



Zoning and Subdivision Control (Development)  
Bylaw

*Revised July 2016*

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# TOWN OF KENSINGTON ZONING & SUBDIVISION CONTROL (DEVELOPMENT) BYLAW

This Bylaw is made under the authority of the Planning Act, R.S.P.E.I.1988, Cap.4 and the Municipalities Act RSPEI.

BE IT ENACTED by the Council of the Town of Kensington as follows:

## 1. Scope

### 1.1. Title

This Bylaw shall be known and may be cited as the **Town of Kensington Zoning and Subdivision Control Bylaw** or the **Development Bylaw**.

### 1.2. Area Defined

This Bylaw applies to the geographical area within which the Town of Kensington Council has jurisdiction.

### 1.3. Scope

No dwelling, business, trade, or industry shall be located, nor shall any building or structure be erected altered, used or have its use changed, nor shall any land be divided, consolidated or used in the Town of Kensington, except in conformity with this Bylaw and subject to the provisions contained herein.

### 1.4. Authority of Development Officer

Council shall appoint a Development Officer whose duties shall be as provided in this Bylaw. The Development Officer shall have the authority to administer this Bylaw. Notwithstanding the foregoing, the Development Officer shall have the authority to approve or deny development permits in accordance with this Bylaw in all areas except for:

- 1) Commercial
- 2) Institutional
- 3) Industrial
- 4) Multi-Unit Dwelling



## 2. Definitions

For the purpose of this Bylaw, all words shall carry their customary meaning except for those defined hereafter.

### In this Bylaw:

- 2.1 **“Accessory Apartment”** means a dwelling unit either in or added to an existing single detached dwelling, or in an accessory building to a single detached dwelling and is incidental and subordinate to the principal use of the main dwelling.
- 2.2 **“Accessory Building”** means a separate subordinate building, which is used or intended for the better or more convenient enjoyment of the main building to which it is accessory, and located upon the parcel of land upon which such building is or is intended to be erected, and is compatible in design to the main buildings and surrounding structures.
- 2.3 **“Accessory Use”** means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.
- 2.4 **“Administrator”** - means the Chief Administrative Officer and/or Town Manager of the Town of Kensington”
- 2.5 **“Alter”** - means any change in the structural component or physical appearance of a building or any increase in the volume of a building or structure.
- 2.6 **“Attached”** - means a building or structure which has a common wall and/or common roof line and the building or structure may be considered common as long as a minimum of twenty (20) per cent of the length of the wall or roof line is common with the main building or structure wall or roof.
- 2.7 **“Automobile Sales and Service Establishment”** - means a building or part of a building or a clearly defined space on a lot used for the sale and maintenance of used or new automobiles.
- 2.8 **“Automobile Service Station or Service Station”** - means a building or part of a building or a clearly defined space on a lot used for the sale of lubricating oils and/or gasoline and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.

- 2.9 "Automobile Washing Establishment"** - means a building or part thereof used for the operation of automobile washing equipment which is manual, automatic or semi-automatic.
- 2.10 "Bed and Breakfast"** - means an owner occupied single detached dwelling used incidentally to provide accommodation of up to three (3) separate rooms and meals to transient travellers and includes a tourist home but does not include a boarding house, rooming house, domiciliary hostel, group home, hotel, motel, restaurant or lounge.
- 2.11 "Building"** - includes any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal or chattel.
- 2.12 "Building Height"** - means the vertical distance measured from the averaged finished grade to the highest point of roof surface.
- 2.13 "Building Line"** - means any line regulating the position of a building or structure on a lot.
- 2.14 "Business or Professional Office"** - means premises where services are offered for a fee but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.
- 2.15 "Campground"** - means an area of land, managed as a unit, providing short term accommodation for tents, tent trailers, travel trailers, recreational vehicles and campers.
- 2.16 "Child Care Facility"** - means any institution, agency, or place, whether known as a day nursery, nursery school, kindergarten or play school, which receives for temporary care apart from the parents on a daily or hourly basis, with or without stated educational purposes and during part or all of the day, more than three children under seven years of age.
- 2.17 "Club"** - means an association of persons, whether incorporated or not, united by some common interest, meeting periodically for cooperation or conviviality. Club shall also mean, where the context requires, premises owned or occupied by members of such association within which the activities of the club are conducted.
- 2.18 "Community Care Facility"** - means an establishment that provides care services for compensation to five or more residents who are not members of the operator's immediate family but does not, unless otherwise ordered by the Lieutenant Governor in Council, include:
- i) a group home recognized as such by the Minister,
  - ii) a residential school,
  - iii) an establishment providing accommodation only,
  - iv) a hospital,

- v) a correctional institution,
- vi) an addiction treatment facility
- vii) a nursing home, or
- viii) a residential institution

- 2.19 "Commercial"** - means the use of a building or parcel for the purpose of buying and selling goods and supplying services.
- 2.20 "Convenience Store"** - means a retail commercial establishment, not exceeding 1,500 sq. ft. (135 sq. m.) of gross floor area, supplying daily household necessities for the immediate surrounding area in which articles for sale are restricted to a limited range of primarily food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy, meat, and to compliment such items which may include the limited sale of magazines, books, housewares, toiletries, stationary, patent medicines, tobacco products.
- 2.21 "Council"** - means the Council for the Town of Kensington.
- 2.22 "Councillor"** - means any resident who has been duly elected and sworn to office in order that such resident may execute those duties as prescribed by the law.
- 2.23 "Deck"** - means a structure abutting a dwelling with no roof or walls except for visual partitions and railings, which is constructed on piers or a foundation above-grade for use as an outdoor living area.
- 2.24 "Demolition"** - means to remove, pull down or destroy a structure.
- 2.25 "Development"** - means the carrying out of any building, engineering, excavation, dumping, filling or other operations in, on, over or under land, or the making of any material change in the use, or the intensity of use of any land, buildings, or premises without limiting the generality of the foregoing.
- 2.26 "Development Officer"** - means the person charged by the Council with the duty of administering the provisions of this Bylaw.
- 2.27 "Development Permit"** - means the formal and written authorization for a person to carry out any development.
- 2.28 "Display"** - includes any item, group of items, sign, or billboard visible to the general public, indicating that items or services are offered for sale or trade, but does not include Premise Signs of 400 square inches or less.
- 2.29 "Dwelling"** - means a building or portion thereof designated or used for residential occupancy, but does not include hotels and motels.

- i. **"Dwelling Unit"** - means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided.
- ii. **"Single Detached Dwelling"** - means a building designed or used for occupancy as one dwelling unit.
- iii. **"Duplex Dwelling"** - means a building containing two dwelling units each of which has at least two independent entrances.
- iv. **"Multi-Unit Dwelling"** - means a building containing three or more dwelling units.
- v. **"Semi-detached Dwelling"** - means a building divided vertically into two (2) separate units, each of which has at least two independent entrances.
- vi. **"Townhouse Dwelling or Row House Dwelling"** - means a building that is divided vertically into three or more dwelling units, each of which has independent entrances to a front and rear yard immediately abutting the front and rear walls of each dwelling unit

**2.30 "Erect"** - means to build, construct, reconstruct, alter or relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, filling or draining.

**2.31 "Farm" or "Farm Property"** - means arable land, dwelling and complementary buildings containing at least 10 acres, operated as a farm enterprise and includes land leased from the Crown, but does not include land leased or rented from owners who are not bona fide farmers.

**2.32 "Fence"** - means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**2.33 "Floor Area"** - means:

- i. With reference to **"Dwelling"** - the area contained within the outside walls excluding any private garage, porch, veranda, sunroom, greenhouse, unfinished attic, unfinished basement, and other rooms not habitable at all seasons of the year.
- ii. With reference to **"Commercial Building"** - the total usable floor area within a building used for commercial purposes excluding washrooms, furnace rooms and common halls between stores.
- iii. With reference to **"Accessory Building"** - the area contained within the outside walls.

**2.34 "Frontage"** - means the horizontal distance between the side lot lines bordering on a street and according to the direction of the front of the dwelling or structure.

- 2.35 "Grade"** - means the lowest point of elevation of the finished surface of the ground, paving or sidewalks within the area between the building and the property line or when the property line is more than five (5) ft. (1.5 m.) from the building, between the building and a line five (5) ft. (1.5 m.) from the building.
- 2.36 "Highway, Road or Street"** - means all the area within the boundary lines of every road, street or right-of-way which is vested in the Province of Prince Edward Island or the municipality and used or intended for use by the general public for the passage of vehicles and includes any bridge over which any such road, street or right-of-way passes.
- 2.37 "Home Occupation"** - means an accessory use of a dwelling for gainful employment involving the provision or sale of goods and /or services.
- 2.38 "Hotel"** - means a building other than a motel occupied or intended to be occupied as the temporary lodging place for any individual for a fee.
- 2.39 "Industrial"** - means premises in or from which goods or materials are manufactured, processed, assembled or extracted or premises from which wholesale trade is carried on including warehousing.
- 2.40 "Institutional"** - means premises, other than retail or industrial, used for community services and includes:
- i. Cemeteries
  - ii. churches, places of worship and religious institutions
  - iii. colleges, universities and non-commercial schools
  - iv. community centres
  - v. golf courses
  - vi. government offices
  - vii. community care facilities, and nursing homes
  - viii. hospitals
  - ix. libraries, museums and art galleries
  - x. public and private parks
  - xi. public and private recreational centres
  - xii. public and private schools
  - xiii. experimental farms
  - xiv. child care facilities.
- 2.41 "Landscaping"** - means any combination of trees, shrubs, flowers, grass, other horticultural elements, paving, or other architectural elements, all of which are designed to enhance the visual amenity of a property.

- 2.42 "Loading Space"** - means an unencumbered area of land provided and maintained upon the same lot or lots upon which the principal use is located and which area is provided for the temporary parking of one (1) commercial motor vehicle while merchandise or materials are being loaded or unloaded, and such parking space shall not be for the purpose of sale or display.
- 2.43 "Lot or Property"** - means any parcel of land described in a deed or as shown in a registered subdivision plan.
- i. "Lot Area" - means the total area included within the lot lines.
  - ii. "Corner Lot" - means a lot situated at an intersection of and abutting on two or more streets.
  - iii. "Flankage Lot Line" - means the side lot line which abuts the street on a corner lot.
  - iv. "Front Lot Line" - means the lot line abutting the street upon which the building or structure erected or to be erected has its principal entrance.
  - v. "Interior Lot" - means a lot other than a corner lot.
  - vi. "Lot Depth" - means the depth from the front lot line to the rear lot line.
  - vii. "Lot Line" - means any boundary of a lot.
  - viii. "Rear Lot Line" - means the lot line further from and opposite to the front lot line.
  - ix. "Side Lot Line" - means a lot line other than a front, rear or flankage lot line.
  - x. "Through Lot" - means a lot bounded on two opposite sides by streets.
- 2.44 "Lot Consolidation"** - means the legal incorporation of two or more existing parcels of land to form a single, larger parcel.
- 2.45 "Lounge"** - means a commercial facility or structure licensed to sell alcoholic beverages to the public.
- 2.46 "Main Building"** - means that building, the nature of the use of which determines the status of the lot upon which it is authorized to be constructed or upon which it is constructed.
- 2.47 "Mini-Home"** - means a pre-manufactured dwelling unit having an average width of less than 20 feet, not including appurtenances such as porches, entries, etc. and certified under the Z240 provisions of the Canadian Standards Association (CSA).
- 2.48 "Modular Home"** - means a pre-manufactured dwelling unit having an average width of 20 ft. or more, not including appurtenances such as porches, entries, et al.
- 2.49 "Motel"** - means a building occupied in whole or in part as a temporary lodging place for an individual and for which there is an exit for any room or suite of rooms directly to the outdoors with access to grade level.

- 2.50 "Nursing Home"** - means a building, part of building, or group of buildings in which, for a fee, charge or reward, direct or indirect, there are housed patients requiring or receiving active treatment for, or convalescing from, or being rehabilitated after illness or injury, but does not include a public hospital, mental hospital, tuberculosis hospital or sanatorium.
- 2.51 "Obnoxious Use"** - means a use which, when judged by reasonable community standards, from its nature or operation creates a nuisance or is offensive by the creation of noise or vibration or by reason of the emission of gases, fumes, dust, and any objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material.
- 2.52 "Open Space"** - means that portion of a lot which may be used for landscaping, recreational space or leisure activities normally carried on outdoors; but does not include space used for service drive-ways or off-street parking.
- 2.53 "Owner"** - means a part owner, a joint owner, tenant in common or joint tenant of the whole or any part of any land or building and includes a trustee, and executor, and executrix, a guardian, and agent, or mortgage in possession or other person having the care or control of any land or building in the event of the absence or disability of the person having the title thereof.
- 2.54 "Parking Space"** - means an area of land which is suitable for the parking of a vehicle accessible to vehicles without the need to move other vehicles on adjacent areas.
- 2.55 "Personal Service Shop"** - means a building in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons (including but not limited to: barbershop, hairdressing shops, beauty parlours, shoe repair, laundromats, tailoring, etc.)
- 2.56 "Person"** includes an individual, association, firm, partnership, corporation, trust, incorporated company, organization, trustee, or agent and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.
- 2.57 "Phase"** - means to develop a parcel of land over time in a series of prescribed stages; or one of such stages.
- 2.58 "Private Garage"** - means a building or part thereof which is used for the sheltering of private motor vehicles and storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

- 2.59 "Premise Sign"** - means a sign that directs attention to a business, commodity, service, industry, or other activity, which is sold, offered, or conducted on the lot upon which such sign is located, or to which it is affixed.
- 2.60 "Public Park or Parkland"** - means land owned by the Town or some other level of government used or intended for use by members of the public.
- 2.61 "Recreational Trailer or Vehicle"** - means a vehicle which provides sleeping and other facilities for short periods of time, while travelling or vacationing, designed to be towed behind a motor vehicle, or self-propelled, and includes such vehicles commonly known as travel trailers, camper trailers, pick-up coaches, motorized campers, motorized homes, recreation vehicles or other similar vehicles.
- 2.62 "Restaurant"** - means buildings or structures or part thereof where food and drink is prepared and offered for sale to the public.
- 2.63 "Retail Store"** - means a building or part thereof in which foods, goods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public at retail.
- 2.64 "Service Shop"** - means a building or part thereof used for the sale and repair of household articles and shall include radio, television, and appliance repair shops but shall not include industrial, manufacturing or motor vehicle body repair shops.
- 2.65 "Setback"** - means the distance between the street line and the nearest main wall of any building or structure, except fences, and extending the full width of the lot.
- 2.66 "Sewerage System"** - means a system of pipes for the disposal of sewage controlled by a utility.
- 2.67 "Storey"** - means that portion of a building between any floor and ceiling or roof next above, provided that any portion of a building partly below grade level shall not be deemed a storey unless its ceiling is at least 1.8 m (approximately 6 feet) above grade and provided also that any portion of a building between any floor and ceiling or roof next above exceeding 4.2 m (approximately 14 feet) in height shall be deemed an additional storey.
- 2.68 "Street or Road"** - see Highway.
- 2.69 "Street Line"** - means the boundary of a street.
- 2.70 "Structure"** - means any construction including a building fixed to, supported by or sunk into land or water, but excludes concrete and asphalt paving or similar surfacing and fencing and includes a swimming pool.



- 2.71 "Subdivision"** - means a division, consolidation, or other reconfiguration of lots.
- 2.72 "Swimming Pool"** - means any outdoor structure, basin, chamber, or tank used or which may be used for swimming, diving, or recreational bathing and having a depth of 90 cm (approximately 36 inches) or more at any point or with a surface area exceeding 10 square meters (108 square feet).
- 2.73 "Survey Plan"** - means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island land surveyor.
- 2.74 "Tourist Establishment"** - means any premises operated to provide accommodation for the travelling public or sleeping accommodation for the use of the public engaging in recreational activities, and includes the services and facilities in connection with which sleeping accommodation is provided.
- 2.75 "Town or "Municipality"** - means the area incorporated and known as the Town of Kensington.
- 2.76 "Use"** - means any purpose for which a building or other structure or parcel of land may be designed, arranged, intended, maintained or occupied, and includes any activity, occupation, business or operation carried on or intended to be carried on, in a building or other structure or on a parcel.
- 2.77 "Warehouse"** - means a building used for the storage and distribution of goods, wares, merchandise, substances or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.
- 2.78 "Watercourse"** - has the same meaning as defined in the *Watercourse and Wetland Protection Regulations* prescribed under the *Environmental Protection Act*, as may be amended, and, in the case of any dispute, the final determination shall be made by the provincial government department having responsibility for enforcement of such regulations.
- 2.79 "Wetland"** - has the same meaning as defined in the *Watercourse and Wetland Protection Regulations* prescribed under the *Environmental Protection Act*, as may be amended, and, in the case of any dispute, the final determination shall be made by the provincial government department having responsibility for enforcement of such regulations.
- 2.80 "Yard"** - means an open, uncovered space on a lot pertinent to a building and unoccupied by buildings or structures except as specifically permitted in this Bylaw.
- i. **"Front Yard"** - means a yard extending across the width of a lot between the front lot line and nearest wall of any building or structure on the lot and

"minimum front yard" means the minimum depth of a front yard on a lot between the front lot line and the nearest main wall of any building or structure on the lot.

- ii. **"Rear Yard"** - means a yard extending across the width of a lot between the rear lot line and the nearest wall of any main building or structure on the lot and "minimum rear yard" means the minimum depth of a rear yard on a lot between the rear lot line and the nearest main wall of any main building or structure on the lot.
- iii. **"Side Yard"** - means a yard extending from the front yard to the rear yard of a lot between a side lot line and nearest wall of any building or structure on the lot, and "minimum side yard" means the minimum width of a side yard on a lot between a side lot line and the nearest main wall of any main building or structure on the lot.
- iv. **"Flankage Yard"** - means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flankage lot line and the nearest main wall of any building or structure on the lot.

**2.81 "Zone"** - means a designated area of land shown on the Official Zoning Map of the Bylaw within which land uses are restricted to those specified by this Bylaw

# 3. Development Zones

## 3.1. Development Zones

For the purpose of this Bylaw, the Town is divided into the following development zones, the boundaries of which are subject to section 3.2 as shown in Appendix "A" on the Official Zoning Map. Such zones may be referred to by the appropriate symbols.

### ZONE SYMBOL

<b>Mini Home Court</b>	<b>RM1</b>
<b>Single Residential</b>	<b>R1</b>
<b>Low Density Residential</b>	<b>R2</b>
<b>Multi-Unit Residential</b>	<b>R3</b>
<b>General Commercial</b>	<b>C1</b>
<b>Neighbourhood Commercial</b>	<b>C2</b>
<b>Heritage District</b>	<b>HD</b>
<b>Industrial</b>	<b>M1</b>
<b>Agricultural Reserve</b>	<b>A1</b>
<b>Public Service and Institutional</b>	<b>PS1</b>
<b>Recreation and Open Space</b>	<b>O1</b>
<b>Environmental Reserve</b>	<b>O2</b>

## 3.2. Interpretation of Zone Boundaries

Boundaries between zones as indicated in Appendix "A" shall be determined as follows:

- a) Where a zone boundary is indicated as following a street or highway, the boundary shall be the centre line of such street or highway.
- b) Where a zone boundary is indicated as following lot or property lines, the boundary shall be such lot or property lines.
- c) Where a zone boundary is indicated as following the limits of the Municipality, the limits shall be the boundary.
- d) Where none of the above provisions apply, the zone boundary shall be scaled from the original zoning map lodged with the municipality.

## 3.3. Official Zoning Map

Appendix "A" may be cited as the "Official Zoning Map" and forms a part of this Bylaw.

## 3.4. Certain Words

In this Bylaw, words used in the present tense include the future; words in the singular number include the plural; the word "shall" is mandatory and not permissive; and the word "he" includes "she".

### **3.5. Units of Measure**

All official measurements are in metric. Where imperial measurements are provided they are for information purposes only.

## **4. General Provisions for All Zones**

### **4.1. Development Approval**

- 1) No development or demolition shall be undertaken until an application has been made to the Town and the Development Officer has issued a development permit.
- 2) Notwithstanding section 4.1 (1) for the purpose of this Bylaw:
  - a) laying paving materials for patios, driveways or sidewalks;
  - b) constructing fences of less than 6 feet in height;
  - c) installing clotheslines, poles, and radio or television antennae, except satellite dishes;
  - d) installing inflatable swimming pools or children's play equipment;
  - e) making a garden;
  - f) growing a crop or preparing land for a crop;
  - g) installing public or private utilities within the public Right of Way;
  - h) roofing, shingling or siding;
  - i) repainting;
  - j) chimney maintenance or chimney rebuilding;
  - k) replacement of windows and doors;
  - l) any other development that involves the interior or exterior renovation of a building that will not change the shape, dimensions, footprint and will not add more dwelling units or will not result in a change in use of the building;
  - m) making landscaping improvements or constructing ornamental structures of less than 64 sq. ft.;
  - n) other routine maintenance which has the effect of maintaining or restoring a structure or any of its elements to its original state or condition; shall not be interpreted as changing the use of land or a structure or constructing or replacing a structure and shall not require a permit from Council.

### **4.2. Permit Application**

- 1) Any person applying for a permit shall do so on a form prescribed by Council, and shall submit the application to the Development Officer.
- 2) Every application form shall be signed by the property owner or the property owner's authorized agent, and shall be accompanied by an application fee in accordance with a fee schedule, which the Council shall establish.

### **4.3. Payment of Fees**

Notwithstanding any Section of this Bylaw, development permits are not valid and will not be recognized until the application fee and any other required fees are paid in full and the said permit is acquired by the developer.

#### **4.4. Development Permit**

- 1) A development permit shall be valid for a twelve month period, or such additional time as may be authorized by Council.
- 2) Council may revoke a development permit where information provided on the application is found to be inaccurate.

#### **4.5. Site Plan**

Council may require an applicant to submit a site plan drawn to a convenient scale certifying the agreement of the applicant to develop the site in accordance with the plan. Council may require a site plan including existing and proposed elevations.

#### **4.6. Conditions on Permits**

Council or its agent shall have the authority to impose conditions on a permit subject to such conditions being directly related to or consistent with bylaws of the Town or the Official Plan.

#### **4.7. Development Agreement**

Council may require any applicant to enter into a Development Agreement. This Agreement shall be a contract binding on both parties, containing all conditions which were attached to the building permit. Failure to comply with a Development Agreement shall constitute an offense under this Bylaw.

A development agreement may address but shall not be limited to the following matters:

- a) site design;
- b) the design and construction cost of sidewalks, pathways and other pedestrian access matters;
- c) landscaping and screening;
- d) vehicular accesses and exits;
- e) signage;
- f) security and safety lighting;
- g) architectural harmony;
- h) methods of waste disposal;
- i) fencing; and
- j) any other matters that Council deems necessary to ensure the health, safety and convenience of Community residents and the travelling public.

#### **4.8. Existing Non-conforming Lots**

- 1) Notwithstanding any other provisions of this Bylaw:
  - a) a vacant lot held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum width, depth or area required, may be used for a purpose permitted in the zone in which the lot is located and a building may be erected on the lot provided that all other applicable provisions in this Bylaw are satisfied;

- b) a lot containing a structure and held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum frontage, depth or area required by this Bylaw, may be used for a purpose permitted in the zone in which the lot is located, and a development permit may be issued provided that all other applicable provisions in this Bylaw are satisfied; and
  - c) no person who owns a lot held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum frontage, depth or area required by this Bylaw, shall be deprived of the ability to make reasonable use of the lot in accordance with the zone in which it is located, and where such a person makes application for a development permit, Council may:
    - i) waive rear yard, front yard or side yard setback requirements to an extent that is reasonable and feasible and does not compromise safety, convenience or the aesthetic character of the neighbourhood and may issue a permit; or
    - ii) apply procedures set out in this Bylaw for the handling of variances if the variance from the required rear yard, front yard or side yard setback is substantial.
- 2) Council may approve an increase in the area of any undersized lot notwithstanding that it may still have less than the minimum frontage, depth or area required by this bylaw, provided that this increase does not further reduce an adjacent lot which may be below the standard set out in this Bylaw.

#### **4.9. Non-conforming Buildings**

Where a building has been erected on or before the effective date of this Bylaw on a lot having less than the minimum frontage or area, or having less than the minimum setback or side yard or rear yard required by this Bylaw, the building may be enlarged, reconstructed, repaired or renovated provided that:

- a) the enlargement, reconstruction, repair or renovation does not further reduce the front yard or side yard or rear yard which does not conform to this bylaw; and,
- b) all other applicable provisions of this Bylaw are satisfied.

#### **4.10. Non-conforming Uses**

- 1) Subject to the provisions of this Bylaw, a building or structure, or use of land, buildings or structures lawfully in existence on the effective date of approval of this Bylaw may continue to exist.
- 2) A building or structure shall be deemed to exist on the effective date of approval of this Bylaw if:
  - a) it was lawfully under construction; or
  - b) the permit for its construction was in force and effect, but this clause shall not apply unless the construction is commenced within six (6) months after the date of the issue of the permit and is completed in conformity with the permit within a reasonable time;

- 3) No structural alterations that would increase the exterior dimensions, except as required by statute or bylaw, shall be made to a building or structure while a non-conforming use thereof is continued.
- 4) Notwithstanding subsection (3) above, nothing in this Bylaw shall apply to prevent the alteration and/or extension of a single detached dwelling existing at the date of passing of this Bylaw in any non-residential zone provided that the number of dwelling units is not increased and provided further that such alteration does not contravene any of the provisions of this Bylaw for such use in a residential zone.
- 5) If a building which does not conform to provisions of this Bylaw is destroyed by a fire or otherwise to an extent of fifty per cent (50%) or more of the assessed value of the building above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of this Bylaw, except if the building or repair work would not be detrimental, in the opinion of Council, to the convenience, health or safety of residents in the vicinity or the general public.
- 6) Any change of tenants or occupants of any premises or building shall not of itself be deemed to affect the use of the premises or building for the purposes of this Bylaw.
- 7) A non-conforming use of land, buildings or structures shall not be permitted if it has been discontinued for a period of twelve (12) months consecutively, and in such event, the land, building or structure shall not thereafter be used except in conformity with this Bylaw.
- 8) No intensification of use or increase in business volumes or activity levels shall be made while a non-conforming use of land, buildings or structures is being continued.
- 9) No increase in the area occupied by the non-conforming use shall occur while a non-conforming use is being continued.

#### **4.11. Lot Frontage**

- 1) If a parcel of land in any zone is of such configuration that it cannot reasonably be subdivided in such a way to provide the required minimum frontage on a street, the Council may approve a reduced frontage, provided that the lot width at the building line measures at least as much as the minimum lot frontage for the zone.
- 2) In any zone, lots designed with a reduced frontage along a bend in a street or facing a cul-de-sac, may be approved by Council if in the opinion of Council adequate and safe access is provided and if the lot width at the building line measures at least as much as the minimum lot frontage for the zone.

#### **4.12. Other Information**

Council may require an applicant to submit any additional information related to the development, which it deems pertinent, including but not limited to the following:

- a) parking lot layout and internal circulation patterns;
- b) location of garbage containers and description of any screening or fencing;
- c) storm water management plan;
- d) location of open space and amenity areas;
- e) landscaping plan;



- f) buffer zones adjacent to wetland areas or watercourses;
- g) existing vegetation;
- h) easements/right of way;
- i) proposed storage areas and description of any screening or fencing;
- j) traffic impact studies
- k) survey plan
- l) elevation plan.

#### **4.13. Access**

- 1) No development permit shall be issued unless the lot or parcel of land intended to be used or upon which the building or structure is to be erected abuts and fronts upon a street or road.
- 2) Notwithstanding Section 4.13 (1) above, Council may approve a development permit for a residential or commercial structure which fronts on a private right-of-way, provided that the following criteria are met:
  - a) no reasonable provision can be made to provide access to a public street,
  - b) safe ingress and egress from the lot can be provided,
  - c) an agreement is registered in the P.E.I. Registry Office, binding on all land owners abutting or fronting on the private right-of-way providing for the long term ownership and maintenance of the right-of-way, such agreement shall be binding on all heirs, successors and assigns of the current property owners.

#### **4.14. Driveway Access**

- 1) Driveway access for a through lot may be provided to either or both streets but in no case shall a driveway continue from one street to the other.
- 2) A driveway access to:
  - a) a local street shall be a minimum of 15 metres (50 ft.) from a street intersection;
  - b) a collector street shall be a minimum of 25 metres (80 ft.) from a street intersection;
  - c) an arterial street shall be a minimum of 30 metres (100 ft.) from a street intersection.
- 3) A lot fronting on a collector or arterial street shall be limited to one driveway access point for every 30 metres (100 ft.) of street frontage or portion thereof.
- 4) Where an entranceway permit is required under the *Roads Act Highway Access Regulations*, its issuance shall be a precondition of the approval of a subdivision or development permit.
- 5) No person shall construct or use any access driveway except where that access driveway meets the minimum sight distance standards as established under the *Planning Act*, the *Roads Act*, or any successor act.

#### **4.15. Development Restrictions**

Council shall issue a development permit for a development if, in the opinion of Council:

- a) the proposed development does not conform to this Bylaw;

- b) the method of water supply is not appropriate;
- c) the method of sanitary waste disposal is not appropriate;
- d) the proposed location of structures, water and sewer lines does not hinder future development options
- e) there is not a safe and efficient access to the public highway, street, or road;
- f) the impact of the proposed development would be detrimental to the environment;
- g) the proposed development would create unsafe traffic conditions;
- h) the proposed development would significantly or permanently injure neighbouring properties by reason of architectural disharmony;
- i) the proposed development would be detrimental to the convenience, health, or safety of residents in the vicinity or the general public; or
- j) the proposed development could injure or damage neighbouring property or other property in the Town due to water drainage or other water run-off damage.

#### **4.16. Main Building**

Except in an R1 or R2 zone, more than one (1) main building may be placed on a lot in any zone, provided all other provisions of this Bylaw are met.

#### **4.17. Accessibility**

Council may, as a condition of granting a development permit, require the applicant to design and develop a structure or provide such facilities as necessary to permit access to the building or structure by physically challenged persons.

#### **4.18. Mixed Use**

Where any land or building is used for more than one (1) purpose, all provisions of this Bylaw relating to each use shall be satisfied.

#### **4.19. Yards**

Except for accessory buildings, every part of any yard required by this Bylaw shall be open and unobstructed by any structure from the ground to the sky.

#### **4.20. Construction Plans**

Council may require the applicant to submit a Construction Plan for the development addressing such details as construction phasing, stockpiling of soil, temporary screening or fencing, erosion or run-off control measures, heavy truck access and any other item which could in the opinion of Council present a nuisance or hazard during construction.

#### **4.21. Permits And Compliance With Other Bylaws**

- 1) Nothing in this Bylaw shall exempt any person from complying with the requirements of any other Bylaw of the municipality or from obtaining any license, permission, authority, or approval required by any other Bylaw of the municipality or any legislation or regulation of the Province of Prince Edward Island or the Government of Canada.
- 2) Where the provisions of this Bylaw conflict with those of any other Bylaw of the

municipality or regulation of the Province or the Government of Canada, the higher or more stringent provision shall prevail.

#### **4.22. Site Work**

No person shall carry out any site work in any zone which, when judged by reasonable community living standards, can be considered improper activity such as to create a nuisance, hardship or other inconvenience to persons in the vicinity.

#### **4.23. Authorization for Inspection**

An application for a development permit shall constitute authorization for inspection of the building or land in question by an officer or agent of the Town for the purpose of ensuring compliance with the provisions of this Bylaw.

#### **4.24. Accessory Structures**

- 1) Accessory uses, buildings and structures shall be permitted on any lot but shall not:
  - a) be used for human habitation except where a dwelling is a permitted accessory use;
  - b) be located within the front yard or flanking side yard of a lot;
  - c) be built closer than three (3.0') feet (0.9 m.) to any lot line;
  - d) except in an industrial zone, commercial zone or on a farm property exceed fifteen (15.0') feet (4 m.) in height above grade, unless a special permit has been issued by Council allowing a greater height in order to achieve architectural harmony with the main building or within the neighbourhood;
  - e) except in an industrial zone, commercial zone or on a farm property exceed 50% of the total floor area of the main building on the lot;
  - f) be built within seven (7) ft. of the main building on the lot;
  - g) exceed a maximum of two (2) buildings per property.
- 2) All accessory buildings shall be included in the calculation of maximum lot coverage as described in the Lot Requirements for the applicable zone. Satellite dishes, wind turbines or similar structures greater than 3 feet in diameter shall not be erected in any zone in the Town unless a special permit has been issued by Council.
- 3) Notwithstanding the above provisions, Council may issue a special development permit for an accessory structure located within the front yard or flanking side yard of a lot, where Council is satisfied the structure will be architecturally compatible with adjacent structures and no permanent injury would be caused to adjoining properties, subject to such conditions as Council may impose.

#### **4.25. Accessory Apartments**

One (1) accessory apartment may be constructed within any existing single detached dwelling OR in an accessory building to a single detached dwelling, if the owner of the dwelling, upon written application to the Council, satisfies the Council that all applicable provisions of the By-law have been met.

- a) Accessory apartments are permitted within the main building or in an accessory building but in any case shall be incidental and subordinate to the main use;
- b) Accessory apartments shall not contain more than 2 bedrooms;
- c) that adequate off street parking will be provided in addition to the parking space requirements for the main building, in accordance with the parking regulations of this By-law and in the side or rear yard of the building. Parking will not be permitted in the front yard.
- d) that all other provisions of this By-law remain applicable to the dwelling and Council may require such changes to the exterior of the dwelling as may be necessary to ensure compliance with this By-law, whether in connection with the construction of the accessory apartment.
- e) that any water and sewer upgrades must be reviewed and approved by the Town prior to any construction.
- f) where the accessory apartment is to be located in a detached building or within an accessory building to the single detached dwelling, the following provisions shall apply:
  - i. the accessory apartment must be connected to the water supply and sewerage disposal system of the main building;
  - ii. In the case of connection with an on-site water supply and sewerage disposal system, the intensification of use and necessary upgrades to the system(s) must be approved by the responsible provincial government department;
  - iii. The accessory apartment meets the requirements of the provincial Fire Marshal's Office;
  - iv. In addition to the development standards for an accessory building as outlined in Section 4.24, the side yard and rear yard setbacks for an accessory building containing an accessory apartment shall be at least as wide as the minimum side yard and rear yard setbacks as required for the main building.
- g) A mini home is not permitted to be used as an accessory apartment unless otherwise permitted in this by-law.

#### **4.26. Permits Posted**

All permits shall be posted by the developer in a location easily visible for viewing.

#### **4.27. Moving of Buildings**

No building shall be moved within or into the area covered by this Bylaw without a development permit and such other permits as may be required by law.

#### **4.28. Height Regulations**

The height regulations of this Bylaw shall not apply to church spires, water tanks, flag poles, lighting standards, television or radio antennae, ventilators, skylights, chimneys, clock towers, wind turbine towers or utility poles.

#### **4.29. Intersection Triangle**

When, in the opinion of the Town Council and/or Town safety officials it is considered necessary from a safety, health or other justifiable concern, on a corner lot, a fence, sign, hedge, shrub, bush or tree or any other structure or vegetation shall not be erected or permitted to grow to a height greater than two feet above grade of the streets which abut the lot within the triangular area indicated by the street boundary lines for a distance of 20' (6 m.) from their point of intersection.

#### **4.30. Permitted Uses In All Zones**

The following uses are permitted in all zones:

- a) Temporary construction facilities such sheds, scaffolds and equipment incidental to building on the premises for so long as work is in progress or for a maximum period of six (6) months, whichever is the shorter period.
- b) Public and private utility buildings and structures which are considered by Council to be necessary and appropriate to the municipality.

#### **4.31. Construct In Accordance With Application**

Any person who has been granted a development permit shall agree to develop in accordance with the information given on the prescribed application form and the conditions laid down by the development permit or development agreement and shall comply therewith.

#### **4.32. Denying Permits**

- 1) No development permit shall be issued if the proposed development could create a hazard to the general public or any resident of the municipality or could injure or damage neighbouring property or other property in the municipality, such injury or damage to include but not be limited to water, drainage or other water run-off damage.
- 2) No development permit shall be issued if the proposed development could create a health, fire or accident hazard or increase the likelihood of the existence of rodents, vermin, or other pests.

#### **4.33. Underground Petroleum Storage Tanks**

Underground Petroleum Storage Tanks shall require a development permit before installation may proceed. In processing such application, the Town shall refer the application initially to the government authority having jurisdiction for these facilities whereupon such application will be processed in accordance with applicable regulations. The Town will not issue a permit to the Developer until it has received written approval from the appropriate authority. However, the written approval of the latter shall not alone be conclusive of the right to have a permit issued hereunder.

#### **4.34. Outdoor Swimming Pools**

The installation of a swimming pool shall be permitted in any zone in accordance with the following provisions:

- a) The land owner shall first secure a Development Permit from Council;
- b) A 6 ft.(1.8 m.)fence or enclosure shall be constructed in such a manner so as to impede unauthorized persons from entering over or under said fence. Such fence shall be aesthetically presentable and preference will be given to wood type fences;
- c) Any gate on such fence shall be capable of being locked;
- d) Disposal of water after de-chlorination shall be either through the sanitary sewer system or carried off by truck unless otherwise authorized by Council; and
- e) The Developer shall agree that other reasonable initiatives regarding maintenance and safety which are reasonable and prudent shall be carried out either at the initiative of the Developer or the Council.

#### **4.35. Surveys Required**

Where the Development Officer is unable to determine whether the proposed development conforms to this Bylaw, the Development Officer may require that the plans submitted be based upon a survey certified and stamped by a Licensed Land Surveyor.

#### **4.36. Special Requirements For Semi-detached, Row or Town House Dwellings**

- 1) No semi-detached, row or town house dwelling shall be erected in a manner which will not permit subdivision into individual units pursuant to subsection (2).
- 2) Semi-detached and row or townhouse dwellings may be divided independently for individual sale and ownership provided that:
  - a) a subdivision of the parcel of land has been approved by Council (such subdivision to provide for appropriate easements or common area to allow entry by an owner of any portion of the building to his back yard area);
  - b) the units must be separated from the basement floor to the underside of the roof in accordance with the National Building Code and Fire Code regulations;
  - c) a separate water and sewer service is provided for each unit in accordance with policies governing water supply and sewerage services for the Town;
  - d) a separate electrical service is provided for each unit;
  - e) a separate heating device is provided for each unit;
  - f) separate parking is provided unless Council waives same;
  - g) a copy of any legal agreement made between the owners covering the following terms is registered on the title of each unit:
    - i) common walls
    - ii) maintenance
    - iii) fire insurance
    - iv) easements
    - v) parking
    - vi) snow removal and

- vii) any other items jointly owned or used.
- viii) any other terms and conditions as shall be imposed by Council.

#### **4.37. Grade of Site**

No permanent building shall be erected or placed without first providing existing and proposed grade elevations relative to the adjoining property, and to the public right of way, as well as showing the pattern and allowing for surface water run off on the lot so as not to cause damage or water run off onto adjacent lots.

#### **4.38. Landscaping**

- 1) The provision and maintenance of adequate landscape buffering and/or appropriate fencing shall be required to the satisfaction of the Council between residential zones and new commercial, industrial or other land uses characterized by significant traffic generation, the heavy use of trucks, noise, outdoor storage, congregations of people other factors that may adversely affect adjacent residential amenity;
- 2) The provision and maintenance of adequate landscaping shall be required for new development to the satisfaction of the Development Officer;
- 3) Where a C1, C2 or an M1 Zone abuts a Residential Zone along a side and/or rear lot line, a strip of not less than fifteen (15') ft. (4.5 m.) in width along the said side and/or rear lot shall be landscaped to the satisfaction of the Development Officer as part of the development for which a building permit has been granted.

#### **4.39. Petroleum Storage**

- 1) Underground gasoline storage facilities shall not be permitted in any residential zone;
- 2) The storage of gasoline on a residential lot shall be limited to 50 litres (13 gallons); and
- 3) All home heat tanks shall be installed according to the regulations listed in the "Environmental Protection Act Home Heat Tanks Regulations"

#### **4.40. Home Occupations**

A home occupation is a permitted use in a single detached dwelling subject to the following:

- a) Commercial uses permitted as home occupations include:
  - i. Domestic and household arts (dressmaking and tailoring, hairdressing; instruction or tutoring, arts and crafts, weaving, painting, sculpture, and repair of garden or household ornaments, personal effects or toys);
  - ii. Business or professional offices
- b) the dwelling shall be occupied as a residence by the principal operator and the external appearance of the dwelling shall not be changed by the business use.
- c) there shall be no more than two non-resident assistants employed in the business.
- d) not more than 25% of the total floor area of the dwelling shall be occupied by the business.
- e) adequate off-street parking, in accordance with this Bylaw, separate from that

required for the dwelling, shall be provided.

- f) there shall be no open storage or display area.
- g) premise signs shall be restricted to a maximum of 400 square inches in total.
- h) domestic and household arts shall include:
  - i) Dressmaking and tailoring
  - ii) Hairdressing
  - iii) Instruction or tutoring
  - iv) Arts and crafts, weaving, painting, sculpture, and repair of garden or household ornaments, personal effects or toys.

#### **4.41. Maximum Lot Coverage**

Maximum lot coverage shall be determined as the percentage of the lot covered by the main building, attached or detached garage and any accessory buildings.

#### **4.42. Recreational Trailers or Vehicles**

No person shall use or occupy a Recreational Trailer or Vehicle other than in an approved Campground, for a period in excess of two full weeks, unless Council has issued a temporary permit for such use.

#### **4.43. Mini Homes**

Mini Homes shall not be permitted to be located within the municipality, other than in a designated Mini Home Park.

#### **4.44. Bed and Breakfast**

Bed and breakfast establishments shall be permitted to operate in any single detached dwelling in any residential Zone subject to the following:

- a) the dwelling shall be occupied as a residence by the principal operator and the external appearance of the dwelling shall not be changed by the bed and breakfast operation;
- b) not more than three (3) rooms shall be offered for overnight accommodation;
- c) adequate off-street parking, in accordance with this Bylaw, separate from that required for the dwelling, shall be provided. This requirement may be waived where Council deems there is adequate on-street or off-street parking capacity in the area.
- d) premise signs shall be restricted to a maximum of 900 square inches;
- e) notwithstanding 4.45 (b), Council may allow a larger number of rooms, where it is deemed that such a development is appropriate and there would be no significant inconvenience or nuisance to adjoining properties.



# 5. Parking Requirements

## 5.1. Preamble

For every building to be erected, placed, used or enlarged, there shall be provided and maintained off-street parking on the same lot to the extent, at least, prescribed in this Section.

## 5.2. Parking Requirements

<i>Primary Type of Building</i>		<i>Minimum Requirement</i>
Single Detached Dwelling, Duplex, Semi-detached or Accessory Apartment		2 parking spaces/unit
Multi-Unit Dwelling (with 3 or more units)		1.5 parking spaces/unit
Hotel, Motel or other Tourist Establishment		1 parking space per guest/room or rental unit and 1 parking space for each 23 sq. m. (250) sq. ft.) of floor area devoted for public use (e.g.) banquet rooms, lounge)
Auditoriums, churches, halls, libraries, museums, theatres, arenas, private clubs or recreation	<i>Fixed Seating</i>	1 parking space for every four (4) other places of assembly seats
	<i>No Fixed Seating</i>	Based on the Fire Marshall's seating capacity rating.
Hospitals and Nursing Homes		0.75 parking spaces/bed
Community Care Facilities		1.0 parking space/dwelling unit
Elementary School		1.5 parking spaces per teaching classroom and 1 parking space for each six seats of seating capacity in the auditorium.
Funeral Home	<i>Fixed Seating</i>	1 parking space per four seats of seating capacity
	<i>No Fixed Seating</i>	Seat count will be based on the Fire Marshall's rating of seating capacity.
Business and Professional Offices, Service and Personal Service Shops		1 parking space per 28.0 sq. meters (300 sq. feet) of floor area.
Automobile Dealership		1 parking space per 4.65 sq. meters (50sq. ft.) of floor area
Shopping Centre (Indoor Mall)		1 parking space per 18.6 sq. meters (200sq. feet) of gross floor area.
Restaurant or Lounge		1 parking space per four seats of seating capacity
Other Commercial/Retail Stores		1 parking space per 14 sq. meters (150 sq. ft.) of floor area
Industrial		1 parking space per 28 sq. meters (300sq. ft.) of floor area or 1 parking space per employee, whichever is greater.
Secondary Schools, Colleges		As determined by Council

### **5.3. Additional Parking Spaces**

Additional parking spaces may be required, if in the opinion of Council the spaces required under Section 5.2 will not meet anticipated parking requirements.

### **5.4. Other Requirements**

Where parking facilities are required or permitted:

- 1) The parking area shall be maintained with a stable surface;
- 2) The lights used for illumination of the parking lot or parking station shall be so arranged as to divert the light away from the streets, adjacent lots and buildings;
- 3) A structure not more than ten ft.(10') (3 m.) in height and not more than fifty (50) sq. ft. (4.6 sq. m.) in area may be erected in the parking area for the use of attendants;
- 4) The parking area shall be within three hundred ft.(300') ( 91.4 m.) of the location which it is intended to serve and shall be situated in the same zone;
- 5) When the parking area is of a permanent hard surfacing, each parking space shall be clearly demarcated with painted lines and maintained on the parking lot;
- 6) A parking space shall consist of an area of not less than two hundred (200) sq. ft. 18.6 sq. m.) measuring ten (10) ft. ( 3 m.) by twenty (20) ft.(6 m.), exclusive of driveways and aisles, unless otherwise authorized by Council;
- 7) Entrances and exits to parking areas shall not exceed a width of thirty ft.(30') (9 m.) at the street line and edge of pavement; and
- 8) The width of a driveway leading to a parking or loading area, or of a driveway or aisle in a parking area, shall be a minimum width of ten ft. (10') (3 m.) for one-way traffic, and a minimum width of twenty ft. (20') (6 m.) for two-way traffic.

### **5.5. Loading Zones**

- 1) In any commercial or industrial zone, no person shall erect or use any building or structure for manufacturing, storage, warehouse, department store, retail store, wholesale store, market, freight or passenger terminal, hotel, hospital, mortuary or other uses involving the frequent shipping, loading or unloading of persons, animals, or goods, unless there is maintained on the same premises with every such building, structure or use one (1) off-street space for standing, loading and unloading for every thirty thousand (30,000) sq. ft. (2,790 sq. m.) or fraction thereof of building floor area used for any such purpose;
- 2) Each loading space shall be at least twelve feet (12') ( 3.6 m.) wide with a minimum of fourteen ft. (14') (4.25 m.) height clearance.
- 3) The provision of a loading space for any building with less than fifteen hundred (1500) sq. ft. (139.5 sq. m.) shall be optional.
- 4) No such loading spaces shall be located within any required front yard or be located within any yard which abuts a residential or open space zone, unless in the opinion of Council adequate screening is provided.

## **5.6. Waiver of Commercial Parking Requirements**

- 1) Notwithstanding the provisions of Section 5, above, or other provisions of this Bylaw, Council may through a development agreement waive or reduce the parking requirements in a commercial or industrial zone in return for parking fees or other considerations as approved by Council, such as arrangements for shared parking or bicycle parking, which will further the objectives and policies of the Official Plan in relation to development in the Town.
- 2) In rendering its decision, Council shall give consideration to the following:
  - a) availability of parking in the proximity of the proposed development
  - b) the extent to which the proposed development contributes toward the objectives and policies of the Official Plan
  - c) estimated traffic generation of the proposed development.

## 6. Mini-Home Court Zone (RM1)

### 6.1. General

- 1) Except as provided by this Bylaw, all buildings and structures or parts thereof erected, placed or altered or any land used in a RM1 Zone shall conform with the provisions of this Section.
- 2) Any mini-home to be located in the zone shall be located in a mini-home court and no person shall locate a mini-home in this zone without first obtaining a permit from the Council.
- 3) No person shall establish or make an extension to a mini-home court without first submitting a detailed plan to the Council and receiving a written notice of approval from Council.
- 4) Council may approve a new mini-home court, or any extension to an existing mini-home court if the new facility will provide a suitable residential environment which meets the mini-home court standards set out in these bylaws.
- 5) In any new mini-home court or an expansion of a mini-home court, a minimum of 10 percent of the total land being used shall be designated for open space and playground purposes.

### 6.2. Permitted Uses

Mini-Homes
Single detached Dwellings in conformance with the R1 lot and structure standards
Accessory Buildings
Utility Buildings
Parks

### 6.3. Lot Requirements

Minimum lot/site area	4,000 sq. ft. (360 sq. m.)
Minimum lot/site width at building line	40 feet (12 m.)
Minimum length	100 feet (30 m.)
Minimum front yard depth	17 feet (5 m.)
Minimum side yard depth	10 feet (3 m.)
Minimum rear yard depth	20 feet (6 m.)
Maximum building height	1 storey (14 feet, 4.2 m.)
Maximum lot/site coverage including main building and accessory buildings	35%

### 6.4. Other Requirements

- 1) mini-home court grounds, facilities, outdoor furnishings, and equipment shall be in good repair and sanitary condition;

- 2) a mini-home court shall have an operator providing regular supervision;
- 3) sufficient covered receptacles shall be used for garbage, refuse, recyclables and liquid wastes, and removal of wastes shall be done at regular intervals.
- 4) all areas shall be free of litter, rubbish, and inflammable material;
- 5) all lots/sites shall be served by a piped common water and sewage disposal system, and each mini-home shall be connected to the system;
- 6) each site shall have access on a continuous right-of-way which is not less than 25 feet (7.5 m.)wide, and is connected to a public road; each lot shall have access to a public road;
- 7) the travelled portion of a right-of-way shall be surfaced with a minimum width of 20 feet (6 m.) of pavement;
- 8) a playground or other recreational park shall be provided in every mini-home court, based on a minimum of 400 square feet (36 sq. m.) for each lot, and located in such a way as to provide convenient access from all parts of the court;
- 9) each lot/site shall be provided with a paved driveway connecting with the paved right-of-way or road; and
- 10) all lands within the mini-home court shall be landscaped in such a way as to provide adequate storm water run-off and to provide a suitable residential environment.

# 7. Single Residential Zone (R1)

## 7.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in an R1 Zone shall conform with the provisions of this Section.

## 7.2. Permitted Uses

<b>Single detached Dwellings</b>
<b>Parks and Playgrounds</b>
<b>Accessory Buildings</b>
<b>Private Garages</b>
<b>Bed and Breakfasts</b>

## 7.3. Special Permit Uses

Notwithstanding Section 7.2 above, Council may issue a special development permit for the following uses where it deems the development is appropriate, all other relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:

- 1) Group homes
- 2) Child care facilities
- 3) Inns or Bed and Breakfasts with over 3 bedrooms

## 7.4. Servicing

All developments in an R1 Zone shall be serviced by municipal sewer services and municipal water supply where services exist.

## 7.5. Lot Requirements

1)

<b>Minimum lot area</b>	<b>6,500 sq. ft. (585 sq. m.)</b>
<b>Minimum frontage</b>	<b>65 feet (20 m.)</b>
<b>Minimum front yard</b>	<b>15 feet (4.5 m.)</b>
<b>Minimum rear yard</b>	<b>15 feet (4.5 m.)</b>
<b>Minimum side yard</b>	<b>10 feet (2.3 m.)</b>
<b>Minimum Flankage Yard</b>	<b>15 feet (4.5 m.)</b>
<b>Maximum height of any building</b>	<b>35 feet (10.5 m.)</b>
<b>Minimum floor area</b>	<b>500 sq. ft.</b>
<b>Maximum lot coverage</b>	<b>35%</b>

- 2) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Appendix "B". Notwithstanding the above regulations, within existing approved subdivisions, Council may require that new developments conform to the development standards and development character which has been established, even if these standards exceed the minimum standards stated above.

## 8. Low Density Residential Zone (R2)

### 8.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in an R2 Zone shall conform to the provisions of this Section.

### 8.2. Permitted Uses

<b>Single detached Dwellings</b>
<b>Duplex or Semi-Detached Dwellings</b>
<b>Parks and Playgrounds</b>
<b>Accessory Buildings</b>
<b>Private Garages</b>
<b>Bed and Breakfasts</b>

### 8.3. Special Permit Uses

Notwithstanding Section 8.2 above, Council may issue a special development permit for the following uses where it deems the development is appropriate, the development is physically separated from existing residential development, the development is fully serviced, all other relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:

- 1) Group Homes
- 2) Child Care Facilities
- 3) Inns or Bed and Breakfasts with over 3 bedrooms
- 4) Community Care Facilities

### 8.4. Servicing

All developments in a R2 Zone shall be serviced by municipal sewer services and municipal water supply where services exist.

### 8.5. Lot Requirements

1)

<i>Standard</i>	<i>Single</i>	<i>Duplex or Semi-Detached</i>
Minimum lot area	6,500 sq. ft. (585 sq. m.)	8,000 sq. ft. (720 sq. m.) or fully serviced 4,000 sq. ft. (360 sq. m.) for each unit
Minimum frontage	65 feet (20 m.)	75 ft. (22.5 m.) or 37.5 ft. (12 m.) for each unit
Minimum front yard	15 feet (4.5 m.)	15 feet (4.5 m.)
Minimum rear yard	15 feet (4.5 m.)	15 feet (4.5 m.)



<b>Minimum side yard</b>	<b>10 feet (2.3 m.)</b>	<b>10 feet (3 m.)</b>
<b>Minimum Flankage Yard</b>	<b>15 feet (4.5 m.)</b>	<b>15 feet (4.5 m.)</b>
<b>Maximum height of any building</b>	<b>35 feet (10.5 m.)</b>	<b>35 feet (10.5 m.)</b>
<b>Minimum floor area</b>	<b>500 sq. ft.</b>	<b>500 sq. ft.</b>
<b>Maximum lot coverage</b>	<b>35%</b>	<b>35%</b>

- 2) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Appendix “B”.
- 3) Notwithstanding the above regulations, within existing approved subdivisions, Council may require that new development conform with the development standards and development character which has been established, even if these standards exceed the minimum standards stated above.

## 9. Multi-Unit Residential Zone (R3)

### 9.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in an R3 Zone shall conform with the provisions of this Section.

### 9.2. Permitted Uses

1)

Duplex
Semi-Detached Dwellings
Row or Town House Dwellings up to (8) units
Multi-Unit Dwellings-up to 12 units
Parks and Playgrounds
Accessory Buildings
Private Garages
Bed and Breakfasts
Community Care Facility

- 2) The following conditional uses subject to such terms and conditions as shall be imposed by Council:
- a) **Multi-Unit Dwellings** with over 12 units

### 9.3. Special Permit Uses

The provisions of Section 8.3 shall also apply to an R3 Zone.

### 9.4. Servicing

All developments in an R3 Zone shall be serviced by municipal sewer services and municipal water supply.

## 9.5. Lot requirements

1)

<i>Standard</i>	<i>Duplex or Semi-Detached</i>	<i>Apartments</i>	<i>Row or Townhouse</i>
Minimum lot area	8,000 sq. ft. (720 sq. m.) or fully serviced 4,000 sq. ft. (360 sq. m.) for each unit	6,000 sq. ft. (540 sq. m.) plus 1,000 sq. ft. (90 sq. m.) for each dwelling unit	10,000 sq. ft. (900 sq. m.) for the 1 <sup>st</sup> 3 units plus 3,000 sq. ft. (270 sq. m.) for each additional unit
Minimum frontage	75 feet (22.5 m.) or 37.5 feet (12 m.) for each unit	75 feet (22.5 m.)	100 feet (30 m.) for the 1 <sup>st</sup> 3 units plus 25 feet (7.5 m.) for each additional unit
Minimum front yard	15 feet (4.5 m.)	15 feet (4.5 m.)	15 feet (4.5 m.)
Minimum rear yard	15 feet (4.5 m.)	15 feet (4.5 m.)	15 feet (4.5 m.)
Minimum side yard	10 feet (3 m.)	10 feet (3 m.)	10 feet (3 m.)
Minimum Flankage Yard	15 feet (4.5 m.)	15 feet (4.5 m.)	15 feet (4.5 m.)
Maximum height of any building	35 feet (10.5 m.)	35 feet (10.5 m.)	35 feet (10.5 m.)
Minimum floor area	500 sq. ft.		
Maximum lot coverage	35%	35 %	35%

- 2) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Appendix "B".
- 3) Notwithstanding the above lot requirements, Council may authorize reduced lot requirements where the applicant agrees to provide underground parking.

## 9.6. Minimum Lot Frontage and Yard Requirements

Minimum lot, frontage and yard requirements for Community Care facilities in R-3 Zone shall be the same as those requirements for Row or Townhouse Dwellings.

# 10. General Commercial Zone (C1)

## 10.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a C1 Zone shall conform with the provisions of this Section.

## 10.2. Permitted Uses

<b>Retail Stores</b>
<b>Business and Professional Offices</b>
<b>Service and Personal Service Shops</b>
<b>Banking and Financial Institutions</b>
<b>Restaurants and Lounges</b>
<b>Hotels, Motels or other Tourist Establishments</b>
<b>Entertainment Facilities</b>
<b>Institutional Buildings</b>
<b>Multi-Unit Dwellings</b>
<b>Accessory Buildings</b>
<b>Transient or Temporary Commercial</b>
<b>Funeral Homes</b>
<b>Public Parking Lots or Structures</b>
<b>Other uses deemed by Council to be compatible with the surrounding uses in the zone</b>

## 10.3. Special Permit Uses

Notwithstanding Section 10.2 above, Council may issue a special development permit for the following uses where it deems the development is appropriate, all other relevant provisions of this Bylaw are met and subject to such conditions as Council may impose:

- 1) Child care facilities
- 2) Dwelling units in a commercial building
- 3) Service stations and other activities associated with the automobile trade, except for a scrap yard or body shop.

## 10.4. Servicing

All developments in a C1 zone shall be serviced by municipal sewer and water services.

## 10.5. Lot Requirements

1)

Minimum lot area	6,500 sq. ft. (585 sq. m.)
Minimum frontage	65 feet (20 m.)
Minimum front yard	15 feet (4.5 m.) (if no parking is provided in front of building) or: the average of the front yard setbacks of the adjacent buildings, where their setback is less than 15 feet (4.5 m.)
Minimum rear yard	15 feet (4.5 m.)
Minimum side yard	10 feet (2.3 m.)
Minimum Flankage Yard	15 feet (4.5 m.) (if no parking is provided in front of building) or: the average of the front yard setbacks of the adjacent buildings, where their setback is less than 15 feet (4.5 m.)
Maximum height of any building	35 feet (10.5 m.)

- 2) Multi-Unit Residential developments shall conform to Section 9.5 `Lot Requirements for R3 Zone.
- 3) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Appendix "B".

## 10.6. Fire-Rated Buildings

In a General Commercial (C1) Zone, where a building or structure is approved by the Fire Marshall or certified under the National Building Code to have an appropriate fire-rated barrier, such building or structure may be permitted by Council to be located on the side lot line or rear lot line.

## 10.7. Special Requirements- Commercial Zones Adjacent To Residential Zones

- 1) Where a Commercial Development located on lands zoned General Commercial (C1) directly abuts on any residential zone, the following conditions shall be complied with:
  - a) a strip of land not less than 15 ft. (4.5 m.) in width along the lot line within the C1 Zone and adjacent to the residential zone shall be maintained clear of any structure, driveway or parking area and shall be adequately landscaped to provide a visual buffer
  - b) any exterior lighting or illuminated sign shall be so arranged as to deflect light away from the adjacent residential zone; and
  - c) outdoor storage shall be prohibited adjacent to a residential zone unless it is

hidden from view by means of a landscaped buffer hedge of adequate size or architectural screening such as a wall, fence or other appropriate structure.

- 2) Notwithstanding any other provisions of this Bylaw, Council may, for special cause, authorize variances from the provisions of these regulations within the Commercial zone in regards to lot area and width, and front, side and rear yard minimum depth. Such variances to be granted only where:
  - a) Council deems no inconvenience or nuisance for neighbouring properties would be created,
  - b) the variance is desirable or necessary in keeping with the present development of the Commercial zone, and,
  - c) all other provisions of this Bylaw are met including the approval of the Fire Marshal where appropriate.

### **10.8. Dwellings in Commercial Buildings**

Where a dwelling unit is provided in connection with a commercial use the following minimum standards shall apply:

- a) the dwelling unit is not above a restaurant, lounge, automobile service station, dry cleaning establishment or repair shop storing explosive materials;
- b) separate entrances serve the dwelling unit;
- c) for each dwelling unit, 400 sq. ft. (47 sq. m.) of landscaped open area and 1.0 parking space are provided;
- d) each dwelling unit meets the requirements of the Provincial Fire Marshall;
- e) the floor area in residential use is a minimum of four hundred (400) sq. ft. and does not exceed the commercial floor area.

### **10.9. Transient or Temporary Commercial Permits**

Notwithstanding any other provision of this Bylaw, temporary permits may be issued for a transient-type Commercial operation subject to compliance with the following:

- a) the development shall not result in any traffic hazard;
- b) the development shall not interfere with the parking requirements of permanent users of the lot in which the development will be located;
- c) the development shall not create a public nuisance;
- d) the temporary permit shall not exceed a twenty (20) week period;
- e) the applicant shall provide a letter of support from the owner of the lot on which the temporary development will be situated;
- f) where required, the applicant shall satisfy Council that such development complies with all health regulations.

### **10.10. Automobile Service Station**

- 1) Notwithstanding any other provisions of this Bylaw, the following special provisions shall apply to an Automobile Service Station:
  - a) Minimum Lot Frontage 150 feet (45 m.)
  - b) Minimum Pump Setback 20 feet (6 m.)

- c) Minimum Pump Distance from access or egress 30 feet (9 m.)
  - d) Minimum Width of Driveway 25 feet (7.5 m.)
- 2) Where the service station includes an automobile washing facility, all washing operations shall be carried on inside the building.

**10.11. Multi-Unit Dwellings**

The number of dwelling units in a Multi-Unit dwelling in a commercial zone shall not exceed twenty-four (24) units.

**10.12. Parking in Front of Buildings**

Where parking is provided in front of any building in a C1 Zone a five foot (5') (1.5 m.) landscaped buffer shall be provided between the parking area and the street boundary.

# 11. Neighbourhood Commercial Zone (C2)

## 11.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a C2 Zone shall conform with the provisions of this section.

## 11.2. Permitted Uses

Convenience Stores of no greater than 139 sq. m. (1,500 square feet)
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Business and Professional Offices
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Service and Personal Service Shops
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## 11.3. Lot Requirements

The lot requirements as delineated in section 10.5 of this Bylaw shall also apply in a C2 Zone.

## 11.4. Special Requirements- Commercial Zones Adjacent to Residential Zones

The special requirements as delineated in section 10.7 of this Bylaw also apply in a C2 Zone.



## **12. Heritage District Zone (HD)**

### **12.1. General**

In the Heritage District (HD) Zone, which functions as an overlay zone, the following provisions shall apply, in addition to the standard provisions which apply to the underlying zone.

### **12.2. Special Requirements- Building Facades**

Any existing building within the Heritage District (HD) Zone having been constructed during the period prior to 1940, and still having, in the opinion of Council, a facade reflecting the architectural style of the time period it was constructed, shall retain such facade. Where such facade is in need of exterior renovation, replacement or repair, said facade shall be replaced or repaired in the original style of the building. Detailed renovation or repair plans shall be submitted to Council and shall receive Council's approval prior to the commencement of any renovation or repair.

### **12.3. New Buildings/Building Conversions**

- 1) All new buildings constructed within the Heritage District Zone, or any other building within the zone being converted to a commercial use, shall adopt an "early 20<sup>th</sup> Century" (1900-1940 or earlier) architectural theme for the building's facade, which shall in the opinion of Council be in keeping with the "early 20<sup>th</sup> Century" facades of other buildings within the zone. Building location shall also be subject to the approval of Council and shall be compatible with adjacent structures and with a streetscape approved by Council.
- 2) Any developer wishing to construct a building or convert a building to a commercial use with a Heritage District (HD) Zone, shall be required to enter into a development agreement with Council.

### **12.4. Building Demolition or Moving**

No building or structure within a Heritage District (HD) Zone shall be demolished or moved without the prior approval of Council. Council shall not grant permission for the demolition or moving of "period" structures unless the developer can present an overwhelming case that renovation or repair of the structure is not feasible or in the public interest.

# 13. Industrial Zone (M1)

## 13.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a M1 Zone shall conform with the provisions of this Section.

## 13.2. Permitted Uses

1)

<b>Manufacturing and Assembly</b>
<b>Warehousing</b>
<b>Transport Operations</b>
<b>Activities connected with the Automobile Trade other than a scrap yard</b>
<b>Wholesale Operations</b>
<b>Business and Professional Offices</b>
<b>Service Shops</b>
<b>Commercial uses accessory to a main use permitted in an M1 Zone</b>
<b>Restaurants and Cafeterias</b>
<b>Farm Machinery and Heavy Equipment Dealerships and Repair Shops</b>
<b>Accessory Buildings</b>
<b>Food Processing</b>
<b>Marine or shipping related activities</b>
<b>Activities related to the fishery</b>
<b>Activities related to agriculture</b>

2) Notwithstanding the foregoing, any use which is deemed by Council to be obnoxious by reason of sound, odor, dust, fumes, smoke shall be denied approval.

## 13.3. Special Permit Uses

Notwithstanding Section 12.2 above, Council may issue a special development permit for the following uses where it deems the development is appropriate, all other relevant provisions of this Bylaw are met and subject to such conditions as Council may impose:

- 1) Storage of Sand and Aggregate
- 2) Concrete plants
- 3) Building supply dealership

## 13.4. Lot Requirements

1)

Minimum lot area	15,000 sq. ft. (1,350 sq. m.)
Minimum frontage	100 feet (30 m.)
Minimum front yard	25 feet (7.5 m.)
Minimum rear yard	25 feet (7.5 m.)
Minimum side yard	15 feet (4.5 m.)
Minimum Flankage Yard	25 feet (7.5 m.)
Maximum height of any building	35 feet (10.5 m.)

2) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Appendix “B”.

## 13.5. Exceptions to Maximum Building Height

Notwithstanding Section 12.3 and the location of public and private utilities, Council may approve an application for a structure exceeding the Maximum Building height of 35 feet in the Industrial (M1) Zone provided:

- a) The applicant is willing to enter into a development agreement with Council.
- b) The structure conforms to all relevant provisions of this Bylaw and other applicable fire and building codes.
- c) The proposed height of the structure is physically necessary for the manufacturing processes which will be carried out in the facility, and
- d) The proposed height of the structure would not exceed 30 metres or would not exceed 20 metres where the structure is within 100 metres of an existing dwelling.

## 13.6. Special Requirements- Industrial Zone Adjacent to Residential Zones

The special requirements as delineated in Section 10.7 of this Bylaw also apply in a M1 Zone.

## 13.7. Servicing

All developments in the M1 Zone shall be serviced by municipal sewer services and municipal water supply.

## 13.8. Environmental Impact Assessment

Where a proposed industry may occasionally have heavy usage of Town roads, sewerage or water systems or have a significant environmental impact on the surrounding area, Council may prepare terms of reference for, and require the developer to undertake an Environment Impact Assessment, in conjunction with the Provincial Department responsible for the Environment, prior to consideration of a development permit application by Council.

# 14. Agricultural Reserve Zone (A1)

## 14.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in an A1 Zone shall conform with the provisions of this Section.

## 14.2. Permitted Uses

Single Detached Dwellings
Agriculture
Forestry
Parks and Open Space
Accessory Buildings which in the opinion of Council are clearly incidental to the main use of land
Accessory Buildings for the purpose of human habitation, in connection with a farm

## 14.3. Lot Requirements

1)

Minimum lot area	43,560 sq. ft. (1 acre) (0.4 hectares)
Minimum frontage	150 feet (45 m.)
Minimum front yard	50 feet (15 m.)
Minimum rear yard	25 feet (7.5 m.)
Minimum side yard	15 feet (4.5 m.)
Minimum Flanking Yard	50 feet (15 m.)
Maximum height of any building	35 feet (10.5 m.)

2) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Appendix "B".

## 14.4. Intensive Livestock Operations

- 1) For the purpose of this Section "Intensive Livestock Operation" means a feedlot, piggery, dairy, fox ranch or similar operation, or a building used for the raising of poultry.
- 2) The following minimum separation distances shall apply to all new Intensive Livestock Operations or extensions and to new residential development in the vicinity of an Intensive Livestock Operation:
  - a) Distance from any dwelling on an adjacent property 500 feet (150 m.)
  - b) Distance from Public Road 150 feet (45 m.)
  - c) Distance from any domestic Well 500 feet (150 m.)
  - d) Distance from any watercourse or wetland 300 feet (90 m.)
  - e) Distance from any lot line 50 feet (45 m.)

- 3) Where a new intensive livestock operation is proposed within 1000 feet (305 metres) of an existing residential subdivision Council shall notify the property owners within 1000 feet (305 metres) of the proposed operation and invite their comments.
- 4) All intensive livestock buildings shall have a manure storage facility with a capacity for retention of manure for a period of time for which conditions do not permit spreading.
- 5) Council may consult the Department of Agriculture for manure storage capacities and design standards and shall require the livestock operator to follow these capacity and design requirements.
- 6) The developer shall also be required to undertake an Environmental Impact Assessment in conjunction with the Department of the Environment and provide details of the assessment to Council as part of the application process.

# 15. Recreation and Open Space Zone (O1)

## 15.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a Recreation and Open Space O1 Zone shall conform to the provisions of this Section.

## 15.2. Permitted Uses

Public and Private Parks and Linear Parks
Open Space and Conservation Activities
Golf Courses
Recreational Uses
Pavilions and Band Shells
Recreation Administrative Offices
Parking lots related to the above
Accessory Buildings

## 15.3. Lot Requirements

1)

Minimum lot area	43,560 sq. ft. (1 acre) (0.4 hectares)
Minimum frontage	150 feet (45 m.)
Minimum front yard	50 feet (15 m.)
Minimum rear yard	50 feet (15 m.)
Minimum side yard	25 feet (7.5 m.)
Maximum height of any building	35 feet (10.5 m.)

- 2) Notwithstanding the noted lot requirements, parks may be created, and may be exempt from minimum lot requirements.
- 3) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time as noted in Appendix "B".

# 16. Public Service and Institutional Zone (PS1)

## 16.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a PSI Zone shall conform to the provisions of this Section.

## 16.2. Permitted Uses

### 15.2 PERMITTED USES

Institutional Buildings and Uses
Group Homes
Civic Centres
Accessory Buildings
Public and Private Parks
Recreational Uses
Clubs

## 16.3. Lot Requirements

1)

Minimum lot area	7,500 sq. ft. (675 sq. m.)
Minimum frontage	75 feet (22 m.)
Minimum front yard	15 feet (4.5 m.) (where there is no parking in the Front Yard)
Minimum rear yard	15 feet (4.5 m.)
Minimum side yard	10 feet (3 m.)
Minimum flankage yard	15 feet (4.5 m.)
Maximum height of any building	35 feet (10.5 m.)
Maximum Lot Coverage	75%

2) All lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time as noted in Appendix "B".

## 16.4. Parking in Front Yard

Where parking is provided in front of any building in a PSI Zone, a ten-foot (10') (3 m.) landscaped buffer shall be provided between the parking area and the street boundary.

# 17. Environmental Reserve Zone (02)

## 17.1. General

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a 02 Zone shall conform to the provisions of this Section.

## 17.2. Permitted Uses

Passive recreational uses, such as skiing or hiking
Conservation related activities

## 17.3. Zone Boundaries

The Zone Boundaries shall be interpreted to include all the area defined as either a "wetland" or "watercourse" and in addition shall include the area within seventy-five ft. (75') (23 m.) of a "wetland" or "watercourse".

## 17.4. Zone Requirements

Within a 02 Zone no person shall cut down any trees or disturb the natural ground cover without first submitting a landscape plan to Council documenting all proposed changes to the topography and vegetation and measures to control erosion and siltation.

## 17.5. Water Course and Wetland Buffer

- 1) All subdivisions served with on-site water and sewer systems and which incorporate or are adjacent to wetlands or watercourses shall provide a seventy five (75) foot wide buffer measured from the inland boundary of a wetland or the high water mark up to the watercourse to the nearest lot boundary.
- 2) All subdivisions served with central water and sewage systems and which incorporate or are adjacent to wetlands or watercourses shall provide a thirty-five (35) foot wide buffer measured from the inland boundary of a wetland or the high water mark of the watercourse to the nearest lot boundary.

## 17.6. Setbacks

- 1) No building or structure having a proposed residential, institutional, commercial, or recreational use shall be constructed within seventy-five (75) feet of a watercourse, or wetland measured from the landward boundary of a wetland or the high water mark of a watercourse to the nearest boundary of the watercourse to the nearest exterior part of the building or structure.
- 2) No building or structure having a proposed agricultural or industrial use shall be constructed within one hundred and fifty (150) feet of any watercourse or wetland measured from the landward boundary of a wetland or the high water mark of a watercourse to the nearest exterior part of the building or structure.



- 3) If Council, after consultation with the staff of the Minister responsible for the Environment, determines that the minimum setback required under this section is not sufficient to protect the watercourse from the adverse impact of contaminants discharged lawfully or unlawfully from the proposed buildings or structures, Council, in issuing a development permit, may stipulate that the building or structure be located at some greater fixed distance from the watercourse.
- 4) This section does not apply to buildings or structures used for fishing or bait sheds, aqua-culture operations, boat launches, structures or buildings on a wharf, or wharf structures, but Council, in issuing a development permit, may stipulate that the building or structure be located some fixed distance from the watercourse or wetland.

# 18. Minor Variance

## 18.1. Minor Variance

- 1) Council may authorize a minor variance not exceeding 10% from the provisions of this Bylaw if the variance is desirable and appropriate, and if the general intent and purpose of this Bylaw is maintained.
- 2) Authorization for a minor variance shall be documented and recorded in writing.
- 3) No variance shall be granted where the difficulty experienced is the result of intentional or negligent conduct of the applicant in relation to the property.
- 4) Notwithstanding any other section of this Bylaw, Council may authorize variances in excess of ten (10%) percent variance from the provisions of this Bylaw if Council deems such a variance desirable and appropriate and if such variance is in keeping with the general intent and purpose of this Bylaw.
- 5) Where Council deems that a variance application could have a significant effect on adjacent properties or properties in the general vicinity, Council may require that a public meeting be held.

# 19. Amendments

## 19.1. Application for Amendment

Any person desiring an amendment(s) to the provisions of these Bylaws shall apply to Council, in writing, describing, in detail, the reasons for the desired amendment(s) and requesting Council to consider the proposed amendment(s).

## 19.2. Application for Re-Zoning

- 1) Any application for re-zoning shall be deemed to be an application to amend these Bylaws.
- 2) Any application to re-zone shall include a legal description of and the location of the property/properties to be re-zoned, the name and address of the owners of the property/properties and, if the applicant is not the owner, a statement as to the applicant's interest in the property.

## 19.3. Amendment Fee

- 1) Any application for an amendment shall be made, in writing, along with a non-refundable application fee according to the fee schedule set by Council to the Development Officer.
- 2) If the amount paid by the applicant is not sufficient to cover the costs of notifying affected property owners and other expenses related to the cost of the amendment, the applicant shall pay to the Development Officer the additional amount required, before Council gives final approval to the amendment; or if the amount paid is more than sufficient, the Development Officer shall refund the excess amount.

## 19.4. Notice to Property Owners

- 1) When an application has been received for a re-zoning, the Development Officer shall notify all affected property owners within a five hundred (500) foot (152 metre) radius of the subject property of the application.
- 2) This notification of affected property owners set out in clause (a) shall be in addition to the advertisements for the public hearing, and shall be delivered to all affected property owners at least seven (7) clear days prior to the date fixed for the public meeting.

## 19.5. Council's Review

- 1) Council shall determine whether or not to pursue such an amendment, and before making any decision shall examine the Official Plan to ensure that the proposed amendment will not be contrary to any policy within the Official Plan.
- 2) No amendment shall be made in these Bylaws which would be contrary to any policy of the Official Plan without a review and amendment of the Official Plan in accordance with the requirements of Section 18 (2) of the *Planning Act* (1988).

## **19.6. Public Meeting**

- 1) No amendment shall be made to the provisions of these Bylaws unless Council provides for adequate public notice and a public meeting pursuant to the provisions of the ***Planning Act***.
- 2) At any public meeting called in respect of a proposed amendment(s) to these Bylaws, Council shall preside, the person proposing the amendment or their designate shall describe and defend the proposed amendment, and the opinions of any person shall be heard for consideration by Council.
- 3) Council shall instruct the Development Officer to notify the applicant that the proposed amendment to these Bylaws has been approved or denied. Where a proposed amendment to these Bylaws has been denied by Council, the reasons for the denial shall be stated, in writing to the applicant.
- 4) Council shall not entertain any new application for the same proposed amendment(s) to these Bylaws for a period of one (1) year from the date of previous application of proposed amendment to these Bylaws.

## **20. General Provisions for Subdividing Land**

### **20.1. Subdivision Approval**

- 1) No person shall subdivide one or more lots or any portion of a lot and no person shall consolidate two or more parcels of land until the conditions of this Bylaw have been complied with and the applicant has received final approval from the Council.
- 2) No person shall sell or convey any interest in a lot in a subdivision before Council has issued a stamp of approval for the subdivision in which the lot is situated.

### **20.2. Permission to Subdivide**

No person shall subdivide land within the Town unless the subdivision:

- a) conforms with the requirements of this Bylaw;
- b) is suitable to the topography, physical conditions, soil characteristics, and natural and surface drainage of the land;
- c) will not cause undue flooding or erosion;
- d) has convenient street access;
- e) has adequate utilities and services available or can be conveniently provided with such utilities and services;
- f) will reasonably conform with existing land use in the immediate vicinity;
- g) will provide for safe and convenient traffic flow;
- h) is designed so that lots will have suitable dimensions, shapes, orientation and accessibility;
- i) is suitable to the use for which it is intended, and the future use of adjacent lands; and,
- j) the parcel of land in respect of which the permit is requested has frontage on a public road or a private right-of-way established pursuant to Section 4.11 of this Bylaw.

### **20.3. Changes to Existing Lots**

- 1) No person shall reduce the dimensions or change the use of any lot in an approved subdivision where Council deems these would be a detrimental effect on neighbouring property owners.
- 2) Where an application to subdivide land would change the dimensions or the use of a lot in an existing approved subdivision, Council shall notify all property owners within 500 feet (152 metres) of the boundaries of the lot in writing, informing them of the details of the application and soliciting their comments.

### **20.4. Special Requirements- Agricultural Reserve (A1) Zone**

- 1) Within an Agricultural Reserve (A1) Zone, no person shall be permitted to subdivide from any existing parcel of land more than two (2) lots.
- 2) For the purposes of this Section “existing parcel” shall mean a parcel of land which was

held in separate ownership as of January 25, 1989

- 3) No person shall establish more than one access driveway for each 10 chains (660 feet) of property frontage on a highway.
- 4) Any lots subdivided pursuant to this Section shall conform to the lot requirements for an A1 Zone and all other relevant provisions of this Bylaw.
- 5) Within an Agricultural Reserve (A1) Zone:
  - a) A residential subdivision shall not be permitted within five hundred (500) ft. (150 m.) of an existing intensive livestock operation.
  - b) Where a residential subdivision is proposed, Council shall notify operators of intensive livestock operations within 1,000 ft. (300 m.) and invite their comments.
  - c) Where a new intensive livestock operation is proposed within 1,000 feet of an existing residential subdivision Council shall notify the property owners and invite their comments.

## **20.5. Procedure**

- 1) Any person seeking Council's approval of a subdivision shall first make application for preliminary approval, and shall be required to submit, along with the application, six (6) copies of a preliminary subdivision plan drawn to scale showing:
  - a) the true shape and dimensions of every lot;
  - b) the location of every existing building or structure on the parcel;
  - c) existing and proposed services and utilities;
  - d) proposed widths and locations of all streets;
  - e) location of land proposed for recreation and public open space use; and
  - f) the existing use of the land and all immediately adjacent properties, showing buildings, fields, streams, rivers, swamps, wooded areas and areas subject to flooding or erosion.
- 2) Council may also require the applicant to provide additional information required to assist it in evaluating a proposed subdivision, including, but not limited to:
  - a) a soil test conducted in a manner acceptable to Council;
  - b) contours and spot elevations;
  - c) traffic surveys.
- 3) Council may refuse to approve a subdivision which is un-suitable under the provisions of this Bylaw. In formulating its decision, Council may consult with government officials and private consultants and may conduct a public hearing to consider public opinion.
- 4) Council shall evaluate any proposed subdivision to determine whether appropriate street design standards and lot configurations have been used to promote the development of safe, convenient and pleasant neighbourhoods.

## **20.6. Parkland Dedication and/or Park Dedication Fee**

- 1) Council may require, for the purpose of developing parkland, that up to 10% of the lands being subdivided be conveyed to the Town. Council shall determine the physical condition and location of parkland.

- 2) When a dedication of land is not deemed to be appropriate or the exercising of the full ten percent (10%) conveyance is not appropriate. Council may impose a park dedication fee up to a maximum of 10% of the value of the lands being subdivided, which sum shall be specifically designated for the purchase, development or maintenance of public parklands in the Town. It is understood that the park dedication fee shall be calculated on the then current assessed value of lands being subdivided and shall not take into account value of structures on such lands. Council retains the right to consult with other levels of government or with a professional land appraiser in determining the value of land.

## **20.7. Subdivision Agreement**

Council may require an applicant to enter into a sub-division agreement as a condition of subdivision approval. The subdivision agreement may cover any matters as required by Council and may include, but not be limited to the following:

- a) design and construction costs of sidewalks, water supply, sanitary and storm sewers, roads, and street lighting;
- b) dedication of land for recreation and public open space purposes, or payment of a fee in lieu of land;
- c) deeding of roads to the Department of Transportation and Public Works;
- d) posting of a financial guarantee satisfactory to Council;
- e) provision of a controlled landscape plan and storm water management plan to facilitate the drainage of water and to guard against flooding of lots within the subdivision and adjacent properties;
- f) provision of such services, facilities or actions as are necessary to ensure the satisfactory development of the subdivision; and
- g) provision for the phasing of the subdivision.
- h) preservation and enhancement of surface water drainage systems.

## **20.8. Final Approval**

- 1) Final subdivision approval shall be granted by Council only after the applicant has complied fully with all applicable requirements of this Section and has submitted six (6) copies of a final survey plan showing all lots pinned and certified by a surveyor registered to practice in the province. Council may grant final approval to part of a subdivision which is proposed to be developed in phases.
- 2) Council shall give notice of final approval of a subdivision in writing, and shall place its seal on the five copies of the survey plan and shall return one copy to the sub-divider.
- 3) Council shall file a copy of the final survey plan with:
  - a) the Registrar of Deeds
  - b) the Department responsible for Transportation
  - c) Council files
  - d) Local utilities, as required.

### **20.9. Severances/Consolidation**

Notwithstanding the above provisions, Council may approve applications for single lot subdivisions, partial lots or easements and lot consolidations at its discretion, having regard for only those provisions which it deems applicable to each individual application, provided the application conforms with all other Sections of this Bylaw.

### **20.10 Building Permits**

A building permit shall not be issued in a subdivision until all the requirements of the subdivision approval have been fulfilled.



## 21. Penalties

A person who violates any provision of this Bylaw is guilty of an offence and liable on summary convictions.

- 1) In the case of a first or subsequent offence, to a fine not exceeding one thousand (\$1,000.00) dollars in each case together with the cost of prosecution and in default of payment of the fine and costs, to imprisonment for a term not exceeding three (3) months, unless the fine and costs of enforcing the same, are sooner paid.
- 2) Where the offence is a continuing offence, to a fine not exceeding two hundred (200.00) dollars for every day the said offence continues, together with the cost of prosecution, and in default of payment of the fine or costs, to imprisonment not exceeding three (3) months, unless the fine and costs of prosecution are paid within the time provided by the court.
- 3) The Judge presiding on any prosecution under this Bylaw may fix the costs of prosecution to be paid by the person found guilty hereunder.

## **22. Repeal**

### **22.1. Effective Date**

This Bylaw shall come into force effective

### **22.2. Repeal**

Any previous Town of Kensington Zoning and Subdivision Control Bylaw are hereby repealed.

# **APPENDIX “A”**

## **OFFICIAL ZONING MAP**

# **APPENDIX “B”**

Notwithstanding any other provisions of this Bylaw, no person shall subdivide a lot intended to be serviced by an on-site sewerage system except in conformance with the minimum lot size standards noted in Table 1 and Table 2 below.

**CHAPTER P-8  
PLANNING ACT  
PROVINCE-WIDE MINIMUM DEVELOPMENT STANDARDS  
REGULATIONS**

**TABLE 1 - MINIMUM LOT SIZE STANDARDS:  
RESIDENTIAL LOTS**

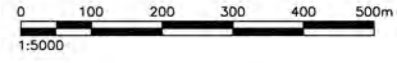
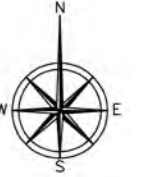
<i>(a) Servicing</i>	<i>(b) Lot Category</i>	<i>(c) Minimum Lot Frontage</i>	<i>(d) Number of Dwelling Units</i>	<i>(e) Minimum Lot Area sq. ft. / sq. m.</i>	<i>(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet / metres</i>
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			2	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			3	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			4	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
			more than 4	40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m.
on-site water supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			2	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
			3	45,000 sq. ft. / 4,180.5 sq. m.	225 ft. / 68.6 m.
			4	50,000 sq. ft. / 4,645 sq. m.	250 ft. / 76.2 m.
			more than 4	50,000 sq. ft. / 4,645 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	250 ft. / 76.2 m.

on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	51,000 sq. ft. / 4,738 sq. m.	225 ft. / 68.6 m.
			2	56,000 sq. ft. / 5,202 sq. m.	250 ft. / 76.2 m.
			3	61,000 sq. ft. / 5,667 sq. m.	275 ft. / 83.8 m.
			4	66,000 sq. ft. / 6,131 sq. m.	300 ft. / 91.4 m.
			more than 4	66,000 sq. ft. / 6,131 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	300 ft. / 91.4 m.
on-site water supply and on-site sewage system	IV	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	75,000 sq. ft. / 6,975 sq. m.	300 ft. / 91.4 m.
			2	80,000 sq. ft. / 7,440 sq. m.	
			3	85,000 sq. ft. / 7,905 sq. m.	
			4	90,000 sq. ft. / 8,370 sq. m.	
			more than 4	90,000 sq. ft. / 8,370 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	
on-site water supply and on-site sewage system	V	N/A	N/A	not developable	N/A
central water supply and on-site sewage disposal system	I	50 feet / 15.25 metres	1	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
			2	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			3	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			4	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			more than 4	35,000 sq. ft. / 3,251 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	175 ft. / 53.3 m.
central water supply and on-site sewage disposal system	II	50 feet / 15.25 metres	1	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			2	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			3	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			4	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
			more than 4	40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m.
	III	50 feet / 15.25 metres	1	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.

central water supply and on-site sewage disposal system			2	45,000 sq. ft. / 4,180.5 sq. m.	225 ft. / 68.6 m.
			3	50,000 sq. ft. / 4,645 sq. m.	250 ft. / 76.2 m.
			4	55,000 sq. ft. / 5,110 sq. m.	275 ft. / 83.8 m.
			more than 4	55,000 sq. ft. / 5,110 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	275 ft. / 83.8 m.
central water supply and on-site sewage disposal system	IV	50 feet / 15.25 metres	1	60,000 sq. ft. / 5,580 sq. m.	275 ft. / 83.8 m.
			2	65,000 sq. ft. / 6,450.5 sq. m.	
			3	70,000 sq. ft. / 6,510 sq. m.	
			4	75,000 sq. ft. / 6,975 sq. m.	
			more than 4	75,000 sq. ft. / 6,975 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	
central water supply and on-site sewage disposal system	V	N/A	N/A	not developable	N/A
on-site water supply and central waste treatment system	I or II	50 feet / 15.25 metres	1	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
			2	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
			3	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			4	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			more than 4	30,000 sq. ft. / 2,787 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	160 ft. / 48.8 m.
on-site water supply and central waste treatment system	III	50 feet / 15.25 metres	1	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
			2	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			3	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			4	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			more than 4	35,000 sq. ft. / 3,251.5 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	175 ft. / 53.3 m.
central water supply and waste treatment systems	I, II, or III	n/a	any number	as determined by the Minister	as determined by the Minister

**TABLE 2 - MINIMUM LOT SIZE STANDARDS:  
NON-RESIDENTIAL LOTS**

<i>(a) Servicing</i>	<i>(b) Lot Category</i>	<i>(c) Minimum Lot Frontage</i>	<i>(e) Minimum Lot Area</i>	<i>(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet / metres</i>
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
on-site water supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	51,000 sq. ft. / 4,738 sq. m.	225 ft. / 68.6 m.
central water supply and on-site sewage disposal system	I	50 feet / 15.25 metres	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
central water supply and on-site sewage disposal system	II	50 feet / 15.25 metres	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
central water supply and on-site sewage disposal system	III	50 feet / 15.25 metres	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and central waste treatment system	I, II or III	50 feet / 15.25 metres	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
central water supply and waste treatment systems	I, II or III	n/a	as determined by the Minister	as determined by the Minister



Town of Kensington	
ZONING MAP	
LEGEND	
	R1 SINGLE RESIDENTIAL
	R2 LOW DENSITY RESIDENTIAL
	R3 MULTI-UNIT RESIDENTIAL
	RM1 MINI HOME COURT
	C1 COMMERCIAL
	M1 INDUSTRIAL
	PSI PUBLIC SERVICE & INSTITUTIONAL
	A1 AGRICULTURAL RESERVE
	O1 RECREATION AND OPEN SPACE
	O2 ENVIRONMENTAL RESERVE
	TOWN LIMITS

