



Zoning Administration Handbook

Zoning and Development Permits: Procedures, Interpretations and Methodology

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1 Development Procedures

1.1 Development Defined

Development means:

- (1) the construction of a building on, over or under land;
- (2) a change in the use or intensity of use of a building or land;
- (3) the removal of soil or vegetation from land; and
- (4) the deposit or stockpiling of soil or material on land and the excavation of land.
- (5) Development Permit means a permit authorizing a development that is subject to a zoning by-law, and may include a building permit.
- (6) Development Application means any application in connection with a development or permit, approval, order, by-law or amendment that allows or would allow a development and includes any appeal filed against a Variance Order related to any one or more of them. May be processed and approved either by the Public Hearing process or administratively by the designated officer or their delegate depending on the type of development application.

1.2 Development Officer

- (7) The position of the Development Officer is hereby established. The person(s) appointed as Development Officer by Council shall be the designated officer for the purposes of The Planning Act.

1.3 Development Officer's Role and Responsibilities

A Development Officer shall:

- a) Make available to the public during normal office hours copies of this Zoning By-law and all subsequent amendments thereto.
- b) Maintain up-to-date zoning map(s), zoning regulation amendment language and ensure availability to members of Council and the public.
- c) Issue development permits and exercise the powers of administration, inspection, remedy and enforcement provided in Part 12 of The Planning Act.
- d) Refuse to process a development application as prescribed elsewhere in this Zoning By-law.
- e) Reject a development permit as prescribed elsewhere in this Zoning By-law.
- f) Revoke a development permit as prescribed elsewhere in this Zoning By-law.
- g) Interpret zoning regulations and the zoning district boundaries when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation; and shall provide such interpretations in writing to be made available to the public within

thirty (30) days of such interpretations.

- h) Circulate development applications for review and comment, where applicable and deemed necessary, as prescribed elsewhere in this Zoning By-law.
- i) Ensure that a **Registry of Development Applications** is maintained, and is made available to any interested person during normal office hours.
- j) Ensure members of the public are allowed to inspect the documents related to development application to be considered at a Public Hearing.
- k) Notify Council of development applications requiring a public hearing, and prepare a written report on the proposed development applications being considered at a Public Hearing.
- l) Ensure compliance with *The Planning Act* regarding public notification for public hearings in relation to development applications, and advise the applicant in writing of the hearing date.
- m) Approve minor variances, without the need for a public hearing, for any proposed change that varies:
 - n) Any height, distance, area, size or intensity of use requirement in the Zoning By-law by no more than **15 percent**.
 - o) The number of parking spaces required by the Zoning By-law by no more than **15 percent**.
- p) Inspect lands, buildings or structures for the purpose of enforcing this Zoning By-law; or enforcing the terms or conditions of a permit, approval or order made or issued.
- q) Issue non-conforming certificates, zoning memoranda, zoning verification of use letters and other similar documents.
- r) Send to landowners, applicants, or members of the public, a written copy of orders, recommendations or decisions, or other documents as required under this Zoning By-law or *The Planning Act*.
- s) Provide Council, at least once a year, a written summary of all actions carried out as prescribed above. Such a written summary shall be made available to the public.

1.4 Development Permitting

1.4.1 When Development Permits are required:

- (1) No building permit or license shall be issued where the permit is required for a proposed use of land or a proposed erection, alteration, enlargement or use of any building or structure that is in violation of any provisions of this Zoning By-law.
- (2) A development permit is required for any of the following, except as otherwise provided for in this Zoning By-law:
 - a) The erection, construction, enlargement, structural alteration, conversion or placing of a building or structure, either permanent or temporary on, over, or under land;
 - b) The relocation, removal, or demolition of any building or structure on, over, or under land;
 - c) The establishment of a use of land or a building or structure;
 - d) Temporary uses, buildings, structures or tents;

- e) Every detached accessory structure that is larger than 108 square feet, including metal frame, fabric covered storage facilities and carports, boathouses, and boat ports;
- f) A change of a use or intensity of land or a building or structure;
- g) The alteration or enlargement of an approved conditional use;
- h) Addressing outstanding infractions, which typically require a development permit, to bring a development into compliance with this Zoning By-law;
- i) The removal of soil or vegetation from land, the excavation of land, or the deposit or stockpiling of soil or material on land; and
- j) Any other development as defined in *The Planning Act*.

1.4.2 Development Permits and Other Permits

The issuance of a development permit in respect of a building or structure does not affect the obligation to obtain a building permit or other permits where required under the building by-law, or another law, by-law or regulation, for such a building or structure.

1.4.3 Minor Developments Not Requiring Permits

A development permit is not required for the following:

- (1) Landscaping including trellises, lawn care, gardening, and vegetation planting or removal where the existing grade and natural surface drainage pattern is not materially altered, and when any proposed new tree, shrub, or hedge is not within 50 feet of any declared provincial trunk highway or provincial road.
- (2) Erection, construction, enlargement, structural alteration or placing of the following, except when located within 125 feet of any declared provincial trunk highway or provincial road:
 - a) Accessory buildings for the storage of domestic equipment and supplies with a floor area of less than 108 square feet.
 - b) Bay, oriel, or similar windows, provided that such projections do not exceed allowable projections into a required setback.
 - c) Building addresses when attached to a structure or on a sign less than 8 square feet.
 - d) Driveways which are private and accessory to the principal use, building or structure.
 - e) Eavestroughs, rain gutters, or similar feature provided such projections do not exceed 1.00 feet into a required yard when attached to an eave projecting 2 feet into a required setback.
 - f) Fences, gates, arbors, awnings, and including similar types of projections within the allowable projections into a required yard setback.
 - g) Flagpoles less than 38 feet in height.
 - h) Garden houses or children's playhouses.
 - i) Home Occupations.
 - j) Outdoor Lighting.
 - k) Outdoor recreation equipment.
 - l) Private wastewater management systems.

- m) Private drinking water systems.
 - n) Private communications facilities.
 - o) Public services maintenance and repair, excluding buildings and structures for schools, health and social services, and any such building being occupied by people.
 - p) Satellite dish antennae and Rooftop Energy Generation Systems where their installation does not involve structural alterations to a building.
 - q) Signs for home-based businesses that are less than 8 square feet.
 - r) Temporary tents that are under 900 square feet, used for special events only, and erected for not more than 14 consecutive days, and not more than a cumulative 45 days per calendar year per site.
 - s) Unenclosed patios or decks at grade level or less than 2 feet above grade.
 - t) Unenclosed walks and terraces.
 - u) Verandas, porches, eaves, awnings, unenclosed steps, cantilevers, chimney or parts of a chimney, belt courses, sills, together with any other architectural features which, in the opinion of the Development Officer, are of a similar character, provided such projections do not exceed 2.00 feet into a required yard.
 - v) Wheel chair ramps unless anchored to the building.
- (3) Despite not requiring a development permit, all items in this provision shall be subject to requirements of this Zoning By-law, and any regulations or requirements of the Provincial Government.

1.5 Development Application Types

1.5.1 Development Plan Amendments

- (1) St-Pierre-Jolys Development Plan By-law 2021-10 [the Development Plan] is the blueprint that guides the physical, social, environmental, and economic development of the municipality as per *The Planning Act*.
- (2) The Development Plan is a statutory plan adopted as a By-law by the Council with approval from the Provincial Government. Public works, undertakings and development in the Municipality must be consistent with the Development Plan By-law as per *The Planning Act*. Instances may arise when an amendment to the Development Plan By-law is contemplated for policy text or map elements.
- (3) An amendment of the text or map(s) is an alteration of the Development Plan By-law that may be brought forward by a member of the public, the Development Officer or Council.
- (4) Notwithstanding other provisions of this By-law, any member of the public may apply to alter the Development Plan By-law with a text or map amendment, and shall provide in writing to the Development Officer the following:
 - a) Applicant's name, mailing address, telephone number;
 - b) Proposed text to be deleted, changed or added to the By-law;
 - c) Reasons in support of the application; and
 - d) A signed statement by the applicant stating that he/she is willing to pay for all costs incurred by Council in processing the proposed amendment, in accordance with a schedule of fees.

- (5) Upon receipt of an application for a Development Plan amendment, the Development Officer shall forward the application to Council for First Reading.
- (6) An application for an amendment to the Development Plan By-law may be refused if, in the opinion of Council:
 - a) It is without merit; or
 - b) It is the same as or substantially similar to an earlier application that was refused within one year before the day when the new application is made.
- (7) Should the Development Plan amendment by-law be given First Reading, between first and second reading of the by-law for amending the Development Plan, Council must hold a public hearing to receive representations from any person on the proposed development plan amendment, and give notice of the hearing in accordance with *The Planning Act*.

1.5.2 Exception For Minor Amendments of The Development Plan

- (1) Council may apply to the Minister to make a minor amendment to the Development Plan By-law, or amend the By-law to correct an error or omission, without complying with a Public Hearing. The application to the Minister must include a copy of the proposed amendment.
- (2) The Minister may give Council written authorization to amend the Development Plan By-law without giving public notice, holding a hearing or submitting the amendment to the minister for approval, subject to any conditions set out in the authorization, if the minister is satisfied that:
 - a) The proposed amendment is a minor one that does not change the intent of the Development Plan; or
 - b) The proposed amendment is required to correct an error or omission.

1.5.3 Zoning By-Law Text Amendments

- (1) A text amendment is an alteration of the Zoning By-law to add, delete or replace text, tables or sections of text that may be brought forward by a member of the public, the Development Officer, or Council.
- (2) Notwithstanding other provisions of this By-law, any member of the public may apply to alter this By-law with a text amendment and shall provide in writing to the Development Officer the following:
 - a) Applicant's name, mailing address, telephone number;
 - b) Proposed text to be deleted, changed or added to the By-law;
 - c) Reasons in support of the application; and
 - d) A signed statement by the applicant stating that he/she is willing to pay for all costs incurred by Council in processing the proposed amendment, in accordance with a schedule of fees.
- (3) Upon receipt of an application for a text amendment, the Development Officer shall forward the application to Council for First Reading.
- (4) An application for an amendment to this By-law may be refused if, in the opinion of Council:
 - a) It is without merit; or

- b) It is the same as or substantially similar to an earlier application that was refused within one year before the day when the new application is made.
- (5) Should the amendment to this By-law be given First Reading, between first and second reading of the zoning by-law amendment, Council must hold a public hearing to receive representations from any person on the proposed zoning by-law amendment, and give notice of the hearing in accordance with *The Planning Act*.
- (6) If Council deems it appropriate to give a text amendment consideration at Public Hearing, the Development Officer shall then examine the proposed amendment or undertake an investigation and analysis of the potential change to the text of the Zoning By-law and report back to Council at the Public Hearing. The analysis should, among other things, consider the following:
 - c) Relationship to and compliance with the Development Plan;
 - d) Relationship to the documented concerns and opinions of area residents regarding the text amendment;
 - e) Impact of the text amendment on existing land-uses, and potential new land-uses; and
 - f) Trends in other, similar jurisdictions regarding similar land-use regulations being proposed or enacted.
- (7) Council must give notice and hold a public hearing to receive representations on a proposed amendment of the zoning by-law in accordance with *The Planning Act*.

No Objectors

- (8) After holding a public hearing in accordance with *The Planning Act*, Council may:
 - a) Proceed immediately with a second AND third reading if a sufficient number of objections are not received at a public hearing; or
 - b) Pass a resolution not to proceed with the by-law.

Notice to objectors

- (9) If Council gives the by-law second reading, it must, as soon as practicable after second reading, send the notice to every person who objected to the by-law. Actions if no second objection:
 - a) If Council does not receive a second objection by the deadline set out in the notice it may give the by-law third reading; or
 - b) Pass a resolution not to proceed with the by-law.

Referring second objection

- (10) If Council receives a second objection by the deadline set out in the notice, it must refer the objection to:
 - a) The Municipal Board.

Requirement for third reading

- (11) If Council refers an objection, it must not give the by-law third reading unless:
 - a) The Municipal Board makes an order confirming the parts of the by-law that were the subject of the objection; or

- b) It complies with an order of the Municipal Board.

Eligible Objectors

- (12) For the purposes of an amendment to a zoning by-law, objections must be received from at least 25 eligible persons, or from 50% of the total number of owners of property located within 328 feet of the affected property in order to be considered sufficient (a person authorized in writing may make an objection on behalf of an owner within the 328 feet).
- (13) For the purposes of making an objection, *The Planning Act* states:

... “eligible person” means a person who would be eligible, if a general election were held under *The Municipal Councils and School Boards Elections Act* on the day the objection was made, to vote at an election of members of:

- a) The council of the municipality, in the case of a zoning by-law of a municipality; or
- b) The council of a member municipality, in the case of a district-wide zoning by-law.

1.5.4 Minor Alterations of Zoning By-Law Application to Minister

- (1) Council may apply to the Minister to make minor alterations that will amend the text of this Zoning by-law, or to amend this Zoning By-law to correct an error or omission.

No Notice or Hearing Required

- (2) The Minister may give Council written authorization to alter this Zoning By-law with an amendment without giving public notice or holding a hearing, subject to any conditions set out in the authorization, if the minister is satisfied that the proposed alteration is a minor one that does not change the intent of this Zoning By-law or the proposed alteration is required to correct an error or omission.

1.5.5 Rezoning Applications

- (1) Development Applications to amend this Zoning By-law that affects a specified property may be initiated by the owner of the affected property, or a person authorized in writing by the owner.
- (2) Development Applications to amend this Zoning By-law that affects a specified property shall be received by the Development Officer in the form required by, and accompanied by the application fee, as established by this by-law.
- (3) The public hearing process and approval is the same as described under Zoning By-law Text Amendments.

Approval with Conditions

- (4) Should Council approve an application to amend this Zoning By-law, Council may impose conditions on the approval that are considered necessary to ensure the amendment:
 - c) Will be compatible with the general nature of the surrounding area;
 - d) Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area; and
 - e) Is generally consistent with the applicable provisions of the development plan, this

Zoning By-law and any applicable secondary plan.

- (5) Council may include a condition on the amendment requiring the applicant/owner of the affected property enter into a development agreement.

1.5.6 Conditional Use Applications

- (1) Development Applications for a use of land listed as conditional use in this Zoning By-law that affects a specified lot(s) or parcel(s) may be initiated by the owner of the affected property, or a person authorized in writing by the owner.
- (2) Development Applications for a use of land listed as a conditional use in this Zoning By-law shall be received by the Development Officer in the form required by, and accompanied by the application fee.
- (3) The Development Officer must cause public notice of the public hearing, and Council must hold a public hearing to receive representations on a proposed conditional use of the Zoning By-law in accordance with *The Planning Act*.
- (4) An application for a conditional use shall be processed and approved or rejected at a Public Hearing held in accordance with *The Planning Act*.
- (5) If warranted, Council may want to consider imposing conditions to ensure that the proposed development will not significantly impact the Municipality or the surrounding area. This could include:
 - a) Additional buffering measures such as increased yard setbacks, berms and fencing;
 - b) Performance standards dealing with such potential impacts as noise, odour and vibration;
 - c) Limiting the hours of operation;
 - d) Imposing design and siting regulations including landscaping, outdoor lighting, refuse and storage areas, and building design;
 - e) Architectural appearance;
 - f) The owner/applicant upgrading certain public services such as roads, potable water, wastewater, or drainage works;
 - g) A letter of credit related to municipal improvements of public services such as roads, drinking water systems, wastewater management systems, or water control works;
 - h) Liability insurance protecting the Municipality from any future legal claims, including environmental contamination to water bodies;
 - i) The owner/applicant entering into a development agreement with the Municipality; or
 - j) Site Plan Approval to review and approve the additional buffering measures and the architectural appearances.
- (6) Council must send a copy of its order including written reasons for its decisions to the applicant and every person who made a representation at the public hearing.
- (7) The decision of Council on an application for a conditional use is final and not subject to appeal.
- (8) The approval of a conditional use shall expire and cease to have any effect if it is not acted upon within 12 months of the date of the decision, unless it is renewed at the discretion of Council for one additional period not exceeding 12 months.

Changing a Conditional Use

- (9) The change, alteration, extension, or enlargement of an approved conditional use, building, or structure shall not take place unless such change, alteration, extension, or enlargement is subsequently approved as a new conditional use.
- (10) Subject to all other requirements of this Zoning By-law, an accessory building or structure is permitted in any zone when accessory to a principal use which is a permitted use; or is conditional when associated with a conditional use in that same zone.

1.5.7 Variance Applications

- (1) Development Applications for a variance to vary specific provisions of this Zoning By-law insofar as they apply to an affected property, may be initiated by the owner of the affected property, or a person authorized in writing by the owner.
- (2) Development Applications for a variance shall only vary the provisions of Part 2, 3, and 4 of this Zoning By-law, and any dimensional standards provided in a Planned Development Overlay.
- (3) Development Applications for a variance of this Zoning By-law shall be received by the Development Officer in the form required by, and accompanied by the application fee, as established by this Zoning By-law.
- (4) The Development Officer must cause public notice of the public hearing, and Council must hold a public hearing to receive representations on a proposed variance of the Zoning By-law in accordance with *The Planning Act*.
- (5) An application for a variance shall be processed and approved or rejected at a Public Hearing held in accordance with *The Planning Act*.
- (6) A variance order must not be made if it makes a change of land use other than:
 - a) a temporary change of land use for a period of not more than 5 years; or
 - b) a change of land use to a use that is substantially similar to a use permitted under this Zoning By-law.
- (7) If warranted, Council may want to consider imposing conditions to ensure that the proposed development will not significantly impact the Municipality or the surrounding area. This may include:
 - a) Additional buffering measures such as increased yard setbacks, berms and fencing;
 - b) Performance standards dealing with such potential impacts as noise, odour and vibration;
 - c) Limiting the hours of operation;
 - d) Imposing design and siting regulations including landscaping, outdoor lighting, refuse and storage areas, and building design;
 - e) Architectural appearance;
 - f) The owner/applicant upgrading certain public services such as roads, potable water, wastewater, or drainage works;
 - g) A letter of credit related to municipal improvements of public services such as roads, potable water, wastewater, or drainage works;
 - h) Liability insurance protecting the Municipality from any future legal claims, including environmental contamination to water sources;

- i) The owner/applicant entering into a development agreement with the Municipality;
 - j) The owner/applicant entering into a confirming construction agreement with the Municipality; or
 - k) Site Plan Approval to review and approve the additional buffering measures and the architectural appearances.
- (8) Council must send a written copy of its order to the applicant and every person who made a representation at the public hearing.
- (9) The decision of Council on an application for a variance is final and not subject to appeal.
- (10) The approval of a variance shall expire and cease to have any effect if it is not acted upon within 12 months of the date of the decision, unless it is renewed at the discretion of Council for one additional period not exceeding 12 months.

Can Not Vary a Variance Order

- (11) The change, alteration, extension, or enlargement of an approved variance order for a building or structure shall not take place unless such change, alteration, extension, or enlargement of the zoning by-law regulation is subsequently approved as a new variance.
- (12) Subject to all other requirements of this Zoning By-law, an accessory building or structure is permitted in any zone when accessory to a principal use which is a permitted or approved by variance in that same zone, and for which a development permit has been issued.

1.5.8 Minor Variances

- (1) Council authorizes the Development Officer to make an order without a public hearing that varies:
- a) Any height, distance, area, size or intensity of use requirement in the Zoning By-law by no more than 15%.
 - b) Number of parking spaces required by the Zoning By-law by no more than 15%.
- (2) Minor variances do not require notice or a public hearing; however, a minor variance order must be made public and shall not be made subject to conditions unless the applicant has been given a reasonable opportunity to make representation to Council about the proposed conditions with prior notice given of the date/time/location of the public assembly.

Decision on Minor Variances

- (3) After reviewing the application, the Development Officer must make a written order rejecting the application or approving the application.

Criteria for Approving Minor Variances

- (4) In approving an application for a variance, the Development Officer may impose conditions on the approval that are considered necessary to ensure the variance:
- c) Will be compatible with the general nature of the surrounding area;
 - d) Will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development

- in the surrounding area;
- e) Is the minimum modification of a zoning by-law required to relieve the injurious affect of this Zoning By-law on the applicant's property; and
 - f) Is generally consistent with the applicable provisions of the Development Plan, this Zoning By-law and any applicable secondary plan.
- (5) The Development Officer shall send a written copy of the variance order by ordinary mail to the applicant.

Appeal of Minor Variance

- (6) The applicant who is dissatisfied with a decision of the Development Officer may, within 14 days of issuance of the order, submit a written request that Council review the decision or order.
- (7) The Development Officer must cause public notice of the public hearing, and Council must hold a public hearing to receive representations on a proposed variance of the zoning by-law in accordance with *The Planning Act*.
- (8) Council may confirm, cancel, vary, or substitute the decision or order of the Development Officer for the variance in accordance with *The Planning Act*.

Sunset Conditions

- (9) Unless otherwise specified in the terms of approval of a Variance Order, where a variance approved by a Variance Order is not established within 2 years of the date of the Variance Order, the Variance Order is void.

1.5.9 Changing Conditions Of Approved Rezoning, Conditional Uses And Variances

- (1) Development Applications for the deletion or revision of conditions approved for a rezoning, conditional use or variance that affects a specified lot(s) or parcel(s) may be initiated by the owner of the affected property, or a person authorized in writing by the owner, and shall only be approved in the same process and manner in which the rezoning, conditional use or variance order was initially approved.

1.5.10 Site Plan Approval / Design Review

- (1) A development application that is specified as part of the conditions of a development under a Rezoning, Variance, or Conditional Use; or as prescribed as a requirement by a condition of approval of a development application or this By-law, which requires an approval from Council or the Development Officer, prior to the issuance of any building or development permits for the property, for the location, exterior design materials type, and vegetation type and species of the following:
 - a) Buildings;
 - b) Accessory parking and/or loading areas;
 - c) Drive aisles;
 - d) Exterior lighting;
 - e) Garbage enclosures;
 - f) Fencing; and
 - g) Landscaping.

- (2) Site Plan Approval does not require notice or a public hearing; however, the approval must be made public and shall not be made subject to conditions unless the applicant has been given a reasonable opportunity to make representation about the proposed conditions.
- (3) The applicant who is dissatisfied with a decision of the Development Officer may, within 14 days of issuance of the order, submit a written request that Council review the decision or order.
- (4) Council may consider the matter and provide the applicant a reasonable opportunity to make representation about the decision of the Development Officer.
- (5) Council may confirm, cancel, vary, or substitute the decision of the Development Officer for the site plan approval.
- (6) Site Plans approved by Council and not the Development Officer are not appealable.

1.6 Development Application Fees

- (1) The fees for each type of **Development Application** shall be established by a by-law approved by Council.

1.7 Development Application Processing

1.7.1 Submitting A Development Application

- (1) Shall only be made by the owner or owners of the parcel in question, or by a person authorized in writing by all the registered land owners.
- (2) Shall be submitted as prescribed by the Municipality for each type of development application.

1.7.2 Application Requirements

Submissions for a development application shall be accompanied by the following:

- (1) Applicant's name, mailing address, telephone number.
- (2) Letter of Authorization from all the registered landowner(s) authorizing the applicant to apply for a development permit, if the applicant is not the landowner or the sole landowner listed on the Status of Title.
- (3) Municipal Address or Roll Number identifying the subject lands.
- (4) Status of Title that has been issued within three (3) months of the application "received" date along with any relevant caveats or easements on the Title.
- (5) Legal Description of the subject land on which the proposed development is to occur, and where applicable, by lot, block, subdivision and registered plan numbers.
- (6) Letter of Intent with respect to:
 - a) Identifying the current land-use(s) occupying buildings or the land;
 - b) Description of the proposed new uses of the lands and/or buildings;
 - c) Description of the proposed new facilities, buildings or structures to be erected on the lands;
 - d) Identification of the intensity and density of the development with respect to the number of dwelling units, and/or the gross floor area in square feet of each non-residential land-uses; and

- e) Anticipated development timeline including phases associated with the permit.
- (7) Plans drawn to scale showing the following:
- a) Directional true north arrow with the north point located in such a manner that the true north is in the upper position of the drawing;
 - b) Name and location of all abutting public rights-of-way(s);
 - c) Rail, pipeline or public service utility corridors or rights-of-way abutting the subject lands (where applicable);
 - d) The shoreline of water bodies and the ordinary high-water mark (OHWM) (where applicable);
 - e) Shape and dimensions of the parcel to be used or built on;
 - f) Location and dimensions of existing buildings and structures in relation to property lines to show setbacks, separation distances and yard dimensions (where applicable);
 - g) Location and dimensions of existing buildings and structures in relation to new property lines showing any reduction of setbacks, separation distances and yard dimensions (where applicable);
 - h) Location and dimensions of any proposed land-use(s), building, structure, enlargement or alteration in relation to property lines to show proposed setbacks, separation distances and yard dimensions;
 - i. Use or uses of each existing and proposed building and structure, or of the land and the size of the land area to be occupied by each use;
 - ii. Location of driveway entrances and exits, utility connections, parking areas, drive aisles, fencing, screening, retaining walls, trees, water bodies, loading areas garbage receptacles, and signage (where applicable);
 - iii. Heights of all buildings, structures, fences, and decks (where applicable);
 - iv. Floor plans at minimum scale of 1:100, indicating all uses or occupancies, storage and garbage holding areas (where applicable);
 - v. Elevations and drawings of proposed new structures, indicating sections and the bulk of buildings, at a minimum scale of 1:100 (where applicable);
 - vi. Location, size and number of parking and loading spaces (where applicable); and

1.7.3 Special Information Requirements

Submissions for a development application may be accompanied by the following if requested in writing by the Development Officer:

- (1) A cross section of the proposed building or structure: a cross section is a picture of what the structure would look like if the structure was cut in half so that you could see exactly what building materials were used in the construction.
- (2) Elevations of building and structure facades including a list of exterior building finishes, materials and colors.
- (3) Landscaping plans including a list of vegetation types and species proposed to be retained and to be planted.
- (4) A building location certificate prepared by a Manitoba Land Surveyor.

- (5) A staking certificate prepared by a Manitoba Land Surveyor.
- (6) Engineering studies regarding the provision and capacity of essential infrastructure relating to soil conditions, road access, wastewater, drinking water, and land drainage including existing and proposed grades.
- (7) Archeology or historical assessments regarding the presence of heritage resources.
- (8) Ecological site assessment regarding the presence of critical and significant wildlife habitat.
- (9) Environmental Assessment to identify potential environmental effects associated with the construction and operation of the proposed project.
- (10) Arborist report to identify the species, size, condition and category of existing trees involved with the development application.
- (11) Tree location survey by a Manitoba Land Surveyor to identify location of existing trees on the subject lands involved with the development application.
- (12) Green House Gas emission assessment to identify energy efficiencies or GHG reductions.
- (13) Economic Impact assessment to identify potential economic benefits from the construction and development of the proposed project.
- (14) Market demand needs.
- (15) Traffic Impact Study to:
 - a) Determine what the impacts will be from a proposed development or redevelopment upon the adjacent public road network; and
 - b) Determine what measures may be required to mitigate adverse impacts and allow the public road network to provide a satisfactory level of service.
- (16) Traffic Management Plans – a plan established to clearly direct and control traffic disruptions caused by a proposed development on a given road or network.
- (17) Transportation Demand Management Plan – a plan to reduce travel by private automobiles and identifies a suite of alternative options to meet the needs of a diverse set of users that will access a development.
- (18) When an application for a development is for a site abutting a water body, the Development Officer may require, in consultation with a Certified Professional Engineer of Manitoba, the following:
 - a) Geotechnical Study to assess and report on the existing embankment conditions; or
 - b) Geotechnical, engineering or environmental assessment to determine flood, erosion and bank instability hazards.
- (19) Shall be accompanied by the Development Application fee as prescribed in a by-law by Council for each type of development application.
- (20) Shall not be considered to have been “received” until all the required information as listed is provided to the Development Officer, where applicable and deemed necessary by same.

1.8 Development Application Circulation

Once development applications have been received, they shall be circulated by the Development

Officer for review and comment where applicable and deemed necessary as listed hereunder:

Public Works

- (1) All development applications shall be circulated to the appropriate Village Public Works Staff.

Emergency Services

- (2) All development applications shall be circulated to the appropriate Emergency Services Staff, including Southern Regional Health, Fire Department and RCMP.

Natural Lands

- (3) Where proposed development is within **1.5 miles** of **Provincial Natural Lands** or a **National Park**, the development application shall be circulated to the appropriate Provincial or Federal Government.

Water Bodies

- (4) Where proposed development is to be located within **1.0 miles** of a water body, or involves water control works, applications shall be circulated to the appropriate departments of the Provincial or Federal Government.
- (5) Water control works, as defined in *The Water Rights Act*, requires application for a Water Rights License. The Development Officer or Council may request a geotechnical report from a qualified engineer for any development **350 feet** from a water body.
- (6) Where proposed development is to drain any water into the provincial trunk highway or provincial roads drainage system, the development permit application shall be circulated to the Provincial Government and shall require a permit from the Provincial Government.

Reserve Lands

- (7) Where a proposed development is **within 1.5 miles** of reserve lands, as defined in the *Indian Act*, the development applications shall be circulated to the appropriate Band.

Abutting or Adjacent Municipalities or Planning Districts

- (8) Where a proposed development is within 1.5 miles of the boundary of the Municipality with an abutting or adjacent municipality or planning district in Manitoba, the development applications shall be circulated to the appropriate Council or Board.

Livestock Operation Uses

- (9) In addition to the above, a development application for the establishment or expansion of a livestock operation use that is deemed a conditional use in the Zoning By-law, shall be sent to the applicable provincial authority and forwarded to the Technical Review Committee for review as per Part 7, Division 2 of *The Planning Act*.

Hazardous Uses

- (10) In addition to the above, a development application for the establishment or expansion of a hazardous use shall be sent to the applicable provincial authorities for review.

Heritage Resource Uses

- (11) In addition to the above, where a proposed development may affect an identified heritage resource, applications shall be circulated to the applicable provincial authorities, and where applicable, to any municipal heritage committee.

Provincial Roads

- (12) Where a proposed development is to be located within 125 feet, as measured from the edge of rights-of-ways designated as provincial trunk highway or provincial roads, the development application shall be circulated to the Provincial Government and shall require a permit from the Provincial Government.
- (13) Any new, modified or relocated access to provincial trunk highway or provincial roads, the development application shall be circulated to the Provincial Government, and the access shall require a permit from the Provincial Government.
- (14) Any new tree, shrub, or hedge within **50 feet** of all declared provincial trunk highways and provincial roads, the development application shall be circulated to the Provincial Government, and the new tree, shrub, or hedge shall require a permit from the Provincial Government.

Provincial Road Intersections

- (15) Where a proposed development for any structure / construction or changes in land use is within control circles established by the Provincial Government, the development application shall be circulated to the Provincial Government and the development shall require a permit from the Provincial Government.

Public Service Utility Corridors or Right-of-ways

- (16) Where proposed development is abutting or adjacent to a public service utility corridor or right-of-way, the development applications should be circulated to the applicable utility

provider.

Railway Corridor

- (17) Where proposed development is within **984 feet** to a railway line or railway right-of-way, the development applications should be circulated to the applicable railway company.

Landfills

- (18) Where proposed development is on or within **1,312 feet** of a landfill property line, the development application shall be circulated to the Provincial Government

1.9 Decisions on Development Applications

1.9.1 Review Period

- (1) The Development Officer or Council shall review the development application for a period of no longer than **20 days** after it has been received to determine whether the application is complete from date application submitted (unless extended by agreement between the Applicant and the planning district/municipality.)
- (2) After reviewing the development application, the Development Officer must make a decision either: refusing to process the application; or processing the application to reject the application, or approve the application or process the application to the designated hearing body where appropriate.
- (3) The Development Officer or Council shall review the development application for a period of no longer than 60 days after it has been received to determine if the proposed development meets the requirements of the Development Plan By-law, the Zoning By-law and any secondary plan by-law.

1.9.2 Withholding Development Applications

- (1) The Development Officer or Council may withhold issuing the permit for a further 90 days after the review period if, at the time the application was made:
 - a) Council had authorized the preparation of a development plan by-law, zoning by-law, or secondary plan by-law, or an amendment to any of those by-laws; and
 - b) The proposed development does not generally conform with the proposed development plan by-law, zoning by-law, secondary plan by-law, or any proposed amendment to those by-laws.
- (2) If the proposed by-law or amendment is not passed within the review period, Council must issue the development permit if the proposed development generally conforms with the development plan by-law, the zoning by-law and any secondary plan by-law in effect at the time the application was received.
- (3) The Development Officer or Council must send a written copy to the applicant the decision to withhold the development application.

1.9.3 Rejecting Development Applications

- (1) The Development Officer or Council may reject a development application that has been received where:
 - a) The proposed development would be located on a site without frontage and unobstructed safe and convenient access to:
 - i. a registered road allowance that is developed as an all-weather road and is

- maintained year round;
- ii. a proposed road allowance that is to be registered and developed as an all-weather road and maintained year-round, and for which a road construction development agreement has been entered into with the municipality;
 - iii. where the lots created through subdivision are condominium lots, a public or private access road connected to either an existing or proposed road allowance that is or is to be developed as an all-weather road and maintained year-round; or
 - iv. where the site is an existing lot with access from an existing private right-of-way registered on title and in favour of the lot.
- b) The proposed development would be located on a site that is adjacent to a designated future road allowance and does not satisfy yard requirements as specified in the bulk table for each zone;
 - c) The proposed development would result in alteration of drainage patterns that would adversely affect adjacent public or private lands, or cause adjacent drains to be insufficient to accommodate added runoff;
 - d) The proposed development would result in more than one dwelling unit on a parcel of land, unless permitted by this Zoning By-law;
 - i. It is determined that the land is unsuited for the proposed development by virtue of its soil, topography, unique conditions; or where bank instability, erosion, inadequate drainage or severe flooding would result;
 - ii. It is determined that incorrect information has been provided by **the Applicant** about the proposed development; or
 - iii. The development does not meet the criteria for approval as provided in *The Planning Act* for variances or conditional uses when applicable.
- (2) The Development Officer or Council must send a written copy to the **Applicant** the decision to reject the development application and provide reasons why the application has been rejected.

1.9.4 Approving Development Applications With Conditions

- (1) In approving an application for a development for a permitted or conditional use, the Development Officer or Council may impose conditions on the approval that are considered necessary to ensure the development:
 - a) Will be in compliance with:
 - i. the Development Plan, this Zoning By-law, any applicable secondary plan and municipal by-law;
 - ii. any applicable national and provincial building and fire codes; and
 - iii. a conditional use order, variance order or development agreement; and
 - b) Will satisfy conditions of any caveat, covenant or other instrument affecting a building or land.
- (2) The Development Officer or Council may include a condition on the development permit requiring that the applicant/owner of the affected property enter into a development agreement.
 - a) The development agreement may provide that it runs with the land, and when a

caveat with a copy of such an agreement attached is filed in the appropriate Land Titles Office, the agreement binds the owner of the land affected by it, and the owner's heirs, executors, administrators, successors and assigns. The agreement is not binding until the order has been made; and

- b) The development agreement may address any of the following:
- i. use of the land and any existing or proposed building;
 - ii. timing of construction of any proposed building;
 - iii. siting and design, including exterior materials of any proposed building;
 - iv. provision of parking;
 - v. landscaping, provision of open space, grading of land and fencing;
 - vi. construction or maintenance, at the owner's expense or partly at the owner's expense, of works including, but not limited to, sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access and connections to existing services;
 - vii. payment of a sum of money to the municipality in lieu of the requirement under the previous clause to be used for any of the purposes referred to in that clause; or
 - viii. the dedication of land or payment of money in lieu thereof, where the application is for an amendment to a zoning by-law to permit a residential use, use for a mobile home park, or an increase in residential density.
- (3) The Development Officer or Council may include a condition on the development permit requiring that the applicant/owner of the affected property enter into a conforming construction agreement to address either or both of the following:
- a) The required separation between buildings by having the limiting distance be measured from an exposing building face to a point that:
 - i. is beyond the lot line of the parcel of land on which it is constructed; and
 - ii. is not on a public road, lane or public thoroughfare.
 - b) The required access to public thoroughfares from building exits and to public roads from a parcel of land through use of neighbouring parcels of land.
- (4) The Development Officer or Council may require that **the applicant**/owner provide an irrevocable letter of credit in an amount determined by the municipality to secure performance of any of the conditions of a development permit including a requirement for municipal improvements related to road and drainage works, and to protect the municipality from future legal claims, including claims regarding environmental contamination to water bodies.
- (5) The Development Officer or Council must send a written copy to **the applicant** of the decision to approve the development application and the required conditions.

1.9.5 Approval Does Not Promote Nuisance

- (1) Nothing in this Zoning By-law or in a development permit, approval of a conditional use, variance order or other approval issued under this By-law shall be construed as authorization for the carrying out of any activity which is a nuisance due to noise, odour, emission, vibration or other cause.

1.9.6 Refusing To Process Development Application

- (1) The Development Officer may refuse to process a development application or refuse to issue a development permit:
 - a) Where the proposed development does not generally conform to provisions of the applicable:
 - iii. development plan, secondary plan and other municipal by-laws;
 - iv. federal or provincial legislation and regulation; or
 - v. national and provincial building and fire codes.
 - b) Where the proposed development does not satisfy conditions of any caveat, covenant or other instrument affecting a building or land; and
 - c) Where the proposed development is the same as or substantially similar to an earlier application that was refused or rejected within 1 year before the day when the new development application is made.
 - d) The Development Officer or Council must send a written copy to the applicant the decision to refuse to process the development application.

1.9.7 Refusing To Process Development Permit

- (1) The Development Officer shall refuse to issue a development permit that does not generally conform to the provisions of:
 - a) This Zoning By-law;
 - b) A conditional use order;
 - c) A variance order;
 - d) A conforming construction agreement; or
 - e) A development agreement.

Until such time as the non-conforming provisions of the Zoning By-law are alleviated by way of a text amendment, rezoning, variance, or conditional use development application; or the conditions of a conditional use order, variance order or development agreement are changed.

1.9.8 Appealing A Withholding Or Refusal To Process Application

- (1) Where the Development Officer withholds or refuses a development application for non-conformance to the provisions of the Development Plan, secondary plan or other municipal by-laws, the applicant may appeal the Development Officer's decision, within one year of the date of the decision, to a public hearing at Council.
- (2) Council shall review the application that has been withheld or refused by the Development Officer and which is subject to an appeal, hear any representations concerning the application's conformance with the Development Plan, secondary plan or other municipal by-laws, and render a decision solely on the application's conformance with the Development Plan, secondary plan or other municipal by-laws. Such a decision shall be provided in writing to the applicant.
- (3) Where Council decides a withheld or refused development application should be accepted by the Development Officer, the requirements for an approval in the change in zoning district, subdivisions, conditional uses, variances, development agreements or development permits shall remain.

1.9.9 Holding And Terminating Development Permits

- (1) The Development Officer shall only withhold the issuance of a development permit:
 - a) As provided for in *The Planning Act*;
 - b) Where the proposal would result in a contravention of this Zoning By-law, the Development Plan By-law, a secondary plan by-law, as well as a violation of any other law or by-law;
 - c) When the applicant or the land owner is a person who has failed to pay any fees or fines due and owing to the Municipality under this Zoning By-law or any other by-law; or
 - d) Where the applicant or the land owner is required to address outstanding infractions on the subject property to bring the lands into compliance with this Zoning By-law unless the permit is required to address the outstanding infractions.
- (2) Where a development permit is withheld as provided in *The Planning Act*, or where the proposal would result in a violation of a law or by-law, and the applicant does not take measures to enable the development permit to be issued, the development permit shall be cancelled **sixty (60) days** after the date of which the development permit application was accepted or as otherwise provided for in *The Planning Act*, and the applicant notified in writing of such action.
- (3) Where a development permit is withheld due to outstanding fees or fines, the development permit shall be cancelled **six (6) months** after the date of which the development permit was ready to be issued, and the applicant notified in writing of such action.
- (4) A development permit may be revoked in writing to the applicant by the Development Officer:
 - a) Where any information accompanying the development permit application is incorrect or incomplete, and an existing or proposed building, structure or use on the same lands is thereafter found to be in contravention of this By-law or any other law or by-law, or
 - b) Where the development permit was issued in error.
- (5) Work under a development permit shall commence within one (1) year of the issuance of the development permit or the development permit shall expire.
- (6) Construction shall be carried out in accordance with all provisions of this By-law, all provisions as described on approved plans and the development permit, including the anticipated completion date, which, as determined by the Development Officer, shall be the development permit expiry date.

1.10 Enforcement of Development Without Permits

- (1) In the administration and enforcement of this Zoning By-law, the Municipality shall have all of the powers of inspection, remedy and enforcement provided under *The Planning Act*.

1.10.1 Authority To Inspect

Enter Land or Building

- (1) A Development Officer may enter land or a building:

- a) To conduct an inspection to determine if a person is complying with:
 - i. A by-law adopted under *The Planning Act* that the Municipality is authorized to enforce; or
 - ii. The terms or conditions of a permit, approval or order made or issued under *The Planning Act*.
 - b) To take any action authorized under *The Planning Act* or a by-law to enforce or remedy a contravention of any of the aforementioned matters.
- (2) Such inspections of entering upon lands, buildings or structures shall be made at a reasonable time, and after reasonable notice has been given to the owner or occupier of the land or building.

Consent Or Warrant Issued

- (1) The Development Officer may only enter the land or building in question with the consent of the occupier or under authority of a warrant issued.

Emergency Entrance on Land

- (2) In an emergency, or in extraordinary circumstances, the Development Officer is not required to give reasonable or any notice to enter the land or a building, and may take any inspection or enforcement action without the consent of the owner or occupier of the land or building and without a warrant.

Produce Identification

- (3) The Development Officer shall upon request, produce identification showing that he or she is authorized by Council to conduct the inspection or enforcement action.

1.10.2 Authority To Enforce Remedy

- (1) The Development Officer shall issue a written order requiring the person to remedy the contravention of a by-law adopted under *The Planning Act* that the Municipality is authorized to enforce, and the terms and conditions of a permit, approval or order made or issued under *The Planning Act*. The order may be enforced in accordance with *The Planning Act*.
- c) The order may be enforced in accordance with *The Planning Act*;
 - d) The order may direct the person to stop doing something, or to change the way in which the person is doing it;
 - e) The order may direct the person to take any action or measure necessary to remedy the contravention and, if necessary, to prevent a recurrence of the contravention;
 - f) The order should state a time within which the person must comply with the order; and
 - g) The order should state that if the person does not comply with the order within the specified time, the district or municipality may take any action required to remedy the contravention, without further notice, and at the expense of the person.
- (2) A person against whom an order is made under this section may request Council to review it by making a written request to Council no later than fourteen (14) days after the date on which the order was made.

- (3) After receiving the written request to review the order, Council must review the order and may confirm, vary or rescind the order, and provide its decision in writing to the affected party.

1.10.3 Offences And Penalties

- (1) Every person is guilty of an offence who contravenes
 - a) This Zoning By-law; or
 - b) The terms or conditions of a permit, approval or order made or issued under *The Planning Act* or this Zoning By-law.
- (2) When a contravention continues for more than one day, the person is guilty of a separate offence for each day the offence continues.
- (3) If a corporation commits an offence, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence and is liable on summary conviction to the penalties whether or not the corporation has been prosecuted or convicted.
- (4) Every person who is guilty of an offence under this Zoning By-law is liable, on summary conviction:
 - a) In the case of an individual, to a fine of not more than \$5,000.00; and
 - b) In the case of a corporation, to a fine of not more than \$20,000.00.

1.12 Public Hearing Process of Development Applications

- (1) Members of the public, including elected representatives not sitting on the tribunal for considering a development application, may attend a public assembly and make representations regarding a development and development application.
- (2) Members of the tribunal constitute an impartial body that is open minded to the matter and have not pre judged the development to the extent that he or she is no longer capable of persuasion. The tribunal 'hears' all sides on the merits and faults of the proposal in a public forum and seriously considers the distinctions of both sides of an issue before making a decision.
- (3) **The applicant** and/or designate should attend the public assembly to speak on the proposal's merits; anyone else may also attend the hearing and may speak for or against the merits of the development, or register for information only.
- (4) Persons must be allowed to inspect the documents related to the matter to be considered at the hearing at the offices designated by Council, and at the times set out in the public notice, and be provided copies of the documents at a reasonable fee.
- (5) Persons affected by the tribunal's decision must be given prior notice of the public assembly considering the issue and must be given an opportunity to make representations.
- (6) Generally, and unless otherwise directed by the tribunal, **the applicant** (and/or designate) is heard first, followed by those in support of the application. Next, those registered in opposition are heard, followed by those registered for information. The hearing body may ask questions of the administration for the purposes of soliciting clarification on matters raised during the hearing, on procedural items, on technical information, and other matters deemed necessary. Finally, the applicant may, if he/ she

so desires, return to speak in rebuttal to address any matters that was raised by the previous speakers. The applicant must not provide new information in the rebuttal unless it addresses a matter raised by the previous speakers.

- (7) The tribunal may question persons making representations at a public hearing and shall allow opportunity for persons to respond but the hearing body shall not allow cross-examination.
- (8) A person making a representation may make a presentation orally with the assistance of visual aids or submit written material regarding the development, including petitions, to the tribunal.
- (9) The tribunal 'hears' the relevant considerations being put forth by all the representations concerning the proposed development and application. The tribunal may then close the public hearing and make a decision: giving weight to the relevant considerations and the criteria for decisions when provided in *The Planning Act*. The tribunal can approve the application, reject the application, or approve it with conditions. The tribunal may also decide to adjourn the public assembly to another public assembly at a fixed date. Unless the new date is announced at the time of adjournment, the tribunal holding the hearing must give notice of the continuation of the public assembly as if it were a new public assembly. The adjourned date shall not be greater than 8 months from the first hearing date.
- (10) The public assembly is the only opportunity for members of the public and the applicant to voice their opinions to the decision-making body on the merits of the proposed development and development applications. No new information may be presented to the decision-making body after an adjournment of the public assembly unless public representations are re-opened at the original tribunal to consider this new information.
- (11) Notice of the tribunal's decision shall be given in accordance with *The Planning Act*.
- (12) When a tribunal lacks quorum, the members of the tribunal should reschedule the public assembly to the soonest possible date at the same committee. Unless the new date is announced at the time of adjournment, the body holding the public assembly must give notice of the continuation of the assembly as if it were a new assembly. The adjourned date shall not be greater than **90 days** from the date the application was submitted.
- (13) When the tribunal adjourns a public assembly, the tribunal shall make a decision or recommendation (as the case may be) on the application(s) within **90 days** from the date the application was submitted.
- (14) In the event an incorrect public hearing notification or a public hearing notification that did not meet the statutory time period does not allow for the first scheduled public hearing to be opened, in which case the re-advertised public hearing date is counted as the first meeting.
- (15) When membership of the tribunal changes during the time period of a matter that has been adjourned, the body holding the public assembly must give notice of the public assembly as if it were a new assembly and treat it as such.

1.10.4 Combined Hearings

- (1) If a development application would require Council to hold multiple hearings because the application requires:

- c) Amendments to more than one by-law; or
- d) Other approvals that require hearings.

Council may hold all of the required hearings related to the proposal that it has jurisdiction to hold together in a single combined hearing.

- (2) Council may consider all application(s) in a combined hearing for a proposed development which proposes one or more of the following:
 - e) An amendment to the Development Plan;
 - f) An amendment to the Zoning By-law;
 - g) An amendment to an Agreement;
 - h) A Conditional Use; and/or
 - i) A Variance.
- (3) The public hearing notification is the same for each type of development application when combined into one hearing.

1.10.5 Notice Of Decisions

- (1) Any decisions made by Council or the Development Officer in relation to the administration of this Zoning By-law, including the approval, refusal, or rejection of Development Applications, should be made in writing to the parties involved in the matter and include clear and meaningful reasons for the decisions, and an explanation on how the decision was arrived at.
- (2) Such written decisions shall be made available to the general public as well as provided directly to the applicants and those who registered in opposition to development applications.

1.10.6 Address For Sending Notices

Where an address for sending by ordinary mail a decision of the Development Officer, a Hearing Body, Council, or a notice of hearing is required, one of the following shall be used:

- (1) If the person to be served is the owner of real property, the address maintained by the tax collector for the purpose of issuing the tax notice for that property;
- (2) If the person to be served is the occupant of real property, the civic address for that property; The address for service provided by the person to be served in a development application made under this By-law; or
- (3) If the person to be served has made a representation at a hearing under this By-law, the address for service provided by the person.

2 Zoning Administration

2.1 Non-Conforming

2.1.1 Non-Conforming Building, Structure Or Use

- (1) Enactment of this Zoning By-law does not affect any building, parcel of land, or use of land or the intensity of a use of land that lawfully existed before the enactment of this By-law.²
- (2) The legal status of a use of land, building or structure is not affected by change of ownership, tenancy or occupancy of land, building or structure.
- (3) When on or before the day on which this By-law or any by-law for the amendment of it comes into force, a development permit has been issued, and the enactment of the By-law would render the development in respect of which the permit was issued a non-conforming building, structure, lot, or use, the development permit continues in effect if acted upon within 12 months of issuance.

2.1.2 Non-Conforming Building Or Structure

- (1) Any lawful building or structure which does not conform to one or more of the applicable yard regulations of the Zoning District in which it is located, either on the effective date of this By-law or amendments thereto, shall be deemed to be a permitted building or structure and shall be used as if it conformed to all such regulations.
- (2) Construction on a non-conforming building or structure may occur if:
 - a) The construction does not increase the non-conformity and it otherwise conforms with the zoning by-law and any variance approved by Council; or
 - b) The owner or a person authorized by the owner obtains a variance order to change the building or structure to increase the non-conformity, or increase the intensity of a use, or change to another non-conforming use.
- (3) Incidental Alterations or Minor Developments Not Requiring Permits may occur if to the exterior of the building.

2.1.3 Non-Conforming Lands

- (1) Any legally existing lot which does not conform to the minimum site area, width, front yard or access regulations hereof for the Zoning District wherein it is located, shall be deemed to be a permitted lot and shall be used for those uses allowed in this By-law for the Zoning District as if it conformed to all such regulations:
 - a) Where the lot is increased in site width or site area, but remains less than the minimum requirement of this By-law, variances shall not be required and said lot shall remain an existing non-conforming lot deemed to be a permitted lot.
 - b) If all other requirements such as yard setbacks, building height and floor area are

satisfied, the owner may construct or alter a building on non-conforming lot deemed to be a permitted lot.

2.1.4 Lot Of Record

- (1) Where a lot having a lesser lot frontage or lot area than is required by this By-law and is:
 - a) Held under distinct and separate ownership from abutting lots, lawfully existing prior to the effective date of this By-law as evidenced by the records of the Land Titles Office; or
 - b) A lot or block on a registered plan of subdivision with the Land Titles Office.
- (2) Such a lot shall be deemed to conform with the lot frontage and lot area requirements of this By-law and a structure may be erected.
- (3) The yards for the principal structures provided in the bulk regulations of the zoning district in which the land is located shall be provided, except where the lot width is a factor of the non-compliance which allows the side yards to be reduced to 10 percent of the lot width but shall not be less than 3 feet.

2.1.5 Non-Conforming Land-Use

- (1) Any lawful use of a building, structure or lot, or portion thereof, which does not conform to one or more of the applicable use regulations of the Zoning District in which it is located, either on the effective date of this By-law or amendments thereto, shall be deemed to be a permitted use and shall be used as if it conformed to all such regulations.
- (2) A non-conforming use of land or a non-conforming use of a building may be continued, but if that use is discontinued for a period of twelve consecutive months or more, any future use of the land or building shall conform to the provisions of this By-law.
- (3) A non-conforming use of part of a lot shall not be extended or transferred in whole or in part to any other part of the lot and no additional buildings shall be erected upon the lot while the non-conforming use continues.
- (4) A non-conforming use of part of a building shall not be extended throughout the building; and the building, whether or not it is a nonconforming building, shall not be enlarged or added to and no structural alterations shall be made thereto or therein.
- (5) A non-conforming building may continue to be used, but the building shall not be enlarged, added to, rebuilt or structurally altered except:
 - a) As may be necessary to make it a conforming building;
 - b) As the Development Officer considers necessary for the routine maintenance of the building; or As may be necessary to allow the building to conform to building standards.
- (6) Dwelling units established without the proper approvals prior to this By-law, shall be deemed lawfully non-conforming under this By-law. Dwelling units deemed as lawfully non-conforming under this By-law shall meet the requirements of the Building Code.
- (7) Where a building or structure that does not conform to the provisions of this By-law or amendments thereto is destroyed or damaged to an extent that is 50.00 percent or more of the assessed value of the building or structure above its foundation, the building or structure shall not be repaired or rebuilt except in conformity with the provisions of this

By-law.

- (8) A non-conformity may be altered by way of variation order by Council for the following:
- a) Construction on a non-conforming building beyond that permitted for a non-conforming building;
 - b) An increase in the intensity of an existing non-conforming use, other than a variance to increase the number of animal units in a non-conforming livestock operation;
 - c) Repair or rebuilding of a non-conforming building that has sustained more damage than permitted under this By-law;
 - d) An extension of the 12-month time limit for a discontinued use for not more than 12 additional months.

2.1.6 Non-Conforming Variance Orders

- (1) Where adoption of this By-law or amendments thereto results in bulk requirements that are more restrictive than that allowed for in an existing variance order, the affected property or use shall be considered lawfully existing non-conforming building, structure, use or parcel and shall be subject to the provisions for non-conforming uses and structures in *The Planning Act*.

2.1.7 Effects Of Expropriation

The following applies to lands impacted by public land acquisition:

- (1) If a lot is separated from the public road upon which it would otherwise front by a parcel acquired by Government for the purpose of street-widening, the lot is deemed to have frontage on that public road and a building or structure may be erected, or enlarged, altered or repaired and used on such lot provided that it conforms to all other requirements of this By-law.
- (2) If a lot having a lesser width and/or area than that required by this By-law is created by expropriation or street-widening or other land acquisition from the owner of the lot by any authority having such statutory powers of expropriation, and the non-conformity is due to no other cause, the lot is deemed to comply.
- (3) If a building or structure having lesser yards than those required by this By-law is created in the manner described above, the building or structure is deemed to comply with this By-law and may:
 - a) Be maintained, altered or repaired and used, provided that it conforms to all other requirements of this By-law; and
 - b) Be enlarged, provided that a substandard yard is not further decreased.
- (4) If a building or land-use has parking or loading areas reduced less than the required amount by this By-law due to the manner described above, the parking or loading is deemed to comply with this By-law, except when:
 - a) The building or land-use is enlarged, the parking or loading related to the expansion of the land-use is then required to meet the regulations of this By-law unless otherwise alleviated through a variance.

2.2 Zoning Certificates

2.2.1 Non-Conforming Certificate

Non-confirming Certificate's confirm that a use, or a building placement on a site, conforms to previous zoning regulations and are therefore legal non-conforming.

- (1) A person with an interest in a building, a parcel of land or an operation involving a use of land that does not comply with this By-law may apply to the Development Officer for a Non-Conforming Certificate, in accordance with the provisions of *The Planning Act*, to confirm that the building, the parcel, the use of land, or the intensity of use of land was lawfully in existence before the enactment of this By-law.
- (2) Shall be accompanied by the appropriate fee as prescribed by the Municipality for each type of development application.
- (3) Shall be accompanied by the following:
 - a) Applicant's name, mailing address, telephone number, and if the applicant is not the landowner, a letter from the registered landowner(s) authorizing the applicant to apply for a development permit;
 - b) Municipal Address or Roll Number identifying the subject lands;
 - c) Status of Title that has been issued within three (3) months of the application "received" date along with any relevant caveats or easements on the Title;
 - d) Legal Description of the land, and where applicable, by lot, block, subdivision and registered plan numbers; and
 - e) A building location certificate prepared by a Manitoba Land Surveyor.

2.2.2 Zoning Memorandums

Zoning Memorandums confirm that a building placement on a site conforms to the current zoning regulations of this Zoning By-law.

- (1) A person with an interest in a building, parcel of land or operation involving the use of land may apply to the Development Officer for a zoning memorandum that states whether or not the building or the parcel appears to conform with this Zoning By-law.
- (2) Shall be accompanied by the appropriate fee as prescribed by the Municipality for each type of development application.
- (3) Shall be accompanied by the following:
 - a) Applicant's name, mailing address, telephone number, and if the applicant is not the landowner, a letter from the registered landowner(s) authorizing the applicant to apply for a development permit;
 - b) Municipal Address or Roll Number identifying the subject lands;
 - c) Status of Title that has been issued within three (3) months of the application "received" date along with any relevant caveats or easements on the Title;
 - d) Legal Description of the land, and where applicable, by lot, block, subdivision and registered plan numbers;
 - e) A building location certificate prepared by a Manitoba Land Surveyor, when the lands are occupied by a building or structure; and

- f) A staking certificate prepared by a Manitoba Land Surveyor, when the lands are undeveloped.

2.2.3 Zoning Verification Letter

Zoning Verification Letter's confirm that the current or proposed land use on a site or occupancy of a structure conforms to current zoning regulations of this By-law.

- (1) A person with an interest in a building, parcel of land or operation involving the use of land may apply to the Development Officer for a zoning compliance letter that states whether or not the use, or intensity of use, current or proposed appears to conform with this By-law.
- (2) Shall be accompanied by the appropriate application fee as prescribed by the Municipality for each type of development application.
- (3) Shall be accompanied by the following:
 - a) Applicant's name, mailing address, telephone number, and if the applicant is not the landowner, a letter from the registered landowner(s) authorizing the applicant to apply for a development permit;
 - b) Municipal Address or Roll Number identifying the subject lands;
 - c) Status of Title that has been issued within three (3) months of the application "received" date along with any relevant caveats or easements on the Title;
 - d) Legal Description of the land, where applicable, by lot, block, subdivision and registered plan numbers; and
 - e) Letter of Intent describing with respect to:
 - i. The current occupancy of land-use and/or building; and
 - ii. Description of the proposed activities and/or functions of the lands and/or buildings.

2.2.4 Development Permit Work Order Letter

Development Permit Work Order Letter confirms whether any violations previously cited by the Development Officer or Council are unresolved on a property.

- (1) Development Permit Work Order Letter should be issued by the Development Officer without a request from the affected party.
 - a) Said letter provides confirmation that violations previously cited have been resolved prior to any deadline previously established to bring the issue into compliance; and
 - b) Said letter should be provided on or before any deadline previously established to bring the issue into compliance.
- (2) A person with an interest in a building, parcel of land or operation involving the use of land may apply to Council for a Development Permit Work Order Letter that provides confirmation that violations previously cited have been resolved.
- (3) Shall not be charged a fee by the Municipality.
- (4) Shall be accompanied by the following:
 - c) Applicant's name, mailing address, telephone number, and if the applicant is not the

landowner, a letter from the registered landowner(s) authorizing the applicant to apply for a development permit;

- d) Municipal Address or Roll Number identifying the subject lands;
- e) Status of Title that has been issued within three (3) months of the application “received” date along with any relevant caveats or easements on the Title,;
- f) Legal Description of the land, where applicable, by lot, block, subdivision and registered plan numbers; and
- g) Letter of Intent describing with respect to:
 - i. The current occupancy of land-use and/or building;
 - ii. Description of the activities and/or functions of the lands and/or buildings; and
 - iii. Request to confirm previous cited contravention of a by-law adopted under *The Planning Act* that the Municipality is authorized to enforce, and the terms and conditions of a permit, approval or order made or issued under *The Planning Act* has been resolved.

3 By-Law Interpretations & Glossary

3.1 Interpreting Zoning Regulations

- (1) Permitted and conditional uses are outlined in table form within the Zoning By-law, Schedule A.
- (2) The bulk and siting requirements for each use are also outlined in table form within the Zoning By-law, Schedule A.
- (3) Where a use is not identified within the Land-use Table, the use is a prohibited use in that zone.

3.2 Interpreting Tables

- (1) The Land-use table, and the bulk and siting tables for each zone may contain reference footnotes. These footnotes immediately follow the above noted tables and are deemed to be part of this By-law.

3.3 Abbreviations

- (1) Each zoning district created in this By-law may be abbreviated with the letter and number designations throughout this By-law in place of the zone name and shall have the same meaning.
- (2) The meanings of other abbreviations contained in maps, illustrations and tables are found either in those maps, illustrations, and tables or in the text immediately preceding, or the following abbreviations contained in this By-law are intended to have the following meanings:
 - iv. ° = degree
 - v. % = percent
 - vi. ac = acre
 - vii. ft = feet
 - viii. ft² or sq. ft. = square feet
 - ix. max. = maximum
 - x. min. = minimum
 - xi. N/A or n/a = not applicable
 - xii. Blk = Block
 - xiii. D of or DS Plan = Director of Surveys Plan
 - xiv. EPM or WPM = East or West of the Principal Meridian
 - xv. Gov't Rd All'ce = Government Road Allowance
 - xvi. "N" = North

- xvii. NE 33-14-8 = the north-east quarter of Section 33, Township 14, Range 8, west of the Principal Meridian, and has a similar meaning for other sections, townships and ranges as the case may be;
 - xviii. Pcl = Parcel
 - xix. Plan = Registered Plan
 - xx. PR = Provincial Road
 - xxi. Pt = Part
 - xxii. PTH = Provincial Trunk Highway
 - xxiii. Rge = Range
 - xxiv. Sec = Section
 - xxv. Twp = Township
 - xxvi. AU = Animal Units
 - xxvii. RM = Rural Municipality
- (3) Where two or more regulations are equally applicable, all provisions shall apply or, where compliance with all applicable provisions is not possible, the most restrictive provisions shall apply. However, where an exception, note or overlay applies, that exception, note or overlay shall prevail.
 - (4) Where a use has not been identified within a newly constructed building but a regulation imposes a requirement premised on that use being in the building, the requirement applies as though the actual area occupied by the use is in the building, so that the intent and meaning of the By-law is implemented.
 - (5) Illustrations may be provided throughout this By-law for clarification and convenience only. Where an illustration appears to be in conflict with the written regulations applicable to a site, the written regulations shall prevail.
 - (6) Any reference to one gender in this By-law includes the other, and words in the singular include the plural.
 - (7) Notwithstanding any of the above directions, final interpretation of any aspect of this Zoning By-law shall be determined by Council.

3.4 Interpreting Zoning Maps

3.4.1 Dimensions

- (1) The dimensions in this Zoning By-law and on the zoning maps are in imperial units of measure.

3.4.2 Registered Plans

- (1) All plan references on the zoning maps pertain to registered plans filed in the Land Titles Office, or Surveys Plans filed with the Director of Surveys.

3.4.3 Zone Boundary Interpretation

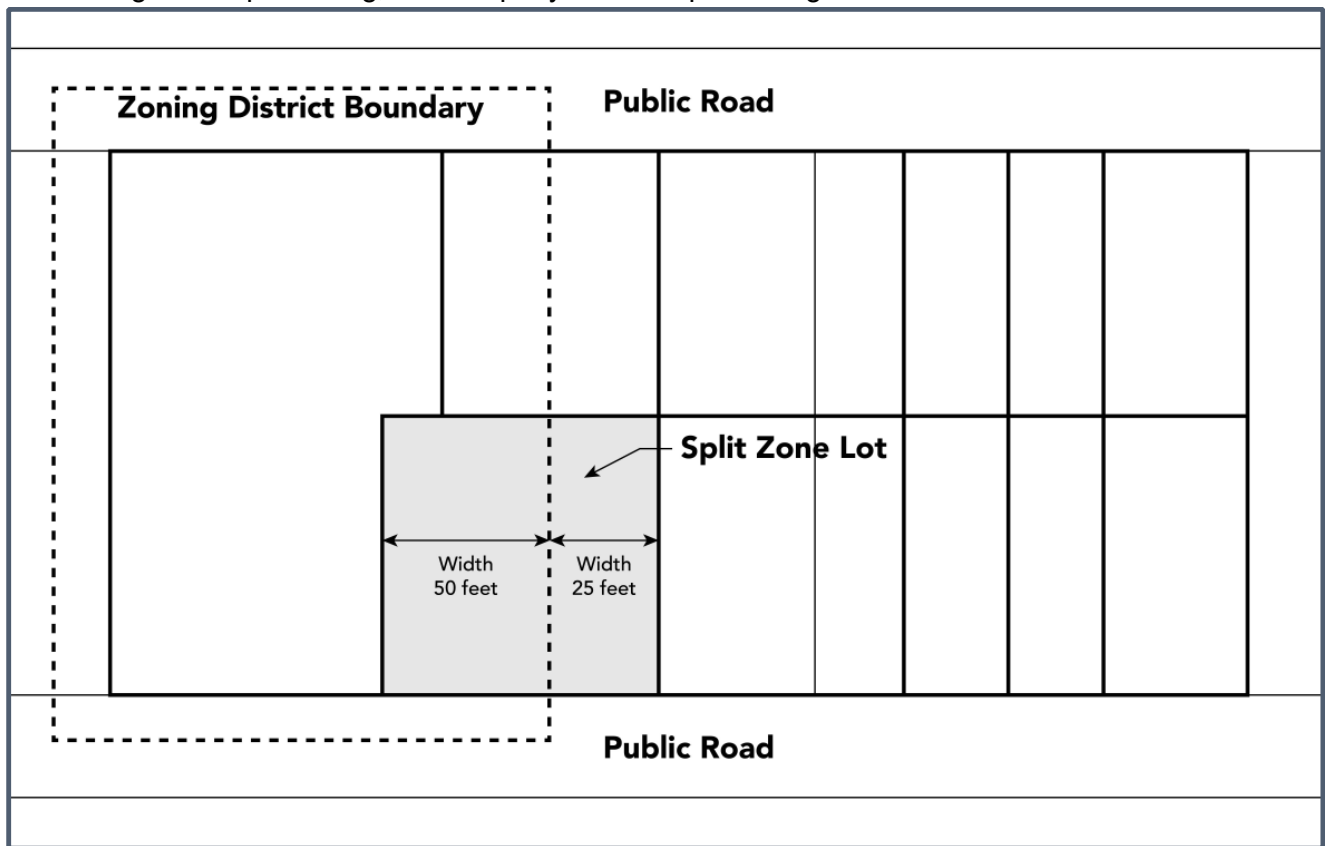
- (1) Boundaries indicated as following the limits of an incorporated municipality shall be construed as following the limits of said municipality.
- (2) Boundaries indicated as following the lot, site, property, section, quarter section lines shall be construed as following said lot, site, property, section, quarter section, or

boundaries noted as following registered limits shall be construed as following said limits.

3.4.4 One Property with Multiple Zoning Districts

- (1) Where a zone boundary divides or splits a registered parcel of land to cause two(2) or more zones to apply to the land, the provisions of each zoning regulation shall apply to each part of land covered by each zone. However, the zone boundary shall not be treated as a site line. The disposition of such zone boundaries on land shall be determined by:
 - a) Dimensions indicated on the zoning maps;
 - b) By measurements directly scaled from that map; or
 - c) By the designated employee where (a) and (b) are not practical.

Figure 1: Split Zoning, One Property with Multiple Zoning Districts



3.4.5 One Property, One Zoning District, Several Land Uses

- (1) Where multiple permitted or conditional uses occur on a single zoning site, all requirements of this Zoning By-law for each use shall apply. Where there is conflict, such as in the case of required site area or site width for each specific use, the more restrictive requirement for one use shall prevail for all the uses.

3.4.6 Several Properties, One Land Owner, One Zoning District

- (1) Where development spans multiple lots on a registered plan and said contiguous lots are in common ownership, said lots shall be deemed a single zoning site for purposes of determining bulk requirements such as required yards and site coverage.

3.4.7 Roads as Boundaries

- (1) Boundaries indicated as following a highway, public road, lane, path, pathway, and/ or a government road allowance that are all legally opened rights-of-way shall be construed as following the centre line of said rights-of-way.
- (2) Notwithstanding that public rights-of-way may be within the zone boundaries, the regulations contained within this Zoning By-law shall not apply to said public rights-of-way.
- (3) Where a public right-of-way is lawfully closed, the land formerly comprising the public right-of-way shall carry the same zone as the abutting lands though Manitoba Hydro may leave its works in place and has the same rights with respect thereto as though the public highway, public road, lane, or other public place, or part thereof, had not been closed.
- (4) Where such abutting lands are governed by different zones, the centre line of the former right-of-way shall be deemed the zone boundary except where the closed public right-of-way is being transferred to an adjoining owner, in which case the boundary shall follow the limits of the newly consolidated property.

3.4.8 Railway, Pipelines, and Transmission Line Corridors as Boundaries

- (1) Boundaries indicated as following a railway, pipeline, or transmission line corridor or rights-of-way shall be construed as following the centre line of said rights-of-way.
- (2) Notwithstanding that railway, pipeline and transmission line corridor or rights-of-way may be within the zone boundaries, the regulations contained within this Zoning
- (3) By-law shall not apply to said rights-of-way.
- (4) If a railway, pipeline or transmission line corridor or right-of-way is abandoned, the land formerly comprising the right-of-way shall be included within the zone of the abutting lands; however, if the said right-of-way was a zoning boundary between two (2) or more different zones, the new zoning boundary shall be the former centre line of the right-of-way, except where the right-of-way is being transferred to an adjoining owner, in which case the boundary shall follow the limits of the consolidated property.
- (5) Where a railway, pipeline or transmission line corridor or right-of-way no longer serves its function, the land formerly being used for a rail line, pipeline or public utility shall carry the same zone as the abutting lands.
- (6) Where such abutting lands are governed by different zones, the centre line of the

former railway, pipeline or transmission line corridor or right-of-way shall be deemed the zone boundary except where the land is being transferred to an adjoining owner, in which case the boundary shall follow the limits of the consolidated property.

3.4.9 Water Bodies as Boundaries

- (1) Boundaries indicated as following the centre line of a waterbody shall be construed as following the centre line of said water body.
- (2) Boundaries indicated as following the shoreline of water bodies shall be deemed to follow the ordinary high-water mark (OHWM) as identified by the Provincial Government.
- (3) In the event of a change in the said line of a water body, it shall be deemed the zoning boundary as moving with that line.

3.4.10 Zone Boundaries and Development Plan Policy Areas

- (1) Where a change in land use or amendment to this Zoning By-law is proposed and most, but not all of the subject property to be re-zoned falls within the appropriate development plan policy area designation, the subject property shall be deemed to fall within the boundaries of the appropriate development plan designation so as not to necessitate an amendment to the development plan.
- (2) Final Interpretation of Zoning Regulations and Maps
- (3) Where features on the ground that are being used as zoning boundaries are at a discrepancy with those shown on the Zoning District Map, or in any other circumstances not mentioned in this Zoning By-law, the Development Officer shall interpret the Zoning District boundaries and the zoning regulations. Any such decision may be appealed to Council.

3.4 Interpreting Numbers

- (1) Where any numbers or values are specified in this By-law, such quantities shall be considered to no more than one decimal place. During measurement of any lot, building, structure, setback or the calculation for any requirement of this By-law, the following shall apply:
 - a) if the number or value at one decimal place is followed by 5, 6, 7, 8, or 9, round the number up.
 - b) If the number or value at one decimal place is followed by 0, 1, 2, 3, or 4, round the number down.

3.5 Calculating Animal Units from the Number of Animals

- (1) The number of an animal's times the number of animal units produced by one animal, equals the number of animal units.
 - c) Two (2) Horses X 1.33 AU = 2.66 AUs
 - d) Three (3) Horses X 1.33 AU = 3.99 AUs
 - e) Five (5) Beef Cows X 1.25 AU = 6.25 AUs
 - f) 1,200 Sows, farrow to weanling X 0.25 = 300 AUs
 - g) 60,000 Broiler Chickens X 0.005 = 300 AUs

3.6 Calculating the Number of Animals from Animal Units.

- (1) The number of animal units, divided by number of animal units produced by one animal, equals the number of animals.
 - a) $2.66 \text{ AUs} / 1.33 \text{ AU} = \text{Two (2) Horses}$
 - b) $3.99 \text{ AUs} / 1.33 \text{ AU} = \text{Three (3) Horses}$
 - c) $6.25 \text{ AUs} / 1.25 \text{ AU} = \text{Five (5) Beef Cows}$
 - d) $300 \text{ AUs} / 0.25 = 1,200 \text{ Sows, farrow to weanling}$
 - e) $300 \text{ AUs} / 0.005 = 60,000 \text{ Broiler Chickens}$

3.5 Interpreting Words

Land-uses that fall under the 'Classification of Land-use', and are the land-uses listed for each Zoning District 'Land-use Table' are defined using the North American Industrial Classification System [NAICS]. The NAICS (pronounced "nakes") is used by business and government to classify business establishments according to type of economic activity (process of production) in Canada, Mexico, and the United States of America. The Planning Act and associated regulations are also used to define words relevant to Manitoba. These land-uses are defined in the Zoning By-law under Land-Use Lexicon: Uses of Land Defined.

Words defined in this companion document to the Zoning By-law are words used in a specific manner in the Zoning By-law: the provision of the definition of these planning and zoning terms are to provide greater clarity to understand how to administer the Zoning By-law.

- (1) The terms "shall" and "must" are mandatory and not permissive.
- (2) The word "should" is as recommended, and not mandatory.
- (3) The word "may" is permissive and not mandatory.
- (4) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- (5) Words used in the singular include the plural and words used in the plural include the singular.
- (6) Words used in the present tense include the future tense and words used in the future tense include the present tense.
- (7) The phrase "used for" includes "arranged for"; "maintained for"; "designed for"; or "occupied for".
- (8) The provisions of this Zoning By-law shall be interpreted to be the minimum regulations except where the abbreviation for, or word, maximum is used, in which case the maximum regulation shall apply.
- (9) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions 'and', 'or', or 'either-or', the conjunctions shall be interpreted as follows:
 - a) **AND** indicates that all the connected items, conditions, provisions or events shall apply;
 - b) **OR** indicates that all the connected items, conditions, provisions or events may

apply singly or in combination; and

- c) **EITHER-OR** indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (10) The word **INCLUDES**, shall not limit a term to the specified examples, but is intended to extend the meaning to all instances or circumstances of the like kind or character.
- (11) Part, section, subsection, clause, sub-clause, and paragraph headings are not part of this By-law.
- (12) Words, phrases and terms not defined in this By-law but defined in The Planning Act Chapter 30 of the Statutes of Manitoba, 2005; the Provincial Planning Regulations 81/2011; and the North American Industry Classification System (NAICS) Canada (2017 V 2.0) must be construed as having the same meaning in this by-law unless otherwise noted.
- (13) Definition of common words and their meanings are aligned to the Canadian Oxford English Dictionary.
- (14) Words, phrases and terms defined in this Zoning By-law must be given the defined meaning.
- (15) Words used in specific context in this Zoning By-law shall have the following definitions apply to the text of this By-law:

Abut or Abutting means immediately contiguous to or touching and, when used with respect to a lot or site, means the lot or site touches upon another lot, site, right-of-way, or piece of land and shares a property line.

Accessory means a use, building or structure that is naturally and normally incidental, subordinate in purpose or area, or both, and exclusively devoted to the use, building, or structure to which it is accessory.

Act — The Planning Act, C.C.S.M. c. P80, and amendments thereto.

Active frontage means building frontages that face and open onto a public sidewalk and are designed to promote animation, vibrancy and interest, as well as an element of comfort to the public realm. This is intended to create a relationship between the building and the public road by incorporating the following elements:

- a) frequent door and transparent window openings;
- b) no blank walls, continuous garage doors or high fences;
- c) interesting building facades along the public road frontages;
- d) building facades that vary along the block face;
- e) building facades may be articulated or contain projections, including but not limited to, bays and porches to provide visual interest;
- f) where a building is setback from the property line, the space created should be dedicated to pedestrian activities, including plazas, seating areas, landscaping, or other uses that are active or provide visual interest;

- g) public uses should be located on the ground floor where possible; and
- h) internal uses should be visible from the sidewalk or may continue onto the sidewalk.

Adjacent means properties or land-uses that are separated by a public road or other publicly-dedicated right-of-way, a water body, a rail line, or a utility right-of-way.

Allowable means land-uses that are either permitted **OR** conditional **ON A SITE** in this Zoning By-law.

Alterations, Incidental means changes or replacements in the non-structural parts of a building or structure, including, but not limited to the following:

- a) An addition, alteration, removal, reconstruction or replacement on the non-structural exterior of a residential building;
- b) An addition, alteration, removal, reconstruction or replacement of any unroofed driveway, sidewalk, patio or any accessory building floor;
- c) Alteration of non-load bearing interior partitions in all types of buildings;
- d) Replacement of, or changes in, the capacity of utility pipes, ducts or conduits;
- e) Replacement and placement of necessary roofing materials, awnings, eaves, overhangs and related structures, provided the area and height of the roof are not increased;
- f) The addition and replacement of interior structures such as furnaces, fuel tanks, water heaters, fireplaces or wood stoves; and
- g) Replacement of exterior building facades that is non-structural or does not involve changing building exiting patterns.

Alterations, Structural means any change, which prolongs the life of the supporting members of building or structure, which includes, but is not limited to, bearing walls, columns, beams or girders.

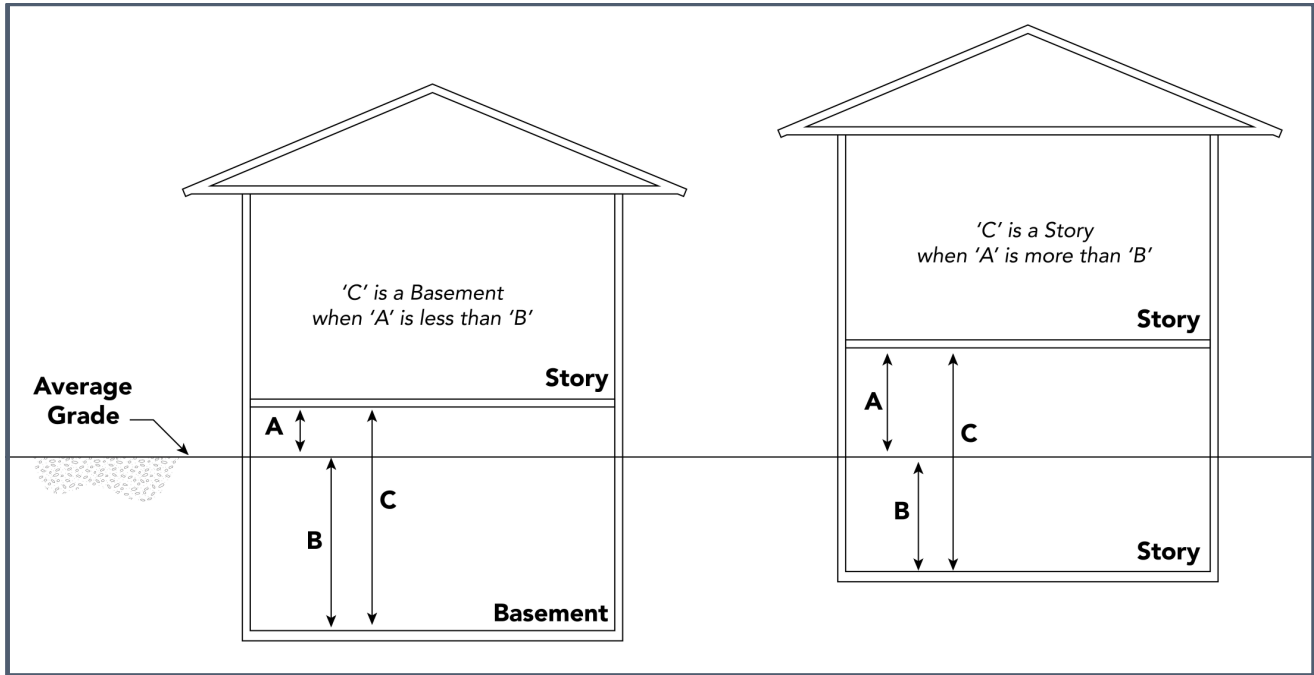
Amenity space means that land area, patio, balcony, terrace, deck area or internal building space, set aside exclusively for the purpose of providing recreation space on the site.

Applicant means, unless otherwise specified, a registered owner or an owner's authorized agent, who has filed an application subject to the provisions of this By-law.

Approach apron means an area immediacy outside of the loading dock area typically comprised of concrete or asphalt.

Basement means that portion of a building between floor and ceiling, which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

Figure 2: Determining Basement Areas within a Structure



Bee is as defined under the *Bee Act C.C.S.M. c. B15*.

Bee colony means a cluster of worker bees with a queen bee and drone bees living together in a beehive.

Beehive means a receptacle constructed and used for housing bees, also known as apiaries.

Building has the meaning provided in *The Planning Act*, except that it does not include a well, pipeline, excavation, cut, fill, or transmission line.

Building, Accessory means a subordinate building, structure or use which is incidental and accessory to the principal building, structure or use, and located on the same site as the principal building, structure or use.

Building coverage means the horizontal area measured within the outside of the exterior walls of the ground floor of all principle and accessory buildings on the lot.

Building, Detached means a building which is not attached to any other building, including slab on grade or foundation, but which is separated by a yard space from all other buildings.

Building envelope means the three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk; by other regulations; or any combination thereof.

Building height means the vertical distance between the average elevation of the finished grade of the ground and a horizontal plane through to:

- a) the highest point of the roof in the case of a building with a flat roof;
- b) the average point between eaves and ridges in the case of a gable, gambrel, shed or hip roof; or
- c) the underside of the roof deck in the case of a mansard roof.

Figure 3a: Building Height for Flat Roofs

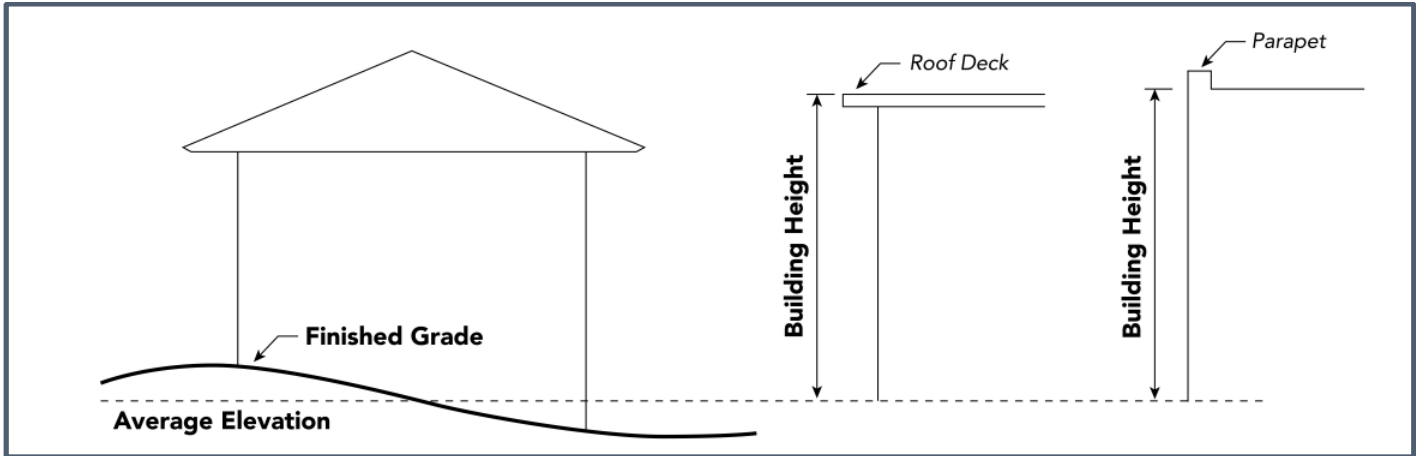


Figure 3b: Building Height for Gable Roofs

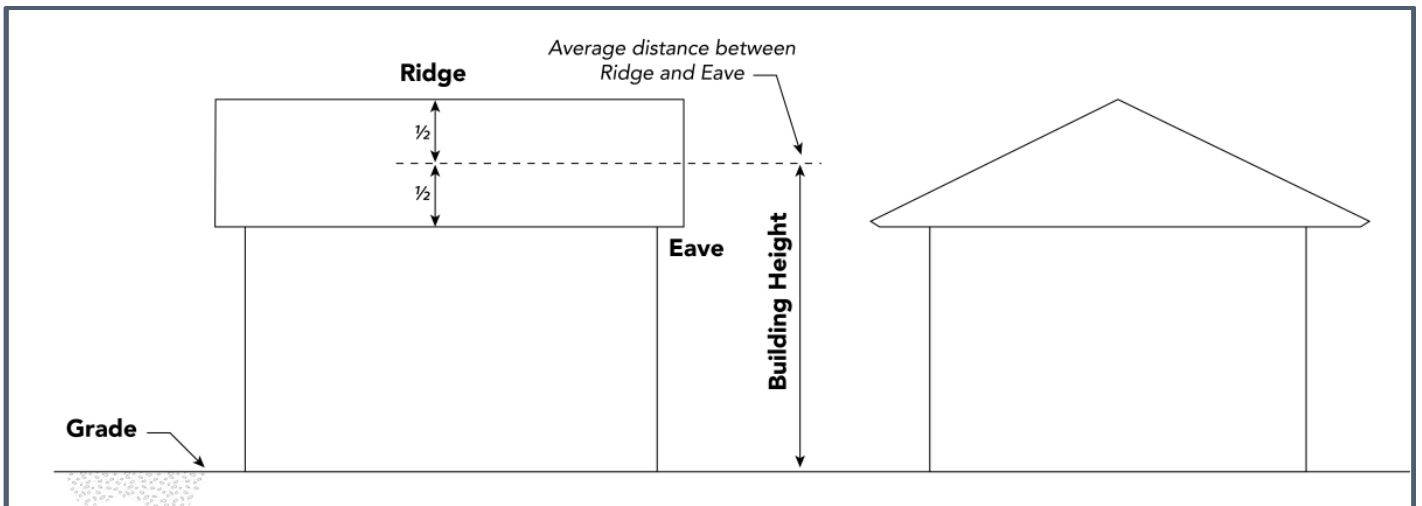


Figure 3c: Building Height for Gambrel Roofs

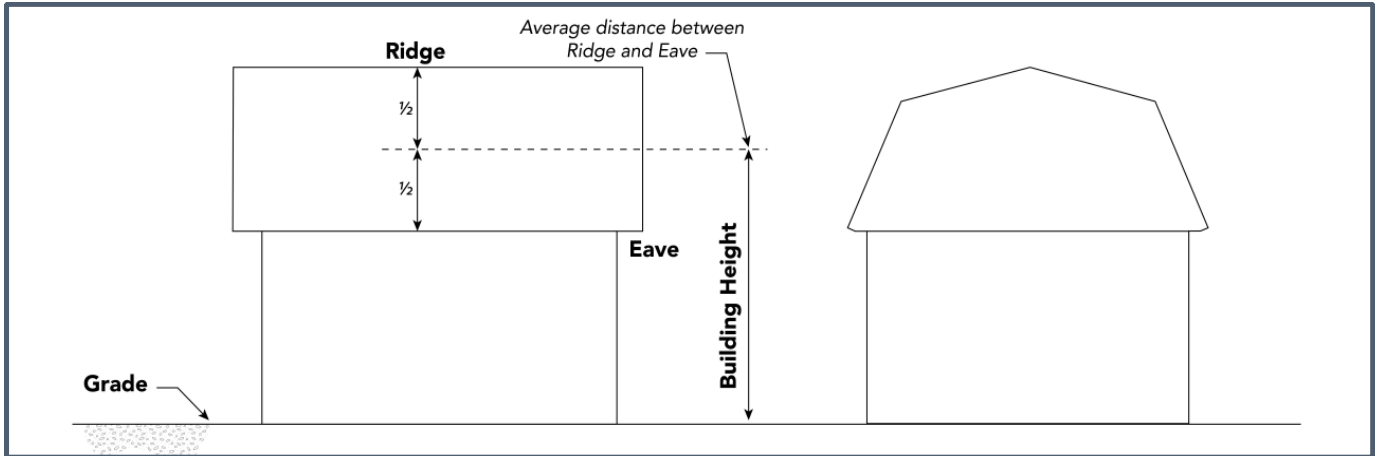


Figure 3d: Building Height for Shed Roofs

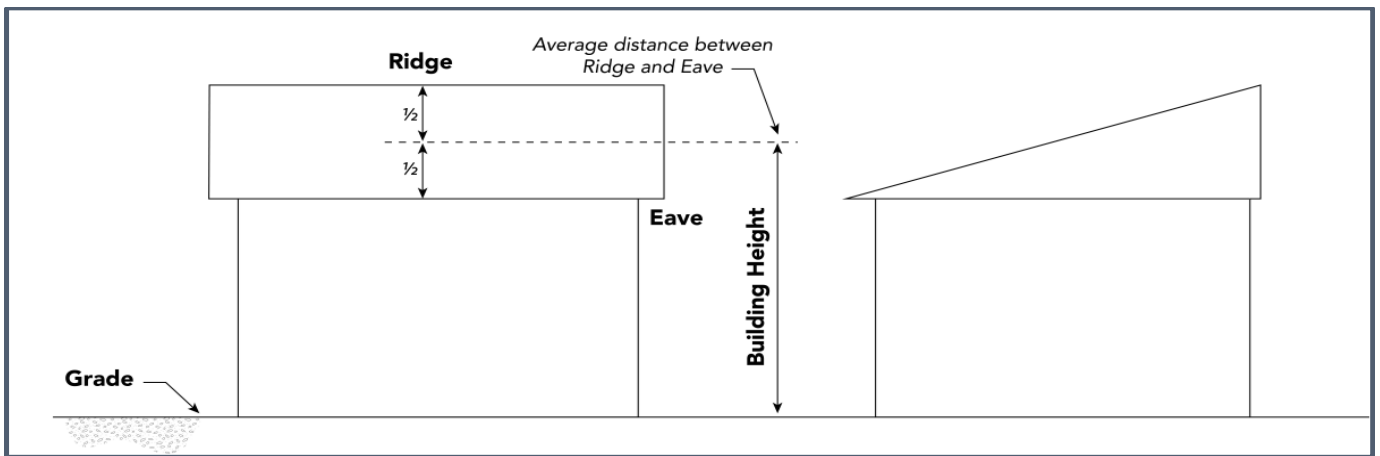


Figure 3e: Building Height for Hip Roofs

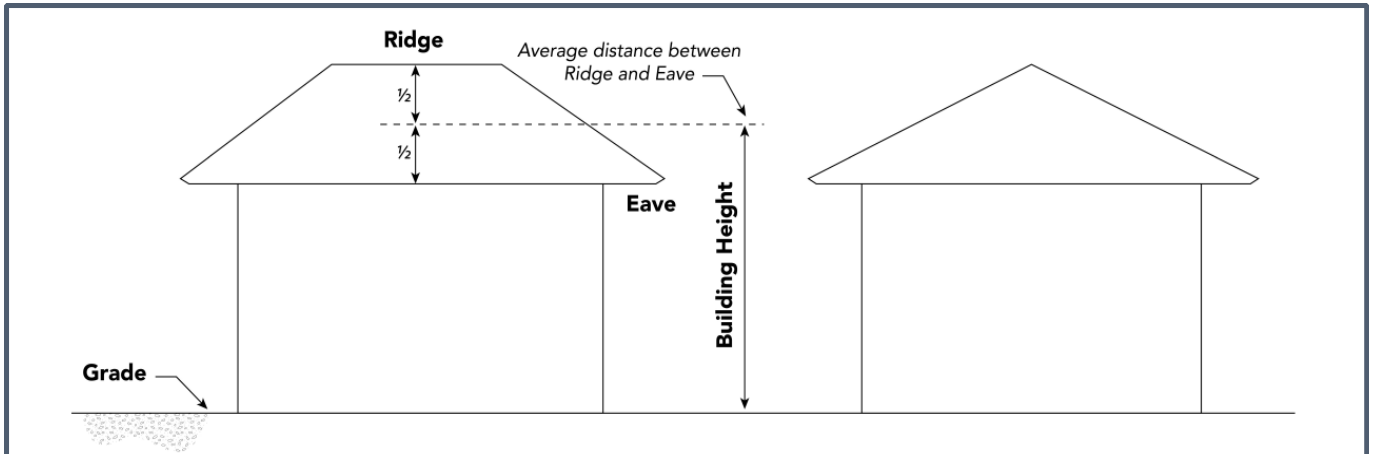
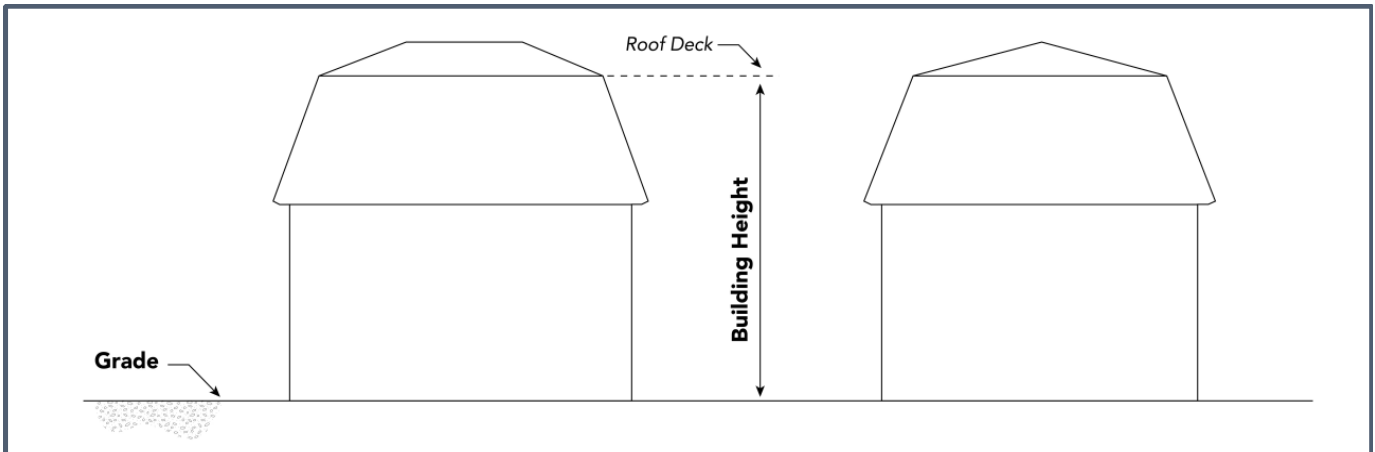


Figure 3f: Building Height for Mansard Roofs



Buildable land means lands within urban and urbanizable areas that are suitable, available, and necessary for residential, commercial, and industrial uses, and include both vacant land and developed land that, in the opinion of the local planning agency, is likely to be redeveloped.

Building, Principal means a building in which the primary use of the lot on which the building is located is conducted.

Bungalow clusters is a type of development that consists of a series of dwelling unit(s) arranged around a define a shared court that is typically a green open space perpendicular to the public road. Parking is located in a shared parking area with access to the public road. The shared court takes the place of a private rear yard.

Intended to allow fee simple ownership, with common green or parking areas held as a common element. May include mobile homes.

Bungalow courts is a type of development that consists of a series of dwelling unit(s) arranged around a defined private lane held as a common element that is shared for access to a public right-of-way. Parking is next to each unit on driveways connected to the private road. Intended to allow condominium ownership, with common green or private roads held as a common element, though may also describe a development design and layout for multiple family. May include mobile homes.

Commercial vehicle means a vehicle that is intended or designed for commercial purposes; or is used for commercial purposes.

Congregate living means four or more individuals each occupying Sleeping Units in a building where the occupants share access to facilities such as cooking, dining, laundry, or sanitary facilities. Typical Uses where Congregate Living is found include Rooming and Boarding Houses, Community Care Facilities, Community Housing Services, etc.

Cover-all buildings and **fabric buildings** are non pressurized buildings constructed using a rigid frame which can consist of timber, steel, rigid plastic, or aluminum with a sturdy fabric outer membrane such as polyfabric, polyethylene tensioned over the frame.

Council means the means the council of a municipality.

Covered deck, patio, stoop, porch, landing, or balcony means these structure are not encircled with a barrier greater than 4 feet in height, but has a permanent roof or overhang extending partially or fully over the entire surface area of the structure.

Critical and significant wildlife habitat has the same meaning as in the *Provincial Planning Regulations*.

Dangerous goods means a product, substance or organism that is:

- (a) prescribed, designated or classified as a dangerous good or hazardous waste in Federal regulations;
- (b) by its nature conforms to the classification criteria for one or more classes of dangerous goods or hazardous materials set out in Provincial regulations; or
- (c) a *High Hazard, Group F, Division 1 (F1)* Industrial occupancy containing sufficient quantities of highly combustible and flammable or explosive materials to constitute a special fire hazard because of their inherent characteristics as per the *Manitoba Building Code*.

Development application means any application in connection with a development or permit, approval, order, by-law or amendment that allows or would allow a development and includes any appeal filed against a Variance Order related to any one or more of them.

Development control strips is a requisite municipally-owned 1 to 2 ft wide parcel of land on a plan of subdivision to act as a control strip to prevent the development of adjacent lands until such time that a range of municipal services can be extended or for some other purpose the municipal requires the control strip.

Development permit means a permit authorizing a development that is subject to the Zoning By-law, and may include a building permit.

Enclosed deck, patio, stoop, porch, landing, sunroom, or balcony means the structure encircled with a barrier greater than 4 feet in height. May or may not have a permanent roof or overhang extending partially or fully over the entire surface area of the structure.

Energy, Generation Systems means a wind turbine(s) or solar collector accessory to a principle land-use. Roof mounted means 'mounted on the roof'.

Evacuation-Sensitive Occupancy means an occupancy where there are more than 10 people. This is an arbitrary number; however, the intent is that rural residences and small businesses are not regarded as evacuation sensitive because a smaller number of people are involved, but larger businesses, senior citizens homes, residential developments, etc. are more sensitive due to the larger numbers of people there.

Flankage means the side of a corner lot along a public right-of-way.

Floor area, below-grade means a portion of the basement floor area in which all or part of the floor is below existing grade, and not including the portion that is defined as above-grade floor area. The first two vertical feet of any basement story that are exposed above existing grade are included in the below grade floor area calculation.

Floor area, gross means the sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude attics, and the below grade floor areas of basements.

Floor area, ground means the sum of the horizontal areas of the ground floor of a building measured from the exterior face of exterior walls, but not including open porches, decks, terraces, garages, or exterior stairways.

Floor area, livable means the habitable area of a dwelling unit measured from the outside dimensions of the exterior walls used for dwelling purposes, and excluding all non-dwelling areas such as attic, storage, carport, and garages.

Frontage means the front of a lot that abuts a public right-of-way.

Habitable room or space means a room or enclosed space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors, closets, storage rooms, and rooms in basements or cellars used only for recreational purposes.

Hard surface means a finished surface of either concrete, paving stone or gravel.

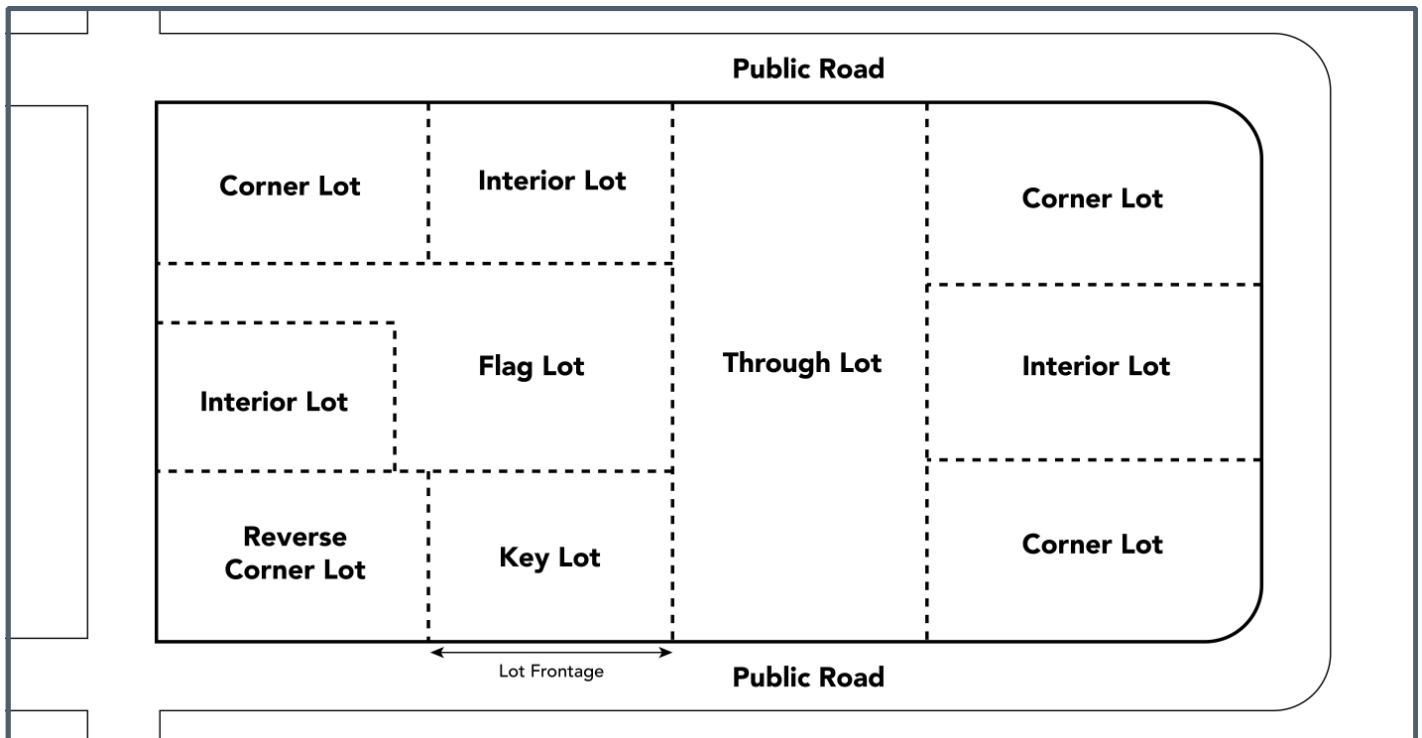
Lot means a parcel of land or an assembly of contiguous parcels, including a(n):

- a) **Corner lot** which means a lot situated at the intersection of two or more public roads or at the intersection of a public road and a railway right-of way having an angle of intersection of less than 135 degrees;
- b) **Reverse corner lot** which means a corner lot, the rear of which abuts the side of another lot [key lot] that fronts a public road;
- c) **Irregular lot** which means a lot where any interior angle formed by any two lot lines is other than ninety (90) degrees;
- d) **Through lot** which means a lot bounded on two opposite sides by public roads, provided that if any lot qualifies both as a through lot and a corner lot as defined herein, such lot is considered to be a corner lot for purposes of applying this Zoning By-law;
- e) **Interior lot** which means a lot other than a corner lot and a through lot;
- f) **Key lot** which means the first site to the rear of the reversed corner lot;
- g) **Flag lot** means the lots typically have access to a public road with the largest portion of the lot located behind existing, developed lots that front on and have access to the public road;

- h) **Waterfront lot** which means a lot that has water access on a shoreline either directly, or by abutting a shore reserve or unopened shore road allowance; and
- i) **Backlot** is a lot without water frontage but with frontage onto a publicly maintained road, but near a waterfront area that has been created through a severance or subdivision where access to the water is provided through tenants in common or other approved legal interest.

Lot area means the horizontal land area within a lot expressed in square feet, acres, or other area measurement.

Figure 4: Lot Types



Lot coverage or **building site coverage** means the cumulative ground floor area of the structures on a lot expressed as a percentage of the net lot area. For purposes of this definition, “ground floor area” means all enclosed area within the ground floor of a structure, including exterior walls and mechanical spaces. Carports, garages, accessory buildings and parking structures are included in ground floor area but swimming pools and unenclosed post-supported roofs over patios and walkways are not included.

Lot depth means the horizontal distance measured between the midpoint of the front lot line and the midpoint of the rear lot line.

Lot frontage means the horizontal distance between the side lot lines of a lot, measured parallel to the front lot line at a point that is equal to the front yard setback requirement for the zone. For a waterfront lot as defined in this By-law, the frontage shall be measured as the horizontal straight line distance between the intersections of the side lot lines with the shoreline.

Lot line means any boundary line of a lot, including a:

- a) **Front lot line** which means, in the case of an interior lot, the line dividing the lot from the public road. In the case of a through lot or a corner lot, the shorter lot line abutting a public road shall be the front lot line. In the case of a corner lot or a through lot where the lot lines abutting a public road have the same length, the lot line where the principal access to the lot is provided shall be deemed to be the front lot line. In the case of a waterfront lot, the lot line abutting the waterway shall be the front lot line.

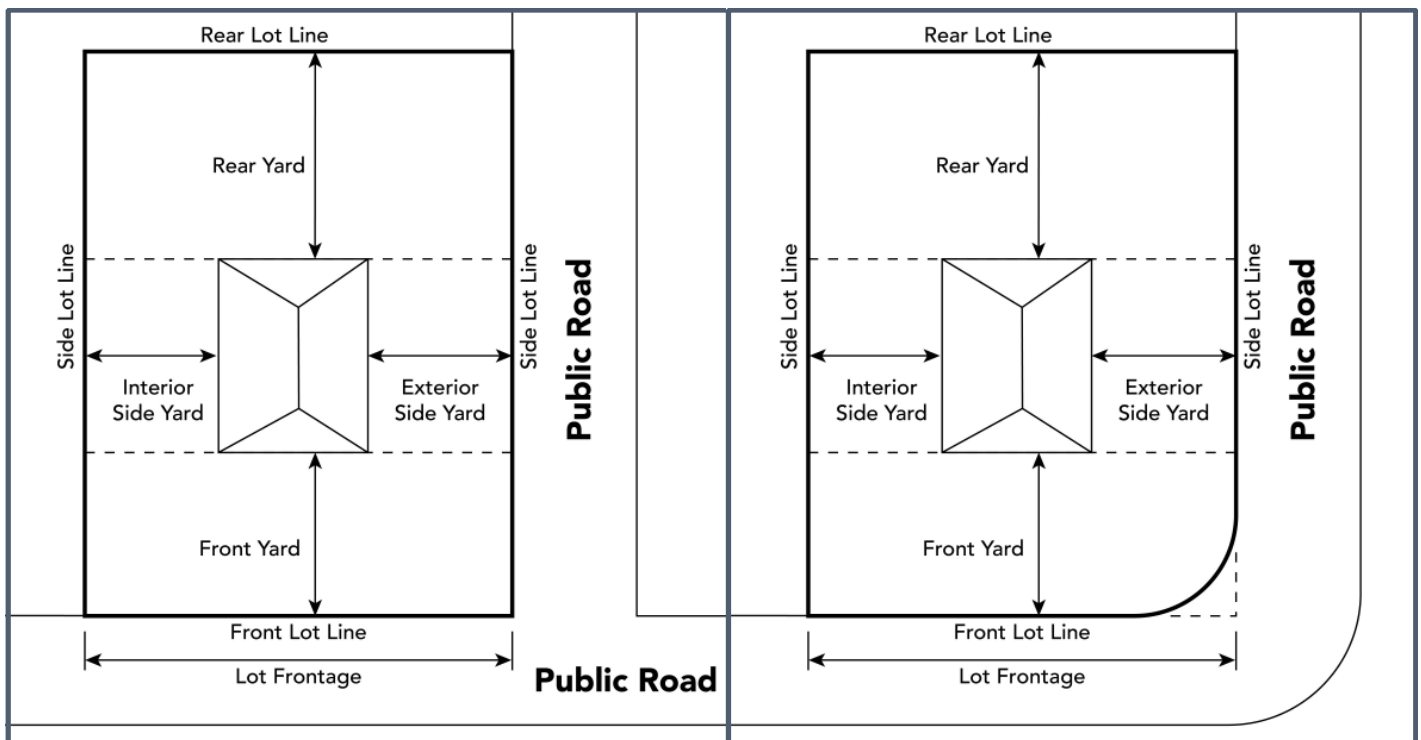


Figure 5a: Lot Frontage on Corner Lots

Figure 5b: Lot Frontage on Waterfront Lots

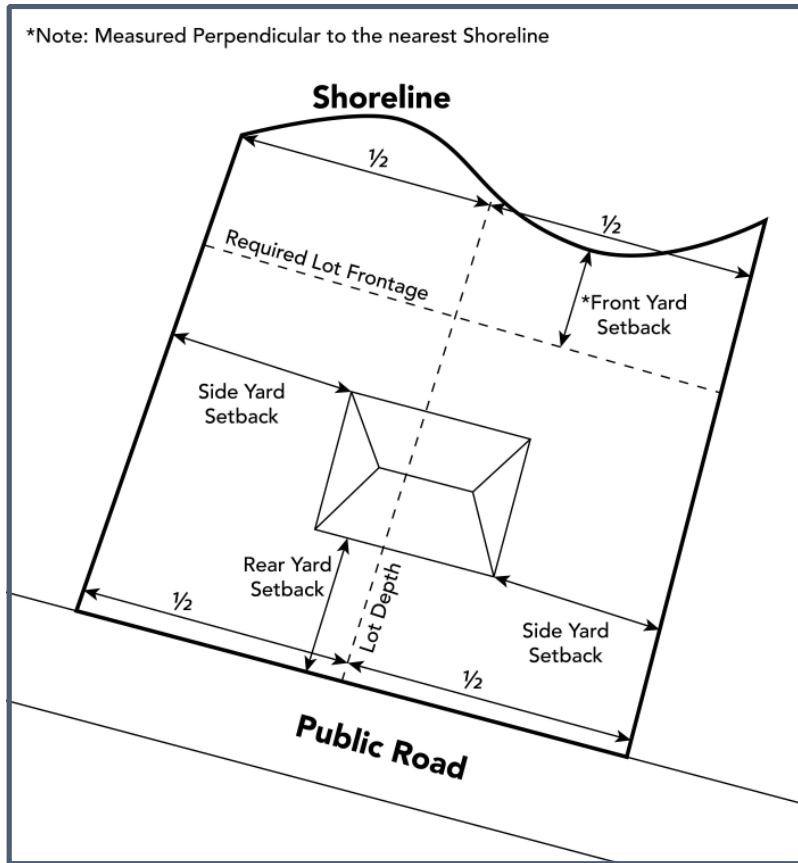


Figure 5c: Lot Frontage on Irregular Lots

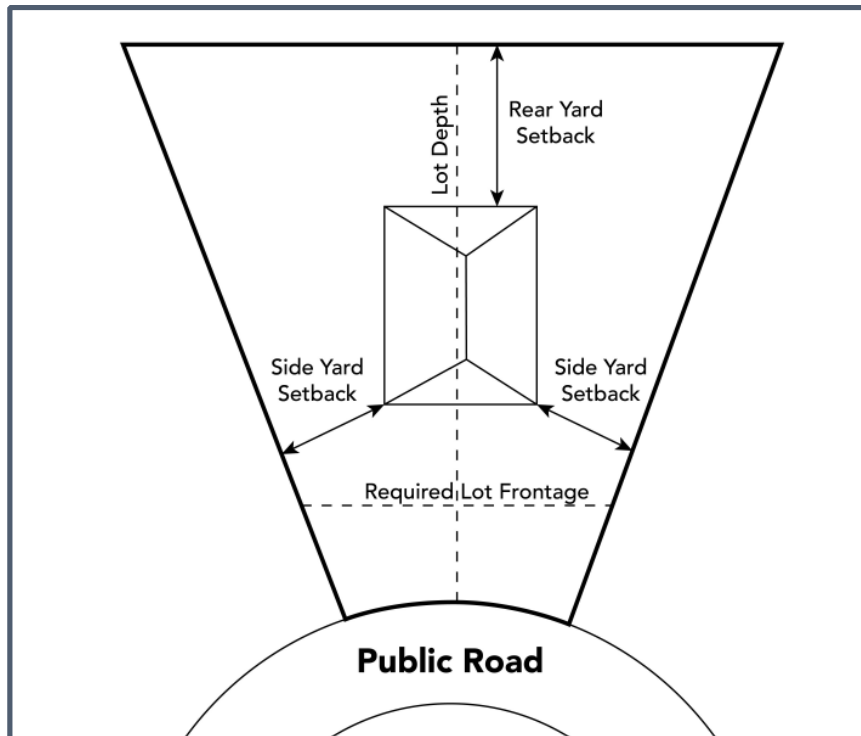
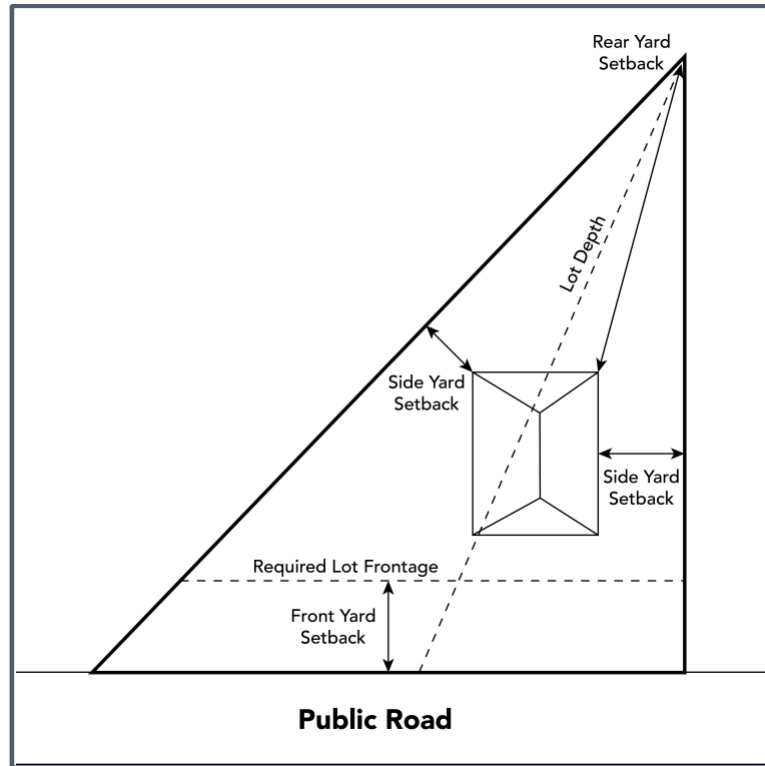


Figure 5d: Lot Frontage on Triangular Lots



- b) **Rear lot line** which means the lot line farthest from or opposite to the front lot line. If the lot has less than four (4) lot lines there shall be deemed to be no rear lot line.
- c) **Side lot line** which means a lot line other than a front or rear lot line.

Lot width means the horizontal distance between the side lot lines, measured at the minimum required front setback line.

Minister means the member of the Executive Council of Manitoba selected by the Premier and appointed by the Lieutenant-Governor to head the ministry responsible for municipal governments and planning districts.

Mobile home means these dwelling units are portable structures built on a chassis equipped with wheels, but not designed for multiple or continuous movement, and are designed to be connected to sewage and water utilities. For the purpose of this By-law, the removal of the wheels or permanent or semi-permanent attachment of a foundation to a mobile home shall not change the classification.

Municipality means the Rural Municipality of Whitehead.

NAICS means the *North American Industry Classification System 2017 Version 2.0*, Published by authority of the Minister responsible for Statistics Canada.

Navigable waterway means a water body capable of affording reasonable passage of floating vessels of any description for the purpose of transportation, recreation or commerce.

Nuisance means anything that is obnoxious, offensive or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. This could include that which creates or is liable to create a nuisance through emission of noise, smoke, dust, odour, heat, light, fumes, fire or explosive hazard; results in the unsightly or unsafe storage of goods, salvage, junk, waste or other materials; poses a hazard to health and safety; or adversely affects the amenities of the neighbourhood or interferes with the rights of neighbours to the normal enjoyment of any land or building.

Party wall or **common wall** means a wall forming part of a building and used for separation of adjoining buildings occupied, constructed or adapted to be occupied by different persons or businesses.

Parking means the act of leaving or maneuvering a vehicle into a suitable location for storage; a vehicle that has been 'parked'.

Parking aisle or **aisleway** means an area within a parking area intended to provide vehicle maneuvering, and ingress and egress to parking spaces.

Parking area means any public or private land area designed and used for parking of motor vehicles including parking lots, garages, private driveways, and legally designated areas of public road.

Parking driveway means that portion of a parking facility that provides vehicular access from a public right-of-way to a parking space, or an aisle for the purposes of parking.

Parking lot means a parking area that is the principal use on the lands and not accessory to any other principal building or land-use.

Parking, Off-Street means parking spaces not located in a public right-of-way.

Parking, On-Street means parking spaces located in a public right-of-way.

Parking, Shared means an accessory parking area associated with a principal use on one site also being utilized for off-street parking by other land-uses located on other sites; or an accessory parking area associated with many principal users on one site.

Parking space means a space available for the parking of one motor vehicle conforming to the typical parking lot standards. Excludes vehicle maneuvering areas such as aisles and driveways.

Parking, Surface means an unenclosed parking area where motor vehicles may be stored for purposes of temporary, daily, or overnight off-street parking as a principal use.

Parking, Tandem means the placement of parking spaces one behind the other, so that the space nearest the driveway or public road access serves as the only means of access to the other space.

Pipeline transportation means establishments primarily engaged in the transport of goods by pipeline. The pipelines are designed to specifications for the transport of a particular good, such as crude oil, natural gas and refined petroleum products. Pipeline transportation includes integrated systems comprising various types of pipelines and ancillary facilities, such as pumping stations and incidental storage facilities. Includes crude oil, natural gas and refined petroleum products, but does not include a sewer or water pipeline that is used or proposed to be used solely for municipal purposes.

Principal means a building, structure or use, which is the primary use of the lot on which the building, structure or use is located or conducted.

Projection means any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, including roof overhangs, mansards, unenclosed exterior balconies, marquees, bay windows, immovable awning, canopies, pilasters, facias, and the like, but not including signs.

Public road has the same meaning as highway under subsection 1(1) of *The Highway Traffic Act*.

Public services has the same meaning as in the *Provincial Planning Regulations*.

Rail, Main Line means a rail line with a volume generally exceeding 5 trains per day and high speeds, frequently exceeding 80 km/h.

Rail, Branch Line means a rail line with a volume generally less than 5 trains per day and slower speeds usually limited to 50 km/h. Trains on this line are light to moderate weight.

Rail, Spur Line means a rail line with unscheduled traffic on demand basis only and slower speeds limited to 24 km/h. Trains on this line are short and light weight.

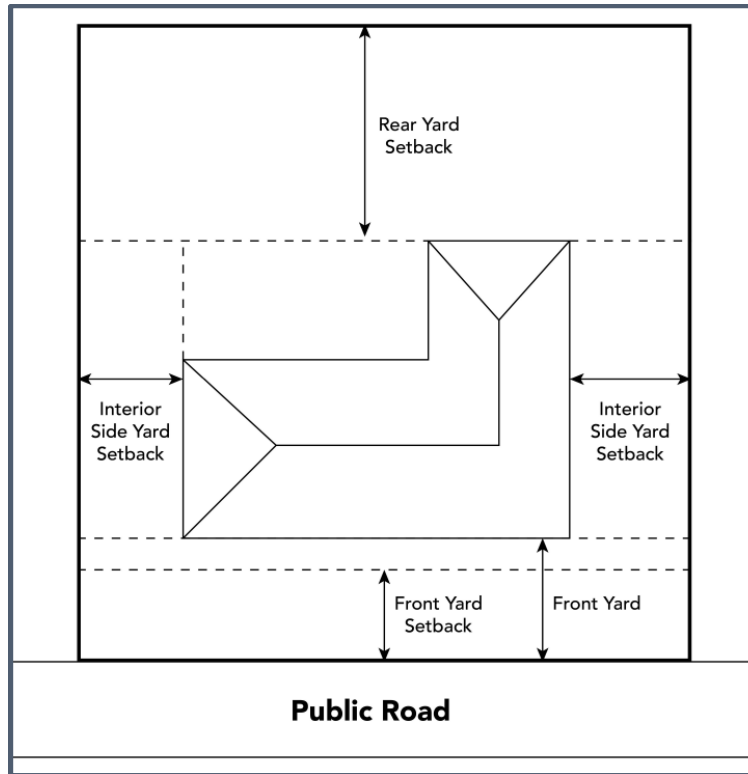
Rear lane means a vehicular access way located to the rear of a lot providing access to parking and outbuildings as well as easements for utilities.

Representations means information, material or arguments presented orally or submitted in writing or other form at a public hearing including representations made in person or on behalf of another person.

Residential Zone means RR, R1, R2 and R3 zones.

Road Allowance means a right of way surveyed for the purpose of a road by either the federal or provincial government survey and includes a right of way provided by a statute for the purpose of a road, a right of way dedicated to the public use as a highway, and a road allowance under the jurisdiction of a municipality.

Figure 6: Setback Locations on a Lot



Separation space means the least horizontal distance from the condominium unit lot line to the principal building.

Setback means the distance a building or structure must be located from the front, side and rear property lines, or from another land-use otherwise known as the minimum setback requirement.

Sign, Abandoned means a sign located, erected or displayed on property or premises which becomes vacant or unoccupied for a period of ninety (90) days or more, or any sign which pertains to a time, event or purpose which no longer applies.

Sign, Address means a sign on which the copy displays the municipal address, or unit number, or combination thereof, of a property or premises on which the sign is located, erected or displayed.

Sign, Advertising means a sign directing attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the same site where the sign is located.

Sign, Awning means a sign that is incorporated into the material of an awning.

Sign, Billboard Poster means a sign or billboard that does not utilize digital message technology, and that directs attention to a business, commodity, service, thing, message, or entertainment conducted, sold, or offered elsewhere than upon the same zoning lot on which

that sign is located.

Sign, Digital Reader Board means a changeable copy sign that uses light emitting diodes. Messages are composed of an ordered sequence of alphanumeric characters on a black or dark background.

Sign, Community Special Events means a sign located, erected, or displayed temporarily on public property to advertise or promote a non-profit community sponsored special event designed to promote involvement in community celebrations and other activities primarily by the local population of the City, or to advertise or promote a non-profit or charitable event by a non-profit organization or charity.

Sign, Construction means a sign that identifies the property owner, developer contractor or a combination thereof involved in the construction or demolition of a premises or property.

Sign, Fascia means a sign attached to or inscribed on a wall or other surface and having the exposed face of the sign on a plane approximately parallel to the plane of such wall or other surface. May include a sign attached to a marquee.

Sign, Free-Standing means a sign supported by one or more poles, braces or anchors that are placed permanently in the ground and that are independent from any building or other structure. Free-standing signs are business identification signs used to direct attention to a business, commodity, service, thing, message, or entertainment conducted, sold, or offered upon the same zoning lot on which that sign is located.

Sign, Mobile means a sign which is mounted on a trailer, stand, or other support structure which is designed in such a manner that the sign can be readily taken down or relocated, and which may include copy that can be changed through the use of removable characters, panels, or by electronic means.

Sign, Mural means any type of display or artistic endeavour that is applied as paint or film or a sculpture to any external wall or other part of a premises or structure but shall not include any stained glass of a premise.

Sign, Projecting means a sign attached to a building, which extends perpendicularly beyond the surface of that portion of the building to which it is attached.

Sign, Public information means:

- (1) A sign erected by or under the direction of a government agency and shall include any sign on which the copy displays the name or registered trademark including logo, crest or seal of a community organization and includes, but is not limited to, the Rotary Club, the Lions Club etc. so long as the sign does not include a Digital Reader Board or a mobile sign.
- (2) A sign designating public hospitals, schools operated by a public or separate school board, a public library, a public museum, a public community centre, public arena, other public government use, or public projects so long as the sign does not include a

Digital Reader Board or a mobile sign.

Sign, Wall means a sign attached to, marked or inscribed on, located, erected or placed against a wall of a premises and having the exposed face thereof on a plane approximately parallel to the plane of such wall and may include display boxes, but shall not include an awning sign, banner sign, canopy sign, mural sign or a poster sign. A wall sign shall not be supported by the roof, the ground or a combination thereof.

Sign, Window means a sign located on the interior of a premises and which is located, erected or displayed in the interior of a window, window section, or window pane and is intended to be seen from outside a premises.

Site, Zoning means an area of land which:

- (1) is occupied, or intended to be occupied, by a principal building and accessory buildings, or used for the principal use or multiple uses, having open spaces as required by this Zoning By-law;
- (2) has frontage on a public road or has any lawful means of access satisfactory to the Council; and
- (3) is of sufficient size to provide the minimum requirements of this Zoning By-law for a permitted or conditional use in a zone where the use is located.

Sleeping unit means a Habitable Room in a building used for Congregate Living in which the room is occupied by a person under any form of accommodation agreement providing remuneration for the room, and the room:

- (1) does not include provision for cooking or food preparation except as provided for in this By-law;
- (2) may or may not be equipped with sanitary facilities; and
- (3) provides accommodation for a maximum of two persons.

Spatial separation means the limiting distance for each face of buildings where they face other buildings can be taken as the measurement from an imaginary line between the two buildings, to each exposing building face of the building.

Surface improvement means a structure of any kind and includes a well, railway, pipeline, flow line, roadway, power line and a runway and taxiway for an aircraft.

Unenclosed or Open deck, patio, stoop, porch, or landing means these structure are not encircled with a barrier greater than 4 feet in height, or does not have any type of permanent roof or overhang extending partially or fully over the entire surface area of the structure.

Water body means a body of flowing or standing water, whether naturally or artificially created and whether the flow or presence of water is continuous, intermittent or occurs only during a flood, and includes lakes, rivers, creeks, streams, sloughs, marshes, swamps and wetlands and the frozen surface of any of them.

Water control works, including dykes, dams, surface or subsurface drains, improved natural water bodies, canals, tunnels, bridges, culverts, boreholes or contrivances for carrying or conducting water that:

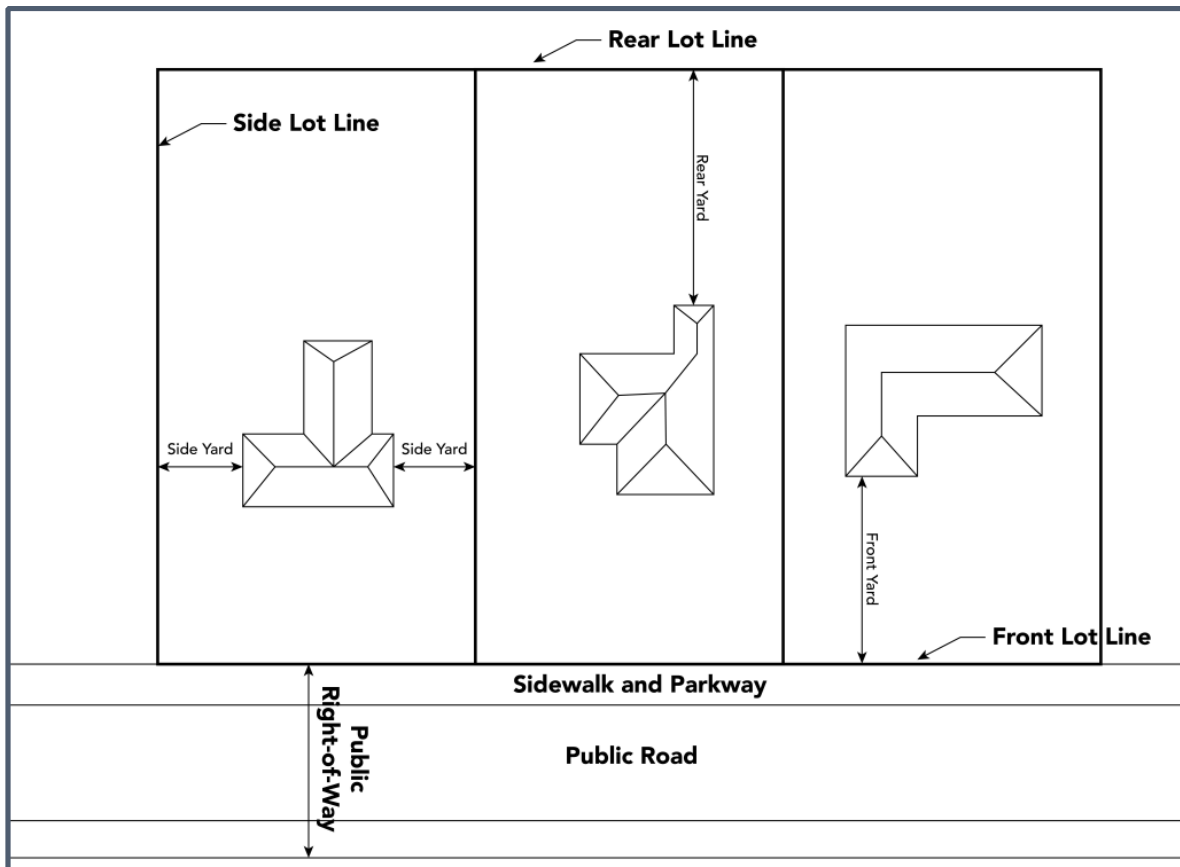
- a) temporarily or permanently alters or may alter the flow of water or the level of a water body; or
- b) changes or may change the location or direction of the flow of water.

Wind Energy Generating System, On-Site Use means a wind energy generating system intended to primarily serve the electrical needs of the on-site user or consumer (either behind the meter or off-grid) rather than to produce power for resale.

Yard means an area of a lot abutting a building that is intended for use for such purposes as privacy space, landscaping, parking or access, and includes a:

- a) **Front yard** which means that yard that extends across the full width of the lot between a front lot line and the nearest point of the principal building, not including any permitted projections;

Figure 7: Yard Locations on a Lot



- a) **Rear yard** which means that yard that extends across the full width of the lot between a rear lot line and the nearest point of the principal building not including any permitted projections;
- b) **Interior side yard** which means that yard not abutting a public road or lane that extends from the front yard to the rear yard between a side lot line and the nearest point of the principal building, not including any permitted projections; and
- c) **Exterior side yard** which means that yard abutting a public road or lane that extends from the front yard to the rear yard between a side lot line and the nearest point of the principal building, not including any permitted projections.

Yard, Setback required means the minimum distance required by this By-law between a lot line and a building, and includes a required:

- a) **Front yard setback** which means the shortest distance between the front lot line and any part of a building, not including any permitted projections;
- b) **Rear yard setback** which means the shortest distance between the rear lot line and the nearest point of the principal building, not including any permitted projections;

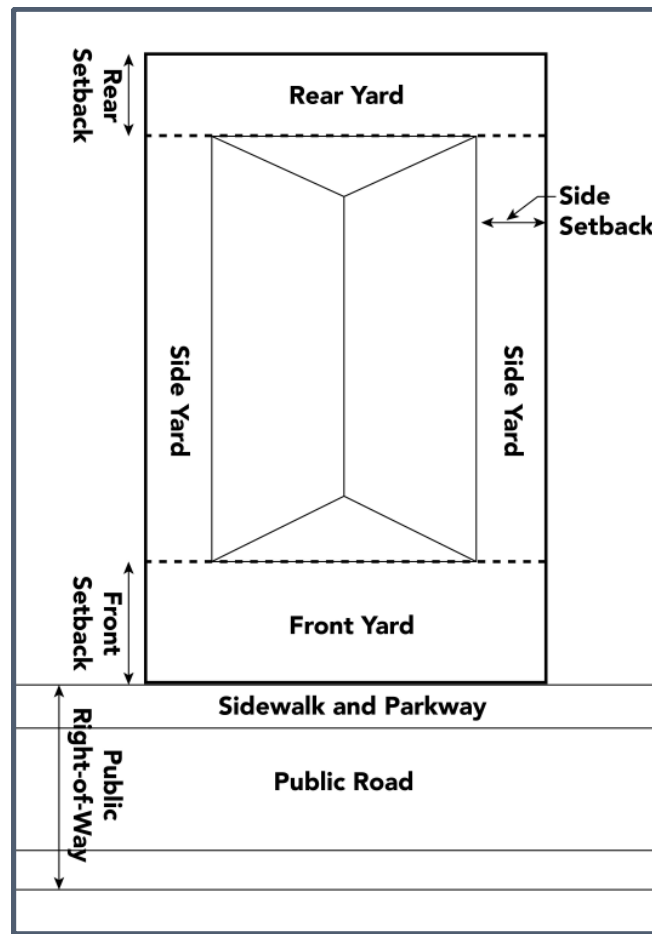


Figure 8: Yard and Setback Locations on a Lot

- c) **Interior side yard setback** which means the shortest distance between the side lot

line not abutting a public road or lane and any part of a building between the front and rear yards, not including any permitted projections; and

- d) **Exterior side yard setback** which means the shortest distance between a side lot line abutting a public road or lane and any part of a building between the front and rear yards, not including any permitted projections.

