council deems that a proposed development may involve or may affect a wetland, it shall be a policy of Council to, at its discretion:

(a) Require the developer to have the wetland delineated by a qualified consultant and to converse with the Department of Environment and Conservation with regard to the requirements of the Water Resources Act and for compliance with the Policy for Development within a Wetland;
(b) Establish a sufficient buffer from the edge of the wetland in which development will not be permitted as based upon the qualified consultant's recommendations and further as based upon consultation with the Department of Environment and Conservation and with the Water Resources Management Division;
(c) Require other conditions or restrictions to protect the wetland; and/or
(d) Refuse to approve the development if it believes that identified impacts cannot be sufficiently minimized or mitigated.

Where there is uncertainty regarding the existence of a wetland identified on the Environmental Protection Overlay Map, field verification by a qualified consultant will be required at the expense of the developer, and confirmed by the qualified consultant in consultation with the Department of Environment and Conservation, and with the Water Resources Management Division.

If the qualified consultant and the Province determine that the wetland area is non-developable, no development within the wetland shall proceed.

If the qualified consultant and the Province determine that size and area extent of the wetland needs to be adjusted, or that the wetland does not exist, the buffer area established in the Environmental

Protection Overlay Map will either be refined, or where the wetland does not exist, the buffer area shall not apply, and the land will be subject to the terms and conditions of the use zone indicated on the Land Use Zoning Map.