



Town of Fort Smith, NWT

Zoning Bylaw 936

Third Reading: May 20, 2014

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1 PART ONE – GENERAL

1.1 Enactment

- (1) This Bylaw may be cited as “The Fort Smith Zoning Bylaw” .
- (2) Zoning Bylaw 794, as amended, is hereby rescinded.
- (3) This bylaw comes into force and takes effect upon the date of its Third Reading
- (4) Parts One to Eight of Schedule “A” inclusive, and Schedules “B” and “C” are deemed part of this Bylaw.

1.2 Purpose of the By-Law

The purpose of this bylaw is to regulate and control the use and development of land and buildings within the Town of Fort Smith in a balanced and responsible manner pursuant to the *Community Planning and Development Act* and applicable Community Plan.

1.3 Application

The provisions of this by-law apply to all land and buildings within the municipal boundary of the Town of Fort Smith.

1.4 Transition

An application for a development permit, subdivision, or amendment to the Zoning By-law commenced prior to the effective date of this by-law shall be evaluated under the provisions of zoning by-law 794 as amended.

1.5 Zones and Zoning Maps

- (1) For the purpose of this Bylaw, the Town of Fort Smith is divided into zones in the manner indicated on the maps marked “Zoning Map” which are Schedules “B” and “C” of this Bylaw and as follows:

R1	Single Dwelling Residential Zone
R2	Multi- Dwelling Residential Zone
RMH	Mobile and Manufactured Home Residential Zone
RC	Country Residential Zone
TC	Town Centre Zone
GC	General Commercial Zone
M	Industrial Zone
P	Park Zone
I	Institutional Zone
A	Airport Zone
UR	Future Urban Use Zone
E	Environmental Reserve Zone

- (2) All lands within the Town that are not indicated on the zoning maps as having a specific zoning designation shall be designated in the Future Urban Use Zone.

- (3) Where uncertainty exists as to the boundaries of zones as shown on the Zoning Map, the following requirements shall apply:
 - a. Where a boundary is shown as following a street, lane or stream, it shall be deemed to follow the centerline thereof.
 - b. Where a boundary is shown as approximately following the Town limits, it shall be deemed to follow the Town limits.
 - c. Where a boundary is shown as approximately following a lot line, it shall be deemed to follow the lot line.
- (4) Where the application of the above rules does not determine the exact location of the boundary of a zone, Council shall, by resolution, fix the portion of the zone boundary in doubt or in dispute in a manner consistent with the provisions of this Bylaw and with the degree of detail as to measurements and directions as the circumstances may require.
- (5) After Council has fixed the zone boundary, the portion of the boundary so fixed shall not be altered except by an amendment of this Bylaw.
- (6) Council shall maintain a record of its decisions with respect to boundaries or portions thereof fixed by it.

1.6 Definitions

For the purpose of this By-law, certain terms or words herein shall be interpreted or defined as follows:

- (1) Words used in the present tense include the future tense;
- (2) The singular includes the plural;
- (3) The word "person" includes a corporation as well as an individual;
- (4) The word "lot" includes the word "plot" or "parcel";
- (5) The term "shall" is always mandatory; and,
- (6) The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

ACCESSORY BUILDING means a building naturally and normally incidental, subordinate and exclusively devoted to the principal building and located on the same lot or site including garages and sheds. With the exception of caretaker's units, it shall not include a unit for human habitation.

ACCESSORY USE means a use naturally and normally incidental, subordinate and exclusively devoted to the principal use and located on the same lot or site.

ACT means the *Community Planning and Development Act*, being Bill 7 of the Revised Statutes of the Northwest Territories, as amended.

AGRICULTURAL USE means a land use relating to the production of farm products for sale such as market gardens, commercial greenhouses, beekeeping, poultry products, cattle, hogs, sheep, and other animals, grain grasses, vegetables, or other crops. A dwelling unit may be considered to be an agricultural use if it is to be occupied by a person engaged on a full-time basis (i.e. for at least three months of each year) in an agricultural pursuit.

AIRPORT means an area of land, water (including the frozen surface thereof), or other supporting surface used or intended to be used, in whole or in part, for the arrival, departure, movement, or servicing of aircraft. It includes any building, installation, or equipment in connection therewith, and for which an airport license has been issued.

AMENITY means a characteristic or facility that enhances the desirability of the environment. Amenities may include recreational or cultural facilities, a unified building design, views, landscaping, tree preservation, or generally attractive site design.

APARTMENT OR APARTMENT BUILDING means a residential land use consisting of at least three dwelling units with shared entrance facilities. It shall not include row housing, hotels, or motels.

APPELLANT means a person who, pursuant to *Division B* of the *Act*, has served notice of appeal to the Development Appeal Board.

APPLICANT means any person having a legal or equitable interest in property or a person acting as the authorized representative of such person and who has applied under the provisions of this Bylaw for a permit for the development of land.

BED AND BREAKFAST ESTABLISHMENT means a home occupation in a single dwelling providing temporary accommodation for no more than five guests at one time, where the owner resides on the premises.

BOARD means the Development Appeal Board established under this Bylaw.

BOARDING OR LODGING HOUSE means a building (other than a motel or hotel) containing not more than 15 sleeping rooms where meals or lodging for four or more persons are provided for compensation.

BUFFER means anything which visually and/or acoustically shelters, conceals, or protects and which is considered acceptable to the Development Officer or Council. A buffer may include a fence, hedge, berm, or bush.

BUILDING means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals, or chattels.

BULK FUEL STORAGE means the use of land, buildings or structures for the storage and distribution of fuels, oils, propane and other petroleum gases where the storage tank or tanks are above ground and the storage capacity exceeds 22,730 litres of propane, or where the storage capacity exceeds 50,000 litres per tank and the aggregate capacity of all the tanks exceeds 150,000 litres.

CARETAKER'S UNIT means premises used for the accommodation of a person employed as a caretaker, janitor, manager, watchman, security guard, or superintendent by a licensed industrial or commercial use operating on the site. The caretaker unit shall be incidental to that industrial or commercial use.

COMMUNITY GARDEN means land that is cultivated collectively by a group of community members to raise food for their own consumption or donation.

COMMUNITY PLAN means a set of policies and proposals adopted by Council for the orderly, economical and convenient development and use of land within Fort Smith. *Formerly known as the General Plan.*

CONDITIONAL USES are uses which are considered on their individual merits and circumstances by the Council, and may be permitted on a specific site within a zone, provided that the use conforms to all regulations of the particular zone to which the use applies, and provided the Council has given due consideration to adjoining land uses.

COUNCIL means the Council of the Town of Fort Smith.

DAY CARE means a facility and program for the provision, care, and supervision of children in accordance with the *NWT Day Care Act and Regulations*. The facility is not part of a public school, separate school, private school, or children's health centre.

DAY HOME means a home based business providing child care in accordance with the *NWT Day Care Act and Regulations*.

DEVELOPMENT as defined in the Act means:

- a) the carrying out of
 - (i) any construction, including the placement or movement of a building,
 - (ii) any excavation, or the deposit or movement of soil or other materials, or
 - (iii) other related operations,
- b) the product of development, as the term is defined in paragraph (a) such as a building or a developed site, or
- c) The making of any change in the use or intensity of use of any land or building.

DEVELOPMENT OFFICER means an official of the municipality responsible for administering this Bylaw. The Development Officer will receive and process all applications for Development Permits.

DEVELOPMENT PERMIT means a certificate or document permitting a development and includes a plan or drawing or set of plans or drawings, specifications or other documents upon which issuance of the permit is based.

DIRECTOR means the Director in the Government of the Northwest Territories being charged with the administration of the Act.

DWELLING UNIT means a building, a self-contained portion of a building, or suite of rooms for the use or one or more individuals living as a single housekeeping unit. A dwelling unit contains sleeping, cooking, and separated or shared toilet facilities and is intended as a permanent or semi-permanent residence.

DWELLING, DUPLEX means a development on one lot consisting of a building containing only two dwelling units, with separate access to each dwelling unit.

DWELLING, MANUFACTURED *see Manufactured Home*

DWELLING, MULTIPLE means a building divided into three or more separate dwelling units within the same exterior walls.

DWELLING, ROW (Townhouse) means development consisting of a building containing a row of more than three dwellings joined in whole or in part at the side only with no dwelling being placed over another in whole or in part. Each dwelling shall have separate, direct access to grade, with no interior access connections.

DWELLING, SEMI-DETACHED means development consisting of two dwellings situated side by side, on separate lots and sharing a common wall. Each dwelling shall have separate, direct access to grade, with no interior access connections.

DWELLING, SINGLE DETACHED means a detached building consisting of one dwelling unit and occupied, or intended to be occupied by one family or household. It may be constructed from modular units.

EXISTING means existing at the effective date of the Bylaw.

FAMILY CARE FACILITY means a facility which provides resident service in a private residence to six or fewer individuals who are not related to the resident household. These individuals have disabilities or are in need of adult supervision, and are provided services and supervision in accordance with regulations established and enforced by the Government of the NWT.

FENCE means any structure, wall, or barrier other than a building, erected at grade for the purpose of defining the boundaries of a property, separating space, restricting ingress or egress from the property, providing security or protection to a property, or acting as a visual or acoustic screen (also known as buffer).

FLOOR AREA means the total of the floor areas of every room and passageways contained in a building but not including the floor areas of basements, unoccupied attics, attached garages, sheds, or open porches unless they contain habitable rooms.

GAS BAR means a facility for the sale only of gasoline, lubricating oils and associated automotive fluids with no other services provided.

GROSS FLOOR AREA means the sum of the horizontal area of each floor of a building as measured from the outermost perimeter of the building (including ancillary buildings located

on any parcel). It excludes the area of a building's basement floor, UNLESS a secondary suite is present (in which case the suite is to be included in the calculation of the gross floor area).

HAZARDOUS MATERIAL means any of the following:

- a) explosives or pyrotechnics;
- b) gases (either compressed, deeply refrigerated, liquefied, or dissolved under pressure);
- c) flammable or combustible liquids;
- d) flammable solids (including substances liable to spontaneous combustion and substances, which on contact with water emit flammable gases);
- e) oxidizing substances or organic peroxides;
- f) poisonous or infectious substances;
- g) radioactive material;
- h) corrosives; and
- i) miscellaneous substances of a similar nature.

INDUSTRIAL, HEAVY means processing and manufacturing uses which cannot be classified as light industrial uses as defined herein.

INDUSTRIAL, LIGHT means processing and manufacturing uses, provided that they do not create unusual fire, explosion or safety hazards, noise in excess of average intensity of street and traffic noises in the area in question; they do not emit smoke, dust, dirt, toxic or offensive odours or gas and there is no production of heat or glare perceptible from any site line of the site on which the use is located.

HIGHWAY means a highway or proposed highway that is designated as a primary highway by the *Public Highways Act*.

HOME OCCUPATION means any occupation, trade, profession or craft carried out by the occupant of a residential building which is incidental and subordinate to the residential use and which does not change the character thereof.

HOTEL/MOTEL means a building containing either sleeping and/or dwelling units, used as a temporary abode for tourists or transients, providing sanitary facilities, parking spaces that in the case of a motel are convenient to each unit, and may also include a general kitchen, dining, and other public rooms.

INTERSECTION OF STREETS means the point where the street-facing property lines of a corner lot intersect. In the case of a corner lot with splayed property lines, this point is located where extensions of the two street-facing property lines intersect.

KENNEL means accommodation for the boarding and/or breeding of small animals. Uses associated with the shelter and care of small animals such as dogs and cats (e.g. grooming, training, and exercising) are also included.

LANDSCAPING means the modification and enhancement of a site through the use of any or all of the following elements:

- a) SOFT LANDSCAPING consisting of vegetation such as trees, shrubs, hedges, grass and ground cover; and
- b) HARD LANDSCAPING consisting of non-vegetative materials such as brick, stone, concrete and asphalt.

LOT LINE, FRONT means the property line separating a lot from an abutting public roadway other than a lane. In the case of a corner lot, the front line is the shorter of the property lines abutting a public roadway, other than a lane.

LOT LINE, REAR means either the property line of a lot which is furthest from and opposite the front lot line, or, where there is no such property line, the point of intersection of any property lines other than a front lot line which is furthest from and opposite the front lot line.

LOT LINE, SIDE means the property line of a lot other than a front lot line or rear lot line.

LOT, SITE or PARCEL means an area of land the boundaries of which are shown on a plan registered in a Land Titles Office, are described in the Certificate of Title to the land, or are the subject of a lease agreement or other form of interest in land under the terms of the *Territorial Lands Act* and Regulations or the *Commissioner's Land Act* and Regulations.

LOT COVERAGE means that portion of the total area of a lot which may be covered by buildings or structures.

LOT WIDTH means the distance measured between the mid-points of the side lot lines.

MAIN BUILDING means a building in which is conducted the main or principal use of the site on which it is erected.

MANUFACTURED HOME means a dwelling unit that meets the following criteria: is suitable for permanent occupancy, is designed to be transported on its own wheels or by a low-boy transport trailer, and is ready for occupancy except for incidental building operations (i.e. placement on foundation supports and connection to utilities).

- (a) a SINGLE-WIDE is a dwelling unit designed and manufactured specifically to be hauled in a single load, and
- (b) a DOUBLE-WIDE is a dwelling unit designed and manufactured in two sections that can be separately towed or housed, and designed to be joined together into one integral unit.

MOBILE HOME PARK means a parcel of land under one ownership, which has been planned, divided and improved for the placement of manufactured homes for permanent residential use.

MUNICIPALITY means the corporation of the Town of Fort Smith.

NATURAL RESOURCE DEVELOPMENT means development for the on-site removal, extraction and primary processing of raw materials found on or under the site, or accessible from the

site. Typical uses include gravel pits, quarries, oil and gas wells, mining and shipping of topsoil. This use does not include the processing of raw materials transported to the site.

NEIGHBOURHOOD CONVENIENCE STORE means a building or partial use of a dwelling for the retail sale of goods required by area residents on a day-to-day basis. Typical uses include small food stores, drug stores, and variety stores, selling confectionary, groceries, pharmaceutical and personal care items, hardware, or printed matter.

NON-CONFORMING BUILDING means a building that is constructed or under construction, or for which a valid development permit has been issued at the date of passing of this Bylaw or amendment thereof which does not or will not conform to the requirements of this Bylaw or amendment thereof when it becomes effective.

NON-CONFORMING USE means a lawful specific use made of land or a building, or intended to be made of a building under construction or use for which a valid development permit has been issued at the date of passing of this Bylaw or any amendment thereof, which does not and will not conform to the requirements of this Bylaw or amendment thereof.

PARKING AREA OR LOT means an open area of land, other than a street or a building, designed and used for the parking of a number of vehicles.

PARKING SPACE means an off-street area available for the parking of one motor vehicle.

PERMITTED USES mean uses which are allowed in a particular zone, provided that the use conforms to the regulations of the particular zone to which the use applies and all other regulations of the Bylaw.

PERSONAL SERVICES means businesses providing services to customers rather than offering merchandise or products.

PRINCIPAL BUILDING means a building which:

- a) Occupies the major or central portion of a lot;
- b) Is the chief or main building on a lot; or,
- c) Constitutes, by reasons of its use, the primary purpose for which the lot is used.

PRINCIPAL USE means the main purpose for which a lot is used.

PUBLIC BUILDING or QUASI-PUBLIC BUILDING means a building which is available to the public for purposes of assembly, instruction, culture or enlightenment, or for a community activity, but does not include a school or a place of public entertainment for which an admission fee is customarily charged. It also does not include a town administration building or fire hall – although publicly owned, the portion that is publicly used is minor.

PUBLIC ROADWAY means any lane, service road, local street, collector street, major street or highway corridor.

PUBLIC UTILITY means any one or more of the following:

- (a) systems for the distribution of gas, whether artificial or natural;
- (b) facilities for the storage, transmission, treatment, distribution or supply of potable water;
- (c) facilities for the collection, treatment, movement or disposal of sanitary sewage;
- (d) storm sewer drainage facilities;
- (e) systems for electrical energy generation, transmission and distribution; and
- (f) systems for telephone and telecommunication, including towers or satellite dishes.

PUBLIC UTILITY BUILDING means a building in which the proprietor of the public utility maintains its office or offices and/or maintains or houses any equipment used in connection with the public utility.

RETAIL STORE means a building where goods, wares, merchandise, substances, articles or things are offered for sale.

SCREENED means totally or partially concealed from by a fence, wall, berm or soft landscaping.

SERVICE STATION means premises or the portion thereof used or intended to be used for the servicing and repairing of motor vehicles and for the sale of fuel, oil and accessories for motor vehicles.

SEA-CAN means an inter-modal shipping container, that typically ranges in size from 16 m² to 32 m²

SECONDARY SUITE means an additional dwelling unit with a separate entrance contained entirely within a single dwelling, or an accessory building containing one dwelling unit, not including a caretaker's unit.

SETBACK means the distance that a development, or a specified portion of it, must be set back from a property line.

SIGN means any object or device intended for the purpose of advertising or calling attention to any person, matter, thing, or event and includes any word letter, model, picture, symbol, device or representation used as, wholly or in part, an advertisement, announcement, or direction. Without restricting the generality of the foregoing, a sign includes posters, notices, panels, boarding, billboards and banners.

SITE AREA means the land contained within the boundaries of a site.

STRUCTURAL ALTERATION means an alteration designed or intended to prolong the life of or replace and renew the supporting members such as the foundation, bearing walls, columns, beams or girders of a structure.

STRUCTURE means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structure includes buildings, walls, fences and billboards.

TEMPORARY means such time limit as may be set by the Council for a specific use. In case where no time limit is set, "temporary" shall be no more than 60 consecutive days.

TOURIST TRAILER PARK OR CAMPGROUND means a site which provides for the temporary location of tents, trailer, and recreational vehicles used by travelers and tourists for overnight accommodation, and which is not used for permanent residence.

VETERINARY CLINIC means a facility for the temporary care of animals within an enclosed building. It does not include outdoor pens or enclosures.

WAREHOUSE means premises or the portion thereof used or intended to be used for the storage of goods or materials but not including goods or materials of a hazardous nature.

YARD means a part of a parcel upon or over which no main building is to be erected:

- (a) FRONT YARD means a yard extending across the full width of a parcel from the front line of the parcel to the front wall of the main building situated on the parcel.
- (b) REAR YARD means a yard extending across the full width of a parcel from the rear wall of the main building situated on the parcel to the rear lot line of the parcel.
- (c) SIDE YARD means a yard extending from the front wall of the main building situated on a parcel to the rear wall of the main building and lying between the side lot line of the parcel and the side wall of the main building.

ZONE means an area designated for a specific set of land uses and rules which are outlined in Part Seven of this Bylaw.

All other words and expressions have the meanings respectively assigned to them in the *Act*.

2 PART TWO – DEVELOPMENT AUTHORITY

2.1 Development Officer

- (1) The office of the Development Officer is hereby established and shall be filled by a person appointed by resolution of Council established in accordance with Section 52 of the *Act*.
- (2) The Development Officer is authorized to perform the duties specified in Part Three of this Bylaw and has enforcement powers as specified by Council pursuant to Sections 52 through 56 of the *Act*.
- (3) The Development Officer shall:
 - a. keep and maintain for the inspection of the public during all reasonable hours, a copy of this Bylaw obtainable by the public at reasonable charge;
 - b. keep a register of all applications for development, including the decision thereon and the reasons therefore.
- (4) The Development Officer is hereby declared to be an official of the municipality and an authorized officer or servant of Council.

2.2 Town Council

The function of Council with respect to this Bylaw shall be to:

- (1) review and render decisions on development applications presented to it by the Development Officer, having regard for the regulations of this Bylaw and the provisions of the Community Plan;
- (2) review and render decisions on applications for development of a Conditional Use, having regard for the regulations of this Bylaw and the provisions of the Community Plan;
- (3) review and render decisions on applications for rezoning and/or other amendments presented to it by the Development Officer;
- (4) specify the length of time that a permit may remain in effect for a temporary use; and
- (5) carry out other such duties as may be prescribed in this Bylaw.

2.3 Development Appeal Board

- (1) A Development Appeal Board is hereby established and must consider and determine such appeals as may be referred to it under the provisions of the *Act*.
- (2) The Development Appeal Board shall discharge such duties that are given to it in this Bylaw or amendment thereof.
- (3) The Development Appeal Board may meet as frequently as necessary, but shall meet within 30 days after an application for an appeal has been made to it.

- (4) The Board shall be composed of a Chairman and at least two but no more than four other members to be appointed concurrently for three years of office by resolution of Council, and who shall not be dismissed except for just cause.
- (5) The Board shall include no more than one council member. A majority of the Board shall be persons other than members of Council, and the Board shall not include employees of the municipality.
- (6) When retirement or resignation of a Development Appeal Board member results in a vacancy, the vacant position shall be filled by resolution of the Council.
- (7) The Chairman of the Development Appeal Board shall sign all notices of decisions and other documents on behalf of the Board, relative to any jurisdiction or power of the Board, and any documents so signed shall be deemed to be signed on behalf of, and with the approval of, the Development Appeal Board.
- (8) Where the Chairman of the Development Appeal Board is absent or disabled, any document of the Board may be signed by any one member, and when so signed shall have the like effect as though signed by the Chairman.
- (9) Three members of the Development Appeal Board constitute a quorum for the making of all decisions and for doing any action required or permitted to be done by the Board.
- (10) Only those members of the Development Board in attendance at a Board meeting shall vote on any matter then before the Board.
- (11) The decision of the majority of the members of the Board present at a meeting duly convened is deemed to be the decision of the whole Board.

2.4 Secretary Development Appeal Board

- (1) The office of Secretary of the Development Appeal Board is hereby established and shall be filled by an employee of the Town of Fort Smith, as appointed by Council or the Senior Administrative Officer acting on behalf of Council.
- (2) The Secretary shall:
 - a. keep available for public inspection before the commencement of the public hearing all relevant documents and materials respecting an appeal under the *Act*, including the application for the development permit, its refusal and the appeal there from;
 - b. receive and administer all applications for appeal;
 - c. notify all members of the Development Appeal Board of the arrangements for the holding of each hearing and other meetings of the Board;

- d. ensure that reasonable notice of a hearing is given to the appellant and other persons who in the opinion of the Development Appeal Board may be affected. Notification may be given in any or all of following manners: letter, verbal, newspaper, poster, or television notification;
 - e. prepare and maintain a file of written minutes of the business transacted at all meetings of the Development Appeal Board, copies of which shall be regularly filed with the Council;
 - f. serve the appellant and all affected parties a notice of the decision of the Development Appeal Board and the reasons therefore;
 - g. notify the Council of the decisions of the Development Appeal Board;
 - h. within fifteen days after the Development Appeal Board renders its decision make a complete report of the appeal proceedings to the Director, including all representations made at the hearing; and
 - i. other administrative duties as the Development Appeal Board may specify.
- (3) The Town shall fund and provide administrative support to the Development Appeal Board.

3 PART THREE – DEVELOPMENT APPLICATION

3.1 Control of Development

- (1) No development other than that designated in Part Seven of this bylaw shall be undertaken within the municipality unless an application for it has been approved and a Development Permit has been issued.
- (2) For the purposes of this Bylaw the municipality is divided into zones in the manner indicated on the maps included as Schedule “A” and Schedule “B”.
- (3) In each zone shown on the Zoning Maps, permitted or conditional uses of land and buildings are specified in Part Seven of this bylaw.

3.2 Development Not Requiring a Development Permit

The following development shall not require a Development Permit:

- (1) The carrying out of works of maintenance or repair to any building, provided that such works do not include structural alterations or major works of renovation if such works do not increase any dimension of the original structure.
- (2) The completion of a building which was lawfully under construction at the date of the first publication of the official notice required by the *Act*, provided that the building is completed in accordance with the terms of any permit granted in respect of it and subject to the conditions to which such permit was granted and provided also that the building, whether or not a permit was granted in respect of it, is completed within a period of twelve months from the said date of the first publication of the official notice.
- (3) The use of any such building as is referred to in subsection (2) for the purpose for which construction was commenced.
- (4) Any building less than 10 square metres in area.
- (5) The erection or construction of gates, fences, walls, or other means of enclosure less than 1.0 metres in height in front yards and less than 2.0 metres in side and rear yard, or less than 1.0 metres where within 5 metres of the intersection on corner lots.
- (6) A temporary building, the sole purpose of which is incidental to the erection or alteration of a building, for which a Development Permit has been issued under this Bylaw.
- (7) The maintenance and repair of public works, services and utilities carried out by or on behalf of federal, territorial and municipal public authorities on land that is publicly owned or controlled.

3.3 Non Conforming Buildings or Uses

- (1) A non-conforming use may be continued but if that use is discontinued for more than one year, any future use of the land or building shall conform with the provisions of the Zoning Bylaw then in effect.
- (2) A non-conforming use of part of a building may be extended throughout the building.
- (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 building may continue to be used but the building shall not be structurally altered unless the alterations will conform with this Bylaw.
- (5) When an existing building is a non-conforming building solely by reason of its encroachment into required height; side, front, or rear yards an addition to the building may be allowed if such addition will not in itself constitute a further encroachment into any required yard and if such extension or addition complies with all other aspects of the provision of this Bylaw.
- (6) If a non-conforming building is damaged or destroyed to the extent of more than 75% of the value of the building above its foundation, the building shall not be repaired or rebuilt except in accordance with the Zoning Bylaw.
- (7) The use of land or the use of a building is not affected by reason only of a change of ownership, tenancy or occupancy of the land or building.

3.4 Permission for Development

- (1) An application for a Development Permit shall be made to the Development Officer in writing on the form provided and shall be accompanied by:
 - a. a site plan in duplicate showing the legal description of the lot and the proposed front, rear, and side yards, if any, and any provision for off-street loading and vehicle parking, access and exit points to the site, and provision for landscaping and drainage;
 - b. floor plans, elevations, and sections, or other drawings that describe the development, in duplicate;
 - c. a statement of uses;
 - d. a statement of ownership of land and interest of the applicant therein;
 - e. the estimated commencement and completion dates;
 - f. the estimated cost of the project or contract price; and,
 - g. proof that design documents have been submitted and reviewed by the Office of the Fire Marshal of the NWT for all development other than single dwelling units

- (2) The Development Officer may require additional information because of the nature and magnitude of a proposed development or use or the characteristics of the site proposed for development. This may include a Phase I Environmental Site Assessment, carried out by a qualified professional according to the standards established under Canadian Standards Association Z768 as revised from time to time.
- (3) The application shall not be considered complete until all the requirements above have been submitted to the satisfaction of the Development Officer.
- (4) The Development Officer shall:
 - a. receive, consider and approve applications for a Development Permit for uses listed in Part Seven of this Bylaw which constitute permitted uses in a zone and comply with the minimum standards for that zone;
 - b. receive and refer with their recommendations to Council (acting as the Development Officer) for its consideration and decision, applications for a Development Permit for uses listed in Part Seven of this Bylaw which constitute conditional uses; and
 - c. receive and refer to Council (acting as the Development Officer) at their discretion any application which, in their opinion should be decided by the Council.
- (5) In making a decision, the Development Officer (or Council acting as the Development Officer) may approve the application unconditionally, or impose conditions considered appropriate and not in conflict with this Bylaw, permanently or for a limited period of time, or refuse the application.
- (6) Council may require that as a condition of issuing a Development Permit the applicant enter into an agreement to construct or pay for the construction of public roadways, parking areas, and parks, or to install or pay for the installation of utilities, or to pay an off-site levy or redevelopment levy.
- (7) An application for a Development Permit shall be deemed to be refused when a decision is not made by the Development Officer within 40 days after receipt of the completed application, as specified in section 3.4 (1) of this Bylaw, and the person claiming to be affected may appeal in writing as though it has received a refusal, or the applicant may wait for a decision for a further period of time prior to lodging an appeal.

3.5 Compliance

- (1) An applicant is responsible for ascertaining and complying with the requirements of assessments, covenants, agreements, municipal bylaws, or territorial and federal statutes and regulations.
- (2) The Development Officer may refuse a development permit if the proposed use or development or the condition of the site does not comply with an easement, covenant, municipal bylaw, or territorial and federal statutes or regulations.

3.6 Fees

- (1) Each application for a Development Permit shall be accompanied by a fee as determined in the Consolidated Rates and Fees By-law 891 as amended or its successors.

3.7 Development Permits and Notices

- (1) A Development Permit does not come into effect until 15 days after the date an order, decision or development permit is publicized and any development proceeded with by the applicant prior to the expiry of this period is done solely at the risk of the applicant.
- (2) Where an appeal is made, a Development Permit that has been granted shall not come into effect until the appeal has been determined and the permit may be affirmed, modified or nullified.
- (3) When a permit has been issued, the Development Officer shall immediately post a notice of the decision conspicuously on the property for which the application has been made and provide a copy of the notice to all adjacent property owners.
- (4) A Development Permit is valid for a period of two years from its date of issue.
- (5) Notwithstanding Section 3.7 (4) above, if the development authorized by a permit is not commenced within 12 months from the date of its issue, the permit is deemed to be void.
- (6) A decision of the Development Officer on an application for a Development Permit shall be given in writing and a copy of it sent to the applicant.
- (7) When the Development Officer refuses an application for a Development Permit, the decision shall contain reasons for the refusal.
- (8) In accordance with Section 14(2) of the Act the Development Officer must give notice of the application for development permits that are at the discretion of the Development Officer or Council, acting as the Development Officer, to owners and lessees within 30 metres of the property's boundary.

3.8 Plans of Subdivision

- (1) Where the development of land involves a subdivision of land no Development Permit shall be issued until the application has been submitted to the Director and an approved sketch received by the Development Officer indicating the approval of the Director.
- (2) When a subdivision proposal is forwarded to the Town for review prior to final approval from the Director, the Development Officer may require the applicant to provide additional information which may include:
 - a. land uses, circulation, location of public facilities; and preliminary indication of the integration of the subdivision into the existing urban fabric
 - b. details concerning the retention of vegetation and landscaping
 - c. details about wildfire hazard mitigation measures
 - d. preliminary engineering estimates including subdivision servicing method and layout
 - e. information about funding sources
- (3) Where an application for subdivision proposes the creation of more than four lots, the Development Officer may circulate the application to any external agency or property owner in the vicinity who may be affected by the application.
- (4) Council may recommend unconditional approval of an application for subdivision if:
 - a. the subdivision will, in the opinion of Council, conform to the Community Plan and Zoning Bylaws and any other applicable policies
 - b. the applicant provides for the installation and construction of all necessary public improvements including roads, sidewalks, drainage, water and sewer services, utility systems, landscaping and trails, to the satisfaction of Council.
- (5) Council may recommend conditional approval of an application for subdivision and specify the conditions.
- (6) The Development Officer shall inform the Director that the application is either supported, conditionally supported, or not supported by the Town. Where conditionally supported, the conditions will be provided to the Director.

4 PART FOUR – APPEALS

4.1 Appeal Procedure

- (1) An appeal may be made to the Development Appeal Board where a Development Officer:
 - a. refuses or fails to issue a Development Permit to a person within 40 days of receipt of the application;
 - b. issues a Development Permit with or without conditions; or
 - c. issues an order under Section 57 of the *Act*.
- (2) The person applying for the permit or affected by the order, under Subsection (1), or any other person affected by an order, decision or Development Permit of a Development Officer may appeal to the Development Appeal Board.
- (3) In accordance with Section 62(1) of the *Act*, a person other than an applicant for a development permit may only appeal to the appeal board in respect of an approval of an application for a development permit on the grounds that the person is adversely affected and
 - a. there was a misapplication of a zoning bylaw in the approval of the application;
 - b. the proposed development contravenes the zoning bylaw, the community plan or an area development plan;
 - c. the development permit relates to a use of land or a building that had been permitted at the discretion of a development authority;
 - d. the application for the development permit had been approved on the basis that the specific use of land or the building was similar in character and purpose to another use that was included in a zoning bylaw for that zone;
 - e. the application for the development permit had been approved under circumstances where the proposed development did not fully conform with a zoning bylaw; or
 - f. the development permit relates to a non-conforming building or non-conforming use.
- (4) The notice of appeal to the Development Appeal Board must
 - a. state the reasons for the appeal;
 - b. summarize the supporting facts of each reason;
 - c. indicate the relief sought; and
 - d. if applicable, be submitted with the filing fee required by the Zoning Bylaw.
- (5) An appeal shall be made by serving a written notice of appeal to the Secretary of the Development Appeal Board within 14 days after the day the application for the development permit is approved, or the order of the development officer is served in person, pursuant to Section 62 and 63 of *the Act*.

4.2 Public Hearing

- (1) Within 30 days of receipt of a notice of appeal, the Board shall hold a public hearing respecting the appeal.
- (2) The Development Appeal Board shall give at least five days notice in writing of the public hearing to:
 - a. the appellant;
 - b. the Development Officer or Council from whose order, decision or Development Permit the appeal is made;
 - c. owners or lessees of land within 30 metres of the boundary of the land in respect of which the appeal relates;
 - d. any other person who in the opinion of the Development Appeal Board, are affected by the order, decision or permit; and
 - e. any such other persons as the Development Appeal Board specifies.
- (3) The Development Appeal Board shall make available for public inspection before the commencement of the public hearing all relevant documents and materials respecting the appeal including:
 - a. the application for the Development Permit, its disposition (approval, refusal, approval with conditions) and the appeal therefore; or
 - b. the order of the Development Officer as the case may be.
- (4) At the public hearing referred to in Subsection (1), the board shall hear:
 - a. the appellant or any person acting on his behalf;
 - b. the Development Officer or the Development Officer on behalf of Council, from whose order, decision or Development Permit the appeal is made, or if a person is designated to act on behalf of the Development Officer, that person;
 - c. any other person who was served with notice of the hearing and who wishes to be heard or a person acting on his behalf; and
 - d. any other person who claims to be affected by the order, decision or permit and that the Development Appeal Board agrees to hear or a person acting on his behalf.

4.3 Decision

- (1) The Development Appeal Board shall give its decision in writing to the appellant together with reasons for the decision within 60 days of the conclusion of the hearing. No decision shall be incompatible with the Community Plan.
- (2) A decision made under this part of the Bylaw is final and binding on all parties and all persons, subject only to an appeal upon a question of jurisdiction or law pursuant to Sections 69 and 70 of the Act.

5 PART FIVE – ENFORCEMENT AND ADMINISTRATION

5.1 Contravention, Enforcement and Penalties

- (1) Where a development or use of land or buildings is not in accordance with this bylaw a Development Officer may, by written notice either served personally or sent by registered mail to the owner and/or occupant of the property affected, and to any contractor engaged in the work, require the removal, demolition or alteration of the structure, the filling in of the excavation, the restoration of the contours and natural features of the site, or the cessation of the work or the use to which the land or structure is being put, as the case may be.
- (2) The notice referred to in Section 5.1(1) shall state:
 - a. the grounds on which the removal, demolition, alteration, filling in , or cessation of work and use is required; and
 - b. that the requirements of the notice be met not more than sixty (60) days from the date of the serving or sending of the notice.
- (3) Where the owner, occupant or contractor engaged in work on the property to whom the notice is given pursuant to Section 5.1(2) fails to comply with the requirements of the notice, Council by its official may enter upon the property and carry out or effect such removal, demolition, alteration, filling in or cessation of use as the notice requires to be done or effected, and may recover the expense thereof from the owner by action.
- (4) The expense referred to in 5.1(3) until paid by the owner is a charge and lien upon the property in respect of which the notice was given.
- (5) A Development Permit may be reinstated by Council where a notice has been served if the permittee gives a guarantee accompanied by bond or certified cheque to assure the Council that the breach will be remedied in such time as Council may prescribe.
- (6) A person who commences a development and fails to obtain a Development Permit; or comply with a condition of a Development Permit granted under this Bylaw, is guilty of an offence under Section 77 of the Act and will be liable on summary conviction:
 - a. to a fine not exceeding \$5,000 and, in addition, to a fine not exceeding \$1,000 for every day the offence continues; and
 - b. in default of payment of a fine under subsection (a), to imprisonment for a term not exceeding six months.
- (7) When a person is convicted under the Act of having undertaken or permitted a development that contravenes any Bylaw or permit, the Council may file a notification of the illegal development against the title to the affected land in the Land Titles Office.

- (8) The conviction of a person under this section does not restrict further prosecution under this section for the continued neglect or failure on the part of the person to comply with the Zoning Bylaw, Development Permit, or Subdivision Approval.
- (9) Council may exercise its powers for the purposes of enforcing this Bylaw and/or may authorize the Development Officer to act on behalf of Council, pursuant to Sections 54 through 58 of the *Act*.
- (10) Council, if informed of the contravention of this Bylaw, or on its own initiative without such information, may authorize that action be taken to enforce this Bylaw. Such action may include an application to the Court for an Injunction or other Order to restrain the contravention.

5.2 Right To Enter

- (1) Where a person fails or refuses to comply with an order directed to him/her within the specified time, Council or a person appointed by Council may, in accordance with Sections 54 through 56 of the *Act*, enter upon the land or building and take any necessary action to carry out the order.
- (2) Where Council, or a person appointed by Council, carries out an order, Council shall recover any costs incurred in carrying out the order from the owner. Any expenses, until paid by the owner, are a charge and lien upon the property in respect of which the notice was given.
- (3) Where a person fails or refuses to comply with an order to permit entry upon the land or building, he/she shall be guilty of an offence as defined under Section 56 of the *Act* and be liable to a fine or to imprisonment.
- (4) A development officer or other authorized officer may also enter any land or building to inspect compliance with the Zoning By-law, in accordance with Section 54 of the *Act*.

5.3 Application to Amend Bylaw

- (1) A person may apply to have this Bylaw amended, by applying in writing, furnishing reasons in support of the application and paying the fee required under the Consolidated Rates and Fees By-law 891.
- (2) Council may at any time initiate an amendment to this Bylaw by directing the Development Officer to initiate an application.
- (3) All applications for amendment to the Zoning Bylaw shall be made in writing to Council on the approved form and accompanied by the following, namely:
 - a. an application fee of \$100.00 plus costs for each application;
 - b. a certificate of title of the land affected or other documents satisfactory to the Development Officer indicating the applicant's interest in the said land; and

- c. all drawings required to be submitted shall be drawn on standard drafting material to the satisfaction of the Development Officer and shall be fully dimensioned, accurately figured, explicit and complete.

5.4 Amending Bylaws

All amendments to this Bylaw shall be made by Council by Bylaw and in conformance with Sections 13, 15, and 17 of the Act.

5.5 Variances

- (1) Council may approve an application for a permitted use or a conditional use notwithstanding that the proposed use does not comply with the provisions of this Bylaw, if the non-compliance is minor and where, in the opinion of Council, denial of the application for a Development Permit would cause the applicant unnecessary hardship peculiar to the use. Council can approve such variances if they do not:
 - a. unduly interfere with the amenities of the neighbourhood; or
 - b. detract from the use, enjoyment or value of neighbouring parcels of land.
- (2) Subject to Section 5.5(1) the Development Officer may grant the following variances for building and structures:
 - a. front yard – not more than 0.3 metres;
 - b. side yard – not more than 0.15 metres, provided that the combined width of both side yards is not below the aggregate of the minimum dimensions required for both yards in which case no variance shall be granted; and
 - c. rear yard – not more than 0.3 metres.
- (3) In the case of height of fences the Development Officer may grant the following variances for fences:
 - a. residential zones – not more than 0.3 metres; and
 - b. all other zones – not more than 0.6 metres.

6 PART SIX – DEVELOPMENT STANDARDS

6.1 Rules Applicable to All Zoning Districts

- (1) With the approval of the Council, development may be permitted in any zone on a lot which is substandard in terms of width, depth or area, provided that such a lot was legally registered and existing at the time of final passage of this Bylaw, and provided the development meets all other requirements of this Bylaw regarding the zone.
- (2) Any and all development must meet the requirements of the most recent editions of the National Building Code, the National Fire Code, the Territorial Fire Prevention Act, the Territorial Fire Marshal's Technical Bulletins, and any engineering standards set by the Town.
- (3) All manufactured homes shall have Canadian Standards Association (CSA) Certification and be installed in accordance with CSA Standards.
- (4) Where in any zone a lot has more than one frontage, the front yard requirements for that zone shall apply to only one front lot line which shall be at the discretion of the Development Officer or Council.
- (5) Unless otherwise specifically provided for in this Bylaw, no more than one (1) single dwelling unit is permitted on a single parcel in any zone.
- (6) The following features may project into a required yard:
 - a. verandas, porches, eaves, bay windows, chimneys constructed of non-combustible material, sills, balconies, 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 0.5 metres, unless otherwise approved by the Development Officer;
 - b. unenclosed steps, without a roof, and fire-escapes;
 - c. an open terrace or patio at grade in any yard in a residential zone; and
 - d. any loading space required under this Bylaw.
- (7) Where a development permit has been issued for the relocation of a building on the same site or from another site, the Development Officer, with the approval of Council, may require the applicant to provide an irrevocable letter of credit or other acceptable security to ensure completion of any renovations set out as a condition of approval of a permit. All renovations to a relocated building are to be completed within one year of the issuance of the Development Permit.
- (8) Any outdoor lighting for any development shall be located and arranged so that no direct rays of light are directed onto any adjoining properties, or interfere with any traffic control devices.

- (9) Garbage and waste material shall be stored in weatherproof and animal-proof containers. Such containers shall be visually screened from all adjacent sites and public roads.
- (10) The location of any access onto a lot shall be to the satisfaction of the Development Officer to ensure proper drainage is maintained.
- (11) Water and Sewer services shall be provided in accordance with the Town's Water and Sewer Bylaw.

6.2 Airport Protection

No development shall be allowed that jeopardizes the safety or diminishes the current operation and status of the airport, by reason of smoke, ash, steam, height, or electronic interference with aviation communication and guidance equipment. All development shall be subject to the policies, regulations, and standards established by the Department of Transportation, Arctic Airports Division, Government of the Northwest Territories, and Transport Canada Regulations.

6.3 Accessory Buildings

- (1) Where any building or structure on a site is attached to a principal building in ANY way, it shall be deemed to be part of the principal building and not an accessory building.
- (2) Side and Rear Yard provisions for accessory buildings are reduced to not less than 1 metre providing that overhanging eaves shall not be less than 0.6 metres from any lot line and the accessory structure shall not be in front of the principal building.
- (3) Accessory buildings are to be sited a minimum of 3.0 metres from any other building, including the principal or main building on site, provided there is not a greater separation distance specified in the National Building Code of Canada.
- (4) Site coverage of all accessory buildings shall not exceed 12% of the site area.
- (5) The overall height of an accessory building measured to the peak of the roof shall not exceed 10 metres or the height of the principal building, whichever is less.
- (6) With the exception of caretaker's units and suites, no accessory building shall be used for human habitation.
- (7) Inter-modal Containers (Sea-Cans) will be permitted as an accessory building with no restrictions in the Industrial zone, but with restrictions in other zones as follows:
 - a. intermodal containers are not permitted to be used as an accessory building in R1, R2 or RMH zones;
 - b. a maximum of three (3) intermodal container no larger than 2.4 m x 12 m each may be placed on a lot zoned TC, GC or Institutional but may not be stacked;
 - c. one only intermodal container no larger than 2.4 m x 12 m may be placed on a lot zoned Country Residential; and
 - d. containers must be maintained in accordance with the Unsightly Lands By-Law.

6.4 Fences

- (1) No fence, wall, or hedge in a Residential zone shall be:
 - a. Higher than 2.0 metres in side yards and rear yards to be measured as the average elevation from the ground;
 - b. Higher than 1.0 metre in the front yards.
- (2) No fence or hedge shall be more than 1.0 metre high within 5.0 metre of the intersection of streets measured at the lot line.
- (3) In the case of a discrepancy between these regulations and those of another town by-law, the Zoning Bylaw regulations will prevail.

6.5 Landscaping

As a condition of the Development Permit, and to the satisfaction of the Development Officer, all landscaping and planting must be carried out (weather permitting) within eighteen months of occupancy or commencement of operation of the proposed development.

6.6 Sign Regulations

- (1) For the purpose of this Section, certain terms or words herein shall be interpreted or defined as follows:
 - a. SIGN means any words, letters, pictures or symbols, used as an advertisement, announcement or direction.
 - b. FASCIA SIGN means a sign placed flat and parallel to the face of the building so that no part projects more than 0.3 metres from the building.
 - c. FREE-STANDING SIGN means a sign fixed on a standard or column permanently attached to the ground and which is not connected in any way to any building or other structure.
 - d. BILLBOARD means a free-standing sign larger than 8.0 square metres
 - e. FREE-STANDING PORTABLE SIGN means a sign to its own self-contained base and capable of being moved.
 - f. PROJECTING SIGN means a sign, which is attached to a building or structure so that part of the sign projects more than 0.3 metres from the face of the building or structure.
- (2) Application for a Development Permit for all signs exceeding 0.4m² in area shall be made to the Development Officer. The application shall be:
 - a. on the Form provided by the Development Officer; and
 - b. supported by two copies of drawings drawn to scale, showing the location of the sign, the overall dimensions of the sign, the size of the letters or letter, the amount of projection from the face of the building, the height of the sign above average ground level at the face of the building, and the manner of illuminating the sign, including any form of animated or intermittent lights.

- (3) No person shall erect or place a sign differing from the sign for which a Development Permit has been issued.
- (4) No sign shall be permitted in a public right of way.
- (5) No sign shall be erected so as to obstruct free and clear vision of vehicular traffic or at any location where it may interfere with, or be confused with, any authorized traffic sign, signal or device.
- (6) All signs must be maintained in a satisfactory manner or notice will be served to perform the necessary repairs or remove the sign(s) within thirty (30) days.
- (7) Posters and free-standing portable signs relating specifically to a pending election are exempt, provided that such posters shall be removed within fourteen days after the election.
- (8) Free-standing portable signs not related to a pending election are exempt, provided that:
 - a. any sign shall be placed wholly within the property lines;
 - b. the overall height shall not be greater than 2.0 metres above ground level; and
 - c. the maximum area of the sign shall not exceed 1.0 square metres.
- (9) Free-standing signs shall only be permitted in Town Centre, General Commercial, Institutional and Industrial zoning districts. All free-standing signs shall be erected so that:
 - a. no part of the sign, excluding that portion which is used for support and which is free of advertising, shall be less than 3.0 metres, nor more than 5.0 metres above ground or sidewalk grade;
 - b. no part of the sign shall project beyond the property line;
 - c. the area of the sign shall not exceed a maximum of 8.0 square metres, excluding the support, provided that it is free of advertising;
 - d. there shall not be more than one free-standing sign for each business.
- (10) Billboards are prohibited.
- (11) Fascia signs shall only be permitted in Town Centre, General Commercial, Institutional, and Industrial zoning districts. All fascia signs shall be erected so that they:
 - a. do not project more than 0.3 metres above the top of the vertical face of the wall to which they are attached; and
 - b. do not exceed in area the equivalent of 25% of the surface area of the wall on which it is attached.
- (12) On commercial and industrial buildings which are non-conforming uses in areas zoned residential, fascia signs shall be considered by the Development Officer according to the merits of the individual application.

- (13) On neighbourhood convenience stores in areas zoned residential, fascia signs shall be considered by the Development Officer according to the merits of the individual application.
- (14) Marquee and canopy signs shall be considered as fascia signs according to the provisions of Section 6.6(11) provided that:
- a. no portion of the sign shall project below the bottom edge, or more than 0.5 metres above the top edge, of the marquee or canopy; and
 - b. a sign not exceeding 0.3 metres by 1.2 metres in outside dimensions may be suspended below a marquee or canopy provided no part of the sign shall be closer than 2.4 metres to the ground or sidewalk.
- (15) Roof signs shall be considered as fascia signs according to the provisions of Section 6.6(11), where the following conditions are met:
- a. no additional supporting wires or stays shall be attached to the roof; and
 - b. no portion of a sign shall project more than 0.5 metres above the roof.
- (16) Projecting signs shall only be permitted in zones defined as Town Centre. All projecting signs shall be erected so that:
- a. no part of the sign shall be less than 3.0 metres above the ground or sidewalk grade;
 - b. no part of the sign shall project more than 0.5 metres above the top of the vertical face of the wall to which it is attached;
 - c. the space between the sign and supporting structure shall not be more than 0.6 metres;
 - d. there shall be only one projecting sign for each business; and
 - e. the permitted area of the sign shall be related to the amount of projection from the face of the building, as follows:

<i>Amount of Projection</i>	<i>Maximum Area of Sign</i>
1.8 m	3.3 sq.m
1.5 m	4.5 sq.m
1.2 m	5.6 sq.m
0.9 m or less	7.0 sq.m

6.7 Parking Requirements

- (1) An off-street parking area:
 - a. Shall not be located within 1.0 metre of a lot line common to the lot and to a street.
 - b. Shall be constructed so that access to and from each stall is to be provided at all times by means of a driveway or maneuvering aisles designed to the satisfaction of the Development Officer.
 - c. May be provided on land other than the property being developed, in accordance with Section 18(2) of the *Act*.
 - d. May be provided in whole or part off-site
- (2) Every off-street parking space provided and its access shall be hard surfaced if the access is from a street or lane which is hard surfaced. Where the access street or lane is not hard surfaced, the parking areas must be a gravel mixture as approved by the Council.
- (3) The minimum dimensions of a parking space shall be 2.6 metres by 5.5 metres.
- (4) Each parking area shall be so graded and drained as to direct all storm water runoff in accordance with a drainage plan for the site.
- (5) It is the sole responsibility of property owners to construct and maintain road access between their property line and the traveled portion of the street right-of-way, subject to the Town's Engineering Standards.
- (6) The minimum number of off-street parking spaces required for each building class shall be as shown in the table below with the following clarifications:
 - a. In the case of a use not specifically mentioned, the required number of off-street parking spaces shall be the same as for a similar use as determined by Council. For a mixed use development, the required number of spaces shall be the sum of the requirements for each use.
 - b. Where the calculation of parking stalls for the development results in a fractional requirement, the total requirement shall be rounded up to the next whole number.

<i>Use of Building or Development</i>	<i>Minimum Number of Parking Stalls</i>
Single detached and duplex dwellings	1.0 per dwelling unit
Other residential	1.5 per dwelling unit
Bed and Breakfast establishments	1.0 per rentable guest room
Retail, personal services, offices, shops, banks and convenience stores	1 per 40.0 sq.m. of gross floor area
Restaurants, cocktail lounge and taverns	1 per 5 seating spaces
Hotels and motels	0.75 per sleeping unit

Day Cares	1.0 per 40.0 sq. m. of gross floor area
Places of public assembly including: Auditoriums, churches, halls, clubs, theatres and other amusement or recreation places	1 per 100 sq.m. of gross floor area
Manufacturing and industrial plants, warehousing, storage yards, servicing and repair establishments and public utility buildings	1.0 per building on site
Schools	1.0 per classroom
Colleges	1.0 per classroom
Hospitals and Nursing Homes	1 per 100 sq.m. of gross floor area

6.8 Off-Street Loading Spaces

- (1) Unless otherwise allowed by Council all uses except residential buildings with less than 15 dwelling units shall have at least one off-street loading and unloading space with a minimum of one space for each loading door.
- (2) When required by Council or this Bylaw, a development shall:
 - a. Provide loading spaces, each having dimensions of not less than 3.0 m in width, 7.6 metres in length, and 4.3 metres in height.
 - b. Provide vehicular access to and exit from a street or lane such that no backing or turning movements of vehicles going to or from the site cause interference with traffic in the abutting streets or lanes.

6.9 Wildfire Hazard Mitigation

- (1) All development occurring at the wildland/urban interface, or in areas with a high or extreme hazard rating as identified in the Fort Smith FireSmart Community Protection Plan, shall incorporate the following mitigation measures:
 - a. Skirting will be used to enclose any areas under a building or deck with less than 2 meters clearance to the ground.
 - b. Fire resistant siding materials to be used for all exterior wall finishes.
 - c. All roofing materials shall have a U.L.C. Class C fire rating.
 - d. Defensible space for a minimum 10 m or to lot boundary.
 - e. A minimum clearance of 3 meters from combustible vegetation and materials shall be provided around all propane storage tanks.

7 PART SEVEN – ZONING DISTRICT REGULATIONS

7.1 R1 – Single Detached Dwelling Residential

- (1) Permitted Uses
 - Single detached dwellings;
 - Accessory buildings and uses; and,
 - Secondary Suites

- (2) Conditional Uses
 - Churches;
 - Public or quasi-public buildings;
 - Public utilities;
 - Home occupations;
 - Family care facilities;
 - Neighbourhood convenience stores;
 - Duplex dwellings;
 - Semi-detached dwellings; and,
 - Day cares
 - Parks and playgrounds; and
 - Community gardens.

- (3) Dimensions

	Permitted or Conditional Uses
Minimum Site Area:	557 sq.m.
Maximum Lot Coverage:	30%
Minimum Front Yard Setback:	6.0 m
Minimum Rear Yard Setback:	4.0 m
Minimum Side Yard Setback:	1.5 m
Maximum Building Height:	10.5 m

- (4) Where side yards abut a flanking street the minimum setback is increased to 4.6 metres.

- (5) In the case of duplex units and semi-detached units, the side yard requirement along the common wall is waived.

- (6) All development shall meet the requirements of Part Six of this Bylaw.

- (7) Secondary suites shall comply with the provisions of Part Eight of this Bylaw.

7.2 R2 – Multi Dwelling Residential

(1) Permitted Uses are:

Duplex dwellings;
 Semi-detached dwellings;
 Row houses;
 Apartments;
 Single detached dwellings; and
 Accessory buildings and uses.

(2) Conditional Uses are:

Churches;
 Family care facilities;
 Public or quasi-public buildings;
 Public utilities;
 Boarding and lodging houses;
 Senior citizens or nursing homes;
 Neighbourhood convenience stores;
 Home occupations;
 Suites;
 Day cares;
 Parks and playgrounds; and
 Community gardens.

(3) Dimensions for different dwelling types are as shown in the table below:

	Dwelling type		
	Single Detached Duplex Semi Detached	Row houses	Apartments
minimum site area	557 m2	930 m2	800 m2
maximum lot coverage	30%	30%	30%
minimum lot width	n/a	n/a	n/a
minimum front yard	6 m	6 m	8 m
minimum side yard	1.5 m	3 m	4 m
minimum rear yard	4 m	4 m	8 m
maximum building height	10.5 m	10.5 m	12 m

(4) Where side yards abut a flanking street the minimum setback is increased to 4.6 metres.

(5) In the case of duplex units and semi-detached units, the side yard requirement along the common wall is waived.

(6) All development shall meet the requirements of Part Six of this Bylaw.

- (7) A site plan will be appended to the application for any multiple dwelling, row dwellings and apartments that, once approved, shall be as deemed conditions of approval and shall indicate:

provision of playgrounds and open space;
provision of enclosed recreation areas;
access for emergency vehicles;
provision of access to enclosed garbage storage;
provision of laundry facilities;
landscaping and fencing;
privacy for dwelling units in and adjacent to the development; and
orientation of buildings and general appearance of project.

- (8) The density of Row Housing shall not exceed 30 units per hectare.

- (9) The density of Apartments shall not exceed 60 units per hectare.

- (10) Fences and Walls shall meet the requirements of Part Six and:

- a. In the case of apartments or row houses in residential areas, a wall, hedge or wooden fence of not less than 1.5 metres in height and not more than 2.0 metres in height, shall be provided along the side property lines, and each unit's rear outdoor area to the satisfaction of the Council.

- (11) Landscaping shall meet the requirements of Part Six and:

- a. In the case of town houses, row houses and apartments all off-street parking shall include a landscaped area.
- b. A minimum of 10% of the site area for all row houses and apartments shall be landscaped.
- c. Within the rear outdoor area of each row house unit, a fenced area measuring a minimum of 4.0 metres in depth and the full width of the unit shall be provided to ensure privacy for the occupants.

7.3 RMH –Manufactured Home Residential

(1) Permitted Uses

Manufactured homes;
Single detached dwellings; and
Accessory buildings and uses.

(2) Conditional Uses

Public and quasi-public buildings;
Public utilities and installations;
Home occupations;
Day cares;
Neighbourhood convenience stores;
Parks and playgrounds; and
Community gardens.

(3) Dimensions

	Manufactured Homes	Single Detached Dwellings
minimum site area single wide	400 m ²	557 m ²
minimum site area double wide	450 m ²	n/a
maximum lot coverage	40%	30%
minimum lot width	n/a	n/a
minimum front yard	3 m	6 m
minimum side yard	1.5 m	1.5 m
minimum rear yard	3 m	4 m
maximum building height	5 m	10.5 m

- (4) Where side yards abut a flanking street the minimum setback is increased to 4.6 metres.
- (5) Porches and additions to a manufactured home shall be considered as part of the main building and the external finish of a porch or addition shall match the existing finish on the mobile home.
- (6) The floor area of the porches and additions shall be proportionate to the floor area of the manufactured home and these additions shall not exceed 100% of the mobile home floor area.
- (7) A manufactured home shall be skirted using materials that complement the existing external finish of the mobile home or manufactured home.
- (8) All development shall meet the requirements of Part Six of this Bylaw.

7.4 RC – Country Residential

(1) Permitted Uses

Single detached dwellings;
Agricultural uses; and
Accessory buildings and uses.

(2) Conditional Uses

Home occupations;
Suites;
Mobile or Manufactured Homes;
Day cares;
Public or quasi-public buildings and uses;
Neighbourhood convenience stores;
Public utility uses and installations;
Recreational and associated uses, including picnic and campgrounds; and
Commercial accessory uses.

(8) Dimensions

Minimum Site Area:	1.2 hectares
Minimum Lot Width:	45 m
Minimum Front Yard Setback:	15 m
Minimum Rear Yard Setback:	15 m
Minimum Side Yard Setback:	6 m
Maximum building height	10 m

(3) Sanitary facilities shall meet the Standards provided by the Public Health Act and Regulations.

(4) Relating to Agricultural Uses:

- a. Minimum Site Area: 2.0 hectares
- b. Maximum one dwelling unit
- c. The number of livestock on a parcel in a Country Residential Zone shall at no time exceed 2 horses, or 2 cows, or 2 sheep, or 2 goats, and 50 poultry.
- d. Any ancillary hobby or farming activities shall at no time interfere with the general enjoyment of the residential use of neighbouring properties.
- e. Intensive livestock operations are strictly prohibited in this zone.

(5) When considering applications for commercial accessory uses in the zone, Council may require conditions of approval related to:

- a. the scale of development proposed in relation to permitted uses;
- b. visual barriers including fencing and landscaping;
- c. signage; and
- d. lighting.

(6) All development shall meet the requirements of Part Six of this Bylaw.

7.5 TC – Town Centre

(1) Permitted Uses

Banks;
 Barber shops and beauty shops;
 Coffee shops and restaurants;
 Convenience stores;
 Funeral parlours;
 Hotels and motels;
 Laundry and dry cleaning facilities;
 Medical and dental clinics;
 Offices;
 Post office;
 Public and quasi-public buildings;
 Private clubs and lodges;
 Retail stores;
 Theatres;
 Workshops accessory to a retail store;

(2) Conditional Uses

Apartments and Townhouses;
 Boarding and lodging houses in existing dwellings;
 Bed and breakfast establishments in existing dwellings;
 Churches and related residences;
 Day cares;
 Home occupations;
 Public utilities and installations;
 Parks and playgrounds;
 Secondary suites in existing single detached dwellings;
 Veterinary clinics;
 Additions to existing dwellings;
 Accessory buildings and uses; and
 Other uses which are considered by Council to be similar in character and purpose and in keeping with the intent and purpose of the Community Plan.

(3) Dimensions

	permitted uses except hotels and motels	hotels and motels
minimum site area	280 m ²	1,100 m ²
minimum lot width	7.5 m	30 m
minimum front yard	3 m	3 m
minimum rear yard	3 m	3 m
maximum building height	12 m	12 m

- (4) No side yards are required except where the site is abutting a residential zone and not separated from the zone by a roadway or utility lot, in which case there shall be a 3 metre side yard.
- (5) Off-street parking shall be located along the side(s) of the building or behind the building, not between the primary business frontage and the street.
- (6) Doors and windows shall cover at least 10% of each ground floor wall along street frontages.
- (7) All dwelling unit areas shall have separate entrances.
- (8) Retail stores shall not include buildings or yards used for the sale or storage of new or used motor vehicles, or lumber or building supplies.
- (9) Where shopping centres or groups of shops are to be built on the site, requirements shall be determined by the Council who shall deal with the overall scheme, taking into account buildings, access, parking and specific commercial uses.
- (10) A workshop will be permitted as an accessory to a retail store provided that:
 - a. the workshop is not located at the front of the store;
 - b. the floor area of the workshop is not greater than 370 square metres.; and
 - c. the manufacture or the treatments of the products in the workshop are essential to the retail business conducted on the premises.
- (11) A person applying to develop a motel or hotel shall comply with the provisions of Part Eight of this zoning bylaw.
- (12) All development shall meet the requirements of Part Six of this Bylaw.
- (13) Fences must meet the requirements of Part Six of this zoning bylaw and:
 - a. Commercial buildings abutting residential zones must be screened by a fence or buffer of not less than 2.0 metres in height.
 - b. garbage containers and outdoor storage shall be screened and accessible for convenient pickup.
 - c. All fences in the Town centre zone are subject to the approval of Council acting as the Development Officer.
- (14) Landscaping must meet the requirements of Part Six of this zoning bylaw and:
 - a. 10% of the site area shall be landscaped
 - b. Off-street parking lots in the Town Centre zone shall be landscaped in a manner satisfactory to the Council.

7.6 GC - General Commercial

(1) Permitted Uses

Workshops used by any of the following:

- Carpenter and painter;
- Electrician;
- Plumber, gas fitter and furnace repair shop;
- Printing shop

Storage and/or sales of building supplies and lumber;

Repair and service shops;

Laundry and dry cleaning facilities;

Drive-in services;

Service stations, gas bars, or car washing establishments;

Veterinary clinics;

Convenience stores;

Funeral parlours;

Car rentals and sales;

Automobile garages or automobile body shops;

Mobile and manufactured home sales, recreational vehicle sales and accessory offices; and

Accessory buildings and uses.

(2) Conditional Uses

Nurseries;

Coffee shops and restaurants;

Motels;

Caretaker's units;

Warehousing and freight yards;

Bottle exchanges and recycling depots;

Public or quasi-public buildings;

Public utility installations and uses;

Other uses which are considered by Council to be similar in character and purpose and in keeping with the intent and purpose of the Community Plan.

(3) Dimensions

	All uses where water distribution and hydrant coverage is:	
	adequate to meet firefighting requirements	NOT adequate to meet firefighting requirements
minimum site area	1,000 m ²	1,000 m ²
minimum lot width	n/a	n/a
minimum front yard	6 m	6 m
minimum side yard	3 m	6 m
minimum rear yard	3 m	7 m
maximum building height	12 m	12 m

- (4) Side yards shall be increased to 4.6 metres for side yards abutting a flanking street.
- (5) The minimum site area for motels is 1,100 m².
- (6) The minimum lot width for motels is 30 m.
- (7) Buildings on lots fronting Highway #5 shall have a minimum 8.0 metre front yard setback
- (8) A person applying to develop a motel shall comply with the provisions in Part Eight.
- (9) No use is to be established that is or will become obnoxious by way of noise, odour, dust or fumes.
- (10) A caretaker's unit shall be an integral part of the principal building on the site and shall not exceed 80 square metres in floor area, except for a motel where the floor area may exceed this at Council's discretion.
- (11) All development shall meet the requirements in Part Six of this Bylaw.
- (12) Fences and Buffers shall meet the requirements of Part Six of this zoning bylaw and:
 - a. Commercial buildings abutting residential zones must be screened by a fence or buffer of not less than 2.0 metres in height.
 - b. garbage containers and outdoor storage shall be screened and accessible for convenient pickup.
 - c. In the case of drive-in businesses, car-washing establishments, service stations and gas bars solid fences shall be provided at least 1.5 metres in height and no higher than 2.0 metres adjacent to residential areas.
 - d. All storage, freightage or trucking yards shall be enclosed or completely screened by buildings, trees, landscaped features or fences or a combination thereof.
- (13) Landscaping shall meet the requirements of Part Six of this zoning bylaw and:
 - a. a minimum of 10% of the site area shall be landscaped;
 - b. landscaping shall be provided and maintained to the satisfaction of the Council in all yard setbacks fronting on Highway 5, King Street or Portage Avenue;
 - c. landscaping along Highway 5 shall provide retain existing trees to the greatest extent possible; and,
 - d. Off-street parking lots shall be landscaped in a manner satisfactory to the Council.

7.7 M - Industrial

(1) Permitted Uses

Workshops used by any trade such as carpentry, plumbing, gas fitting, or printing;
Repair and service shops;
Recycling depots;
Veterinary clinics;
Car rentals and sales;
Automobile garages or automobile body shops;
Mobile and manufactured home sales, recreational vehicle sales and accessory offices;
Bulk fuel storage;
Manufacturing, assembling and processing;
Gravel storage or concrete batch plant;
Sawmill or wood yard;
Truck depots; and
Accessory buildings and uses.

(2) Conditional Uses

Commercial, recreational or public service uses;
Heavy industrial uses;
Public utilities and installations;
Caretaker’s units; and,
Other light industrial uses which are considered by Council to be similar in character and purpose and in keeping with the intent and purpose of the Community Plan.

(3) Dimensions

Minimum Site Area:	As required by Council
Minimum Front Yard Setback:	6 m
Minimum Rear Yard Setback:	7 m
Minimum Side Yard Setback:	7 m
Maximum Building Height:	12 m

- (4) A caretaker’s unit shall be an integral part of the principal building on the site and shall not exceed 80 square metres in floor area.
- (5) Heavy Industrial uses must be located at least 450 m from any residential zone.
- (6) All development shall meet the requirements in Part Six of this Bylaw.
- (7) Landscaping shall meet the requirements of Part Six of this zoning bylaw and:
 - a. a minimum of 10% of the site area shall be landscaped.

- b. landscaping shall be provided and maintained to the satisfaction of the Council in all yard setbacks fronting on Highway 5, King Street or Portage Avenue.

7.8 P - Parks

(1) Permitted Uses

Parks, playgrounds, and picnic areas;
Accessory buildings and uses; and
Tourist trailer park or campground.

(2) Conditional Uses

Public or quasi-public buildings and uses;
Public utility installations and uses; and
Community gardens.

(3) All site requirements shall be as approved by Council.

7.9 I – Institutional

(1) Permitted Uses

Churches;
Community halls;
Hospitals;
Schools;
Colleges;
Senior citizens homes and nursing homes;
Public or quasi-public buildings and uses;
Day cares;
Family care facility; and,
Accessory buildings and uses

(2) Conditional Uses

Cemeteries;
Private clubs and lodges;
Parks and playgrounds;
Correctional centres; and,
Public utility installations and uses

(3) All development shall meet the requirements of Part Six of this Bylaw.

(4) All site requirements shall be as approved by Council.

7.10 A – Airport

In recognition of the jurisdiction and authority of the Government of the Northwest Territories and the Government of Canada over Commissioner's public airport lands forming part of the Fort Smith Airport, as designated in the Commissioner's Public Airport Lands Regulations and Federal lands within the Airport Zoning District all uses and development on those Commissioner's public airport lands and Federal lands shall be subject only to the approval of the Government of the Northwest Territories or the Government of Canada, as appropriate. For greater certainty, nothing in this bylaw shall apply to the use or development of those Commissioner's public airport lands and Federal lands within the airport Zone. However, Council or the Development Officer will request authorities provide notification and offer an opportunity to review any proposed development on Commissioner's public airport lands or Federal land within the Airport District.

7.11 UR – Future Urban Use

(1) Permitted Uses

Trails for walking, cycling, or skiing;
Trails for use by snowmobiles; and
Kennels

(2) Conditional Uses

Public utility installations and uses;
Public and quasi-public buildings and uses;
Installations for scientific or archaeological research, national security or defense;
Drainage channels or power lines;
Parks, playing fields or recreation areas;
Community gardens;
Traplines and fishing areas;
Game preserves or conservation areas;
Sanitary landfill and other municipal or public utilities;
Environmental reserves for watershed protection and sewage disposal facilities;
Natural resource development; and
Farms and agriculture.

(3) Regulations

- a. All approved uses are interim uses only and an agreement outlining the conditions and duration of use must be approved by Council.

7.12 E – Environmental Reserve

(1) Permitted Uses

None

(2) Conditional Uses

An essential public utility; and,
Recreational uses such as walking paths, viewing platforms, picnic areas or
boat ramps, in the area west of Breynat Street.

(3) Prohibited Uses

Uses involving human habitation or occupancy.

8 PART EIGHT - SPECIAL PROVISIONS

The following provisions apply where the use is listed as permitted or conditional in any zone:

8.1 Home Occupations

- (1) Home occupations are conditional uses within residential zones and shall be limited to those uses which do not interfere with the rights of other residents to quiet enjoyment of a residential neighbourhood.
- (2) Home Occupations shall be incidental and subordinate to the principal residential use and are subject to all conditions included in Bylaw 504 "Home Occupation Business Licences" as amended or its successors.
- (3) Development permits issued for home occupations shall be revocable at any time by the Council, if in their opinion, the use is or has become detrimental to the amenities of the neighbourhood.

8.2 Neighbourhood Convenience Stores

- (1) Neighbourhood convenience stores shall be located only on major streets and shall not be within 400 metres of another such development in any residential zone.
- (2) The total floor area of any store shall not exceed 60 square metres.
- (3) The minimum site area shall be 557 square metres.

8.3 Day Cares

- (1) In addition to conforming with the GWNT Child Day Care Act and Child Day Care Standards and Regulations, all day cares shall be subject to the regulations contained in this bylaw.
- (2) The maximum number of children for which care may be provided shall be established by the Development Authority who shall have regard for the nature of the day care, the density of the zone in which it is located, potential increases in traffic, and the location of the use in relation to other uses in the area of development, but shall not exceed the maximum allowable under the GWNT Child Day Care Act and Child Day Care Standards and Regulations.
- (3) The number of children within a day care established as a secondary use within a single family dwelling or mobile home shall not exceed the maximum allowable under the GWNT Child Day Care Act and Child Day Care Standards and Regulations.
- (4) A day care shall not be the principal use of a building within a residential zone.

8.4 Bed and Breakfast Establishments

- (1) In addition to all other provisions and requirements of the Zoning By-law the following additional requirements shall apply to home occupations in the form of bed and breakfast operations:
 - a. Applicants who lease or own a single family residence must reside on the premises.
 - b. Applicants shall provide a sketch showing bedroom configurations, capacity and bathroom locations with the application for a Home Occupation Development Permit as described in Part Three of this bylaw.
 - c. Applicants shall provide proof that the Office of the Fire Marshal has reviewed plans and that the residence meets the requirements of the Government of the Northwest Territories Fire Marshall, National Fire Code of Canada, and the Fire Prevention Act.
 - d. The residence shall contain bedrooms for a total of no more than five (5) guests and each bedroom shall be designed to accommodate no more than two (2) adult persons at any one time.
 - e. All residences shall have a three-piece bath for the use of the guests apart from those used by the owner and his/her family. Access to the guest bathroom shall be direct, convenient and will not involve passing through any other rooms.

8.5 Secondary Suites

- (1) Where permitted, secondary suites must:
 - a. not exceed 80 square meters in gross floor area
 - b. be located within a single detached dwelling

8.6 Churches

The site on which a church is situated shall have a frontage of not less than 30.0 metres and an area of not less than 900 square metres, except in the case where a building for a clergy's residence is to be erected on the same site. The combined area of the site in this case shall not be less than 1,400 square metres.

8.7 Dry Cleaning Establishments

- (1) Only non-flammable solvents can be used.
- (2) No odour, fumes, noise or vibrations must be emitted which would cause nuisance or inconvenience within or without the premises.

8.8 Drive-Through Services

- (1) The minimum site area shall be 550 square metres.
- (2) The minimum area of buildings to be erected shall be 37.0 square metres.
- (3) There shall be a provision for at least eight customer cars on the site.

8.9 Car Washing Establishments

- (1) The minimum site area shall be 550 square metres. and shall contain storage space for 10 vehicles prior to their entry into any part of the car wash.
- (2) In the case of service stations including car washes, minimum site area shall be 1,100 square metres.

8.10 Service Stations and Gas Bars

- (1) The minimum site area shall be 740 square metres and the maximum building coverage shall be 25% of the site area.
- (2) For service stations including car washes, the minimum site area shall be 1,100 square metres.
- (3) Where a service station forms part of a shopping centre or auto dealership, the minimum site area and maximum building coverage may be varied at the discretion of the Council.

8.11 Motels

- (1) For the purposes of this subsection, a rentable unit means a separate unit or suite of a motel intended for occupancy by one or more persons.
- (2) Unless connected by a continuous roof a space of not less than 3.7 metres of clear and unoccupied surface space shall be provided between each rentable unit and any other building on the site.
- (3) Not more than one motor vehicle entrance and one motor vehicle exit to a street, each of a minimum width of 7.0 metres measured at its minimum dimension shall be permitted, provided that one combined motor vehicle entrance and exit shall be permitted, not less than 9.0 metres in width.