

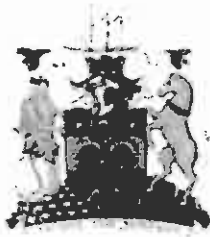
# TOWN OF MONTAGUE

## ZONING BYLAW

No. 2011-01



Andrew Daggett  
CAO



Richard A. Collins  
Mayor

## Town of Montague

Incorporated 1917

### TOWN OF MONTAGUE ZONING BYLAW 2011-01

#### Effective Date

The effective date of the Zoning Bylaw 2011-01 is the date it is signed by the Minister of Finance and Municipal Affairs.

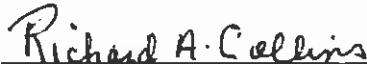
#### Approval of Zoning Bylaw 2011-01

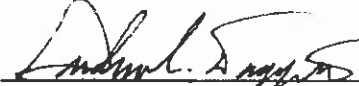
This Zoning Bylaw 2011-01 was read by a majority of Councillors present at the Special Council Meeting held on the 31<sup>th</sup> day of January, 2011.

This Zoning Bylaw 2011-01 was approved by a majority of Councillors present at the Council meeting held on the 14<sup>th</sup> day of February, 2011.

#### Adoption and Approval by Council:

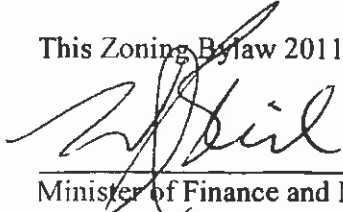
This Zoning Bylaw 2011-01 was approved and adopted by a majority of the Councillors present at the Council meeting held on the 14<sup>th</sup> day of February, 2011.

  
Richard A. Collins, Mayor

  
Andrew Daggett, CAO

#### Minister Signature

This Zoning Bylaw 2011-01 is hereby approved:

  
Minister of Finance and Municipal Affairs

JUNE 10/11.  
Date

P.O. Box 546, Montague, Prince Edward Island, Canada, C0A 1R0  
Telephone (902) 838-2528 Fax (902) 838-3392 Website: [www.montaguepei.ca](http://www.montaguepei.ca)  
Email: [townhall@montaguepei.ca](mailto:townhall@montaguepei.ca)

*Montague the Beautiful*

## **Part 1                      Title and Purpose**

- 1.1     This By-law shall be known and may be cited, as the **Zoning Bylaw** for the Town of Montague and shall apply to all lands within the municipal boundaries of the Town of Montague.
  
- 1.2     The purpose of this Bylaw is:
  - (i)     to carry out **the** land use development policies found in the Municipal Planning Strategy; and,
  - (ii)    to establish a fair and systematic means of development control for the municipality.

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## Part 2                      Definitions

- 2.1        In this By-law all words shall carry their customary meaning except for those words and phrases defined as follows:
- 2.1.1     **Accessory Building or Structure** means a subordinate building or structure on the same lot as the main building, devoted exclusively to an accessory use;
- 2.1.2     Accessory Use means a use subordinate and naturally, customarily, and normally incidental to and exclusively devoted to a main use of land or building located on the same lot;
- 2.1.3     **Act** means the Planning Act, RSPEI, 1988 and amendments thereto;
- 2.1.4     **Administrator** means the Chief Administrative Officer for the Town of Montague;
- 2.1.5     **Alter means any change in** the structural component of a building, or any increase in the volume of a building or structure;
- 2.1.6     **Amenity Space** means any yard space, as required by this Bylaw that is usable and not occupied by a building or used as a driveway or parking space.
- 2.1.7     **Animal Hospital means** the premises where animals, birds or other livestock are treated and, or kept for monetary gain;
- 2.1.8     **Apartment Building means a** building, other than a converted dwelling, containing three or more dwelling units that have a common entrance from the street level and the occupants of which have the right to use in common, certain areas of the building;
- 2.1.9     **Attached Building means a building otherwise complete in itself, that depends on** structural support, or complete enclosure, upon a division wall or walls shared in common with an adjacent building or buildings;
- 2.1.10    **Attic** means the portion of a building situated wholly, or in part, within the roof;
- 2.1.11    **Automobile Repair Shop means a building or part of a building used for the mechanical** repair of motor vehicles and includes an auto-body repair shop used for the repair of body work, detailing and painting of automobile bodies;
- 2.1.12    **Automobile Service Station or Service Station** means a building, or part of a building, or a clearly defined space on a lot, used for the retail sale of lubricating oils and gasoline and may include the sale of automobile accessories, space for the repair of automobiles, a

car wash facility, and a convenience store;

- 2.1.13 **Bed and Breakfast Establishment** means a single unit dwelling in which there is a resident owner or resident manager who provides overnight accommodation, for compensation, for the temporary accommodation of the travelling public;
- 2.1.14 **Boarding or Rooming House** means a single unit dwelling in which the resident supplies, for compensation, either room or room and board, in not more than five rooms, exclusive of those for the resident and family, and which is not open to the travelling public;
- 2.1.15 **Building** means any structure, whether temporary or permanent, used or built for the shelter, accommodation or enclosure of persons, animals, material or equipment, and any external chimney, staircase, porch or other structure used in connection with such building;
- 2.1.16 **Building Line** means any line regulating the position of a building or structure in relationship to the street and the side and rear lot lines;
- 2.1.17 **Bulk Storage Facility** means a place for the outdoor storage or tank storage of large quantities or raw material or industrial related goods including, but not limited to, liquids (fuel oil), gasses, minerals, pipes, gravel, fertilizers, and grain;
- 2.1.18 **Business Office** means a room where business may be transacted, a service performed or consultation given, but does not **include** the manufacturing of any product or the on-site retailing or selling of goods;
- 2.1.19 **By-law** means this By-law that is the Zoning By-law for the Town of Montague;
- 2.1.20 **Carport** means a building or structure that is not wholly enclosed and is used for the parking or storage of a private passenger vehicle **or** vehicles;
- 2.1.21 **Campground** means an area of land used for the temporary accommodation of recreation vehicles, tents and trailers used for travel, recreation, and vacation purposes but does not include a manufactured home park;
- 2.1.22 **Church** means a building dedicated to any religious worship and includes a church hall, church auditorium, Sunday school, parish hall, a day nursery operated by the church;
- 2.1.23 **Clinic** means a building or part of a building used for the medical, dental, surgical or therapeutic treatment of human beings but does not include a public or private hospital or a professional office of a doctor located in his residence;
- 2.1.24 **Commercial Motor Vehicle** means any motor vehicle having permanently attached thereto, a truck or delivery body and includes ambulances, hearses, motor buses, tractors,

and taxis;

- 2.1.25 **Commercial School means a** school of seven or more pupils gathered at one time, conducted for gain, and includes, but is not limited to, a secretarial school, language school, computer school or a driving school;
- 2.1.26 **Convenience Store** means a retail store that serves the primary needs of the adjacent neighbourhood and includes the sale of magazines, confectionary items, grocery items and may include a snack bar and dry cleaning drop-off depot;
- 2.1.27 **Council or Town Council** means the Town Council of the Town of Montague;
- 2.1.28 **Day-Care Centre** means a building where ten or fewer persons are cared for on a daily basis, for compensation, without overnight accommodations but does not include a school;
- 2.1.29 **Development** means the carrying out of any building operations, including excavation in preparation for building, on, over or under land, or the making of a material change in the use or intensity of the use of any land, buildings or premises, and includes the placing of structures on, over or under land;
- 2.1.30 **Development Control Contract** means a contract between the Council and a developer, whereby, as a condition of final approval, the developer agrees to provide and pay for those services deemed necessary by Council in order to develop a parcel of land within the Town in accordance with the policies of the Town's Official Plan and the pertinent sections of this Bylaw (See model Development Control Contract, Appendix "E" to this Bylaw);
- 2.1.31 **Development Officer** means the person or persons appointed by the Town Council to administer this bylaw;
- 2.1.32 **Dwelling** means a building, occupied or capable of being occupied as a home, residence, or sleeping place by one or more persons, containing one or more dwelling units and shall not include a hotel, motel, apartment hotel, recreation vehicle, or travel trailer;
- 2.1.33 **Dwelling, Grouped** means two or more dwelling units which are contained within two or more buildings located on a single lot;
- 2.1.34 **Dwelling, Semidetached** means a completely detached building containing only two dwelling units that share a common side wall;
- 2.1.35 **Dwelling, Single Unit** means a completely detached building containing only one dwelling unit;
- 2.1.36 **Dwelling, Two Unit** means a completely detached building containing only two dwelling

units;

- 2.1.37 **Dwelling Unit** means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping place in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals, with a private entrance from outside of the building or from a common hallway or stairway inside the building;
- 2.1.38 **Dwelling, Multiple Unit** means a completely detached building containing three or more dwelling units, each of which has a private entrance from outside of the building or from a common hallway or stairway inside the building;
- 2.1.39 **Engineer** means the engineer for the Town of Montague, or engineering firm contracted by the Town of Montague;
- 2.1.40 **Existing** means legally existing as of the effective date of this By-law;
- 2.1.41 **Floor Area, Residential** means the maximum area contained within the outside walls excluding any garage, porch, veranda, sun room, unfinished attic or basement and cellar or other room not habitable at all seasons of the year;
- 2.1.42 **Floor Area, Net Commercial** means the total floor area within a building used for commercial purposes but excludes washrooms, utility and mechanical rooms, and storage rooms;
- 2.1.43 **Garden Suite** means a temporary development consisting of a detached dwelling unit which
- has a width no greater than 24 feet
  - is no greater than one storey in height
  - has a roof pitch no greater than 4/12
  - is constructed and erected in such a manner as to be capable of being readily removed from the site
  - does not exceed 800 sq feet in area
- is not a mobile home
- is for the sole and exclusive use as an accessory dwelling to a single unit dwelling on the same lot or parcel of land by
- o the parents or grandparents of the owner or spouse of the owner of the single unit dwelling on the same lot or parcel of land
  - o any person who is physically or intellectually challenged or experiences a chronic disability or who, due to illness, frailty or age, requires home care, and is under the care of the owner or spouse of the owner of the single unit dwelling on the same parcel or lot of land, or
  - o a caregiver for a family member of the owner or spouse of the owner of the single unit dwelling on the same lot or parcel of land who qualifies above and who also resided in the garden suite.

- 2.1.44 Height, Maximum** means the highest allowable distance from the ground level next to the main entrance of the building to the highest point of the building, exclusive of any accessory roof construction such as a chimney, antenna, mechanical equipment enclosure, cupola or steeple;
- 2.1.45 Home Occupation** means the accessory use of a dwelling for gainful employment involving the production, sale, or provision of goods and services, on a small scale;
- 2.1.46 Landscaping** means the use of horticulture elements, decorative stonework, paving, fencing or other architectural elements, to enhance the visual quality of a property or to provide a visible barrier between one property and another;
- 2.1.47 Loading Space** means an area of land reserved for the temporary parking of a commercial vehicle where merchandise or materials are loaded or unloaded;
- 2.1.48 Lot** means a parcel of land described in a deed or as shown in a registered plan of subdivision; - **Corner lot** means a lot situated at the intersecting corner of two or more streets; - **Flag lot** means a lot located on the interior of a block with access provided by a driveway running beside the lot at the front of the block; - **Interior lot** means a lot abutting only one street the full width of the lot; - **Through lot** means a lot that is not a corner lot that abuts two streets;
- 2.1.49 Lot Area** means the total horizontal area within the lot lines of a lot; **Minimum lot area** means the smallest allowable area a lot can be created;
- 2.1.50 Lot Coverage** means the percentage of the lot that is covered by buildings, also known as the building footprint; **Maximum lot coverage** means the largest allowable area that can be covered by any building or buildings on a lot;
- 2.1.51 Lot Frontage** means the length of a line between the two side lot lines measured at the front lot line; **Minimum lot frontage** means the shortest allowable distance lot frontage can be measured;
- 2.1.52 Front Lot Line** means the line dividing the lot from the street. In the case of a corner lot or through lot, the front lot line shall be deemed to be the shorter lot line abutting a street, except where the front lot line has been established by prior construction.
- 2.1.53 Main Building** means the building on a lot in which the principal use of the lot is carried out;
- 2.1.54 Manufactured Home (or Mobile Home)** means a dwelling unit designed for transportation after fabrication, whether on its own wheels or a trailer, and which arrives at the site where it is to be occupied as a dwelling, complete and ready for occupancy (except for minor unpacking and assembling operations to place the building on an

acceptable foundation) and having a width of not more than 20 ft., but does not include a travel trailer or a recreational vehicle;

- 2.1.55 **Manufactured Home Park (or Mobile Home Park)** means a lot on which spaces are provided for more than one manufactured home dwelling unit and includes accessory service and recreation buildings;
- 2.1.56 **Modular Home** means two or more separate prefabricated units individually transported or towed to a site to be coupled together mechanically and electrically to form a single structure;
- 2.1.57 **Municipality** means the Municipality of the Town of Montague;
- 2.1.58 **Nursing Home** means a licensed residential institution where nursing and supervisory care is provided along with full room and board for individuals who are mentally or physically unable to look after themselves;
- 2.1.59 **Open Space** means an area of land on a lot not covered by buildings, structures, trees, shrubs or gardens;
- 2.1.60 **Open Storage** means the outdoor storage of merchandise, goods, or inventory of any kind, materials, equipment, or other items that are not intended for immediate sale;
- 2.1.61 **Outdoor Display** means the display of goods or merchandise in the open air which are available for sale to the general public from a retail store on the same lot;
- 2.1.62 **Parking Lot** means an open area of land devoted to the temporary storage of **motor** vehicles;
- 2.1.63 **Person** includes an individual, association, firm, partnership, corporation, organization or group and includes any person legally representing these;
- 2.1.64 **Private Street** means any street that is **not** public shown on an approved plan of subdivision;
- 2.1.65 **Recycling Depot** means a collection site for materials in a government operated recycling program but does not include a scrap or salvage yard;
- 2.1.66 **Residential Care Facility** means a licensed residential institution where 24 hour supervisory care or personal care is provided for four or more persons but does not include a nursing home, correction facility or a hospital;
- 2.1.67 **Resource Uses** means any use involving the processing or storing of natural resource materials including but not limited to agricultural, forestry, fishing and mining resources and shall include the production of agricultural products and the keeping of farm animals;

- 2.1.68 **Restaurant** means a building where food and drink is served to the public primarily for consumption within the building;  
Restaurant, Drive-in means a building where food and drink is served to the public for consumption in parking areas appurtenant to the building whether or not facilities are provided for consumption within the building;  
Restaurant Take-out means a building where food and drink is served to the public for consumption exclusively off-site and not for consumption in parking areas adjacent to the building.
- 2.1.68 **Senior Citizen Housing** means a multiple unit dwelling designed for occupation by senior citizens and is constructed and maintained by a public housing authority or non-profit organization;
- 2.1.69 **Shopping Centre (Mall)** means a group of commercial uses that have been designed and developed as a continuous unit and characterized by shared parking facilities and may or may not have enclosed common walkways;
- 2.1.70 **Sign** means any structure or device, whether illuminated or not, used to advertise or draw attention to any product, place, person, business, institution, organization, or event, including any directional or way finding purpose, and which is greater than 3.5 sq. ft.;
- 2.1.71 **Sign Face** means the area of a sign upon which the message is placed;
- 2.1.72 **Sign, Ground** means a sign supported by one or more posts, poles, or braces placed in or upon the ground;
- 2.1.73 **Sign, Mobile** means a sign designed and intended to be moved from one site to another and is not permanently affixed to the ground or a building but shall not include the side, body, trailer of a commercial motor vehicle;
- 2.1.74 **Sign, Projecting** means a sign that projects from and is supported by the wall of a building;
- 2.1.75 **Sign, Sandwich** means a self-supporting, two sided, A-frame style sign that is not affixed to the ground;
- 2.1.76 **Strategy** means the Municipal Planning Strategy for the Town of Montague;
- 2.1.77 **Street, Local** means a street designed to serve vehicular traffic in residential neighbourhoods;
- 2.1.78 **Streets, Collector** means a street designed to move vehicular traffic from residential neighbourhoods to commercial and institutional areas and to arterial streets;

- 2.1.79 **Streets, Arterial** means a street designed to move large volumes of vehicular traffic between major centres;
- 2.1.80 **Swimming Pool** means an artificial body of water outside a building, excluding ponds, having more than 100 square feet of surface area, that is designed or intended to be used for swimming purposes, contains or is capable of containing a water depth of more than 24 inches, is intended to be a permanent structure or is surrounded by a permanent structure or deck/patio, but shall not include inflatable pools or pools erected on a seasonal basis;
- 2.1.81 **Utility** means any public or private system, works, plant, equipment, or services which are provided at regulated rates to or for the use of the general public;
- 2.1.82 **Variance** means a deviation from the provisions of the Zoning Bylaw;
- 2.1.83 **Yard** means an open, uncovered space on a lot next to a main building;
- 2.1.84 **Yard, Flanking** means the side yard of a corner lot that abuts the side street line;
- 2.1.85 **Yard, Front** means a yard extending across the full width of a lot between the front lot line and the nearest wall of any building; **Minimum front yard** means the smallest allowable distance a front yard can be measured;
- 2.1.86 **Yard, Rear** means a yard extending across the full width of a lot between the rear lot line and the nearest wall of any main building; **Minimum rear yard** means the smallest allowable distance a rear yard can be measured;
- 2.1.87 **Yard, Side** means a yard extending from the front yard to the rear yard of a lot between a side lot line and the nearest wall of a main building; **Minimum side yard** means the smallest distance a side yard can be measured;
- 2.1.88 **Zone** means a designated area of land shown on the zoning map for which specific development control regulations are applied.

## Part 3 Administration

### 3.1 Administration

3.1.1 The Development Officer shall administer this Bylaw. Notwithstanding the foregoing, the Development Officer shall have the authority to approve or deny development permits in accordance with this Bylaw in all areas except for the following:

- (i) new commercial structures
- (ii) industrial development
- (iii) new multiple family dwellings
- (iv) new institutional structures

and that the authority to approve or deny development permits shall be extended to requests for the changing of activities within approved or existing developments which may necessitate the making of minor structural alterations that are in keeping with the integrity of the approved or existing development.

### 3.2 Development Permit

3.2.1 Unless otherwise stated in this Bylaw, no person shall undertake a development on a lot within the Town of Montague without first obtaining a development permit from the Development Officer.

3.2.1.1 As a condition of granting of a development permit, the developer may be required to enter into a Development Control Contract with the Council as detailed in Part 6 of this Bylaw.

3.2.1.2 The developer may also be required to post a performance bond, cash bond, or other financial guarantee satisfactory to **the** Council, so as to ensure the development is developed in accordance with the conditions set out in the Development Control Contract.

3.2.2 The Development Officer shall only issue a development permit in conformance with this Bylaw, a site plan approved in conformance with this Bylaw, or an approved development control contract, except where a variance is granted or in the case of a nonconforming use or structure, in which case a permit shall be granted in conformance with this Bylaw.

3.2.3 A development permit shall expire within 12 months from the date issued. If the development has not commenced or construction has not been completed, a permit extension may be granted, on application, for an additional twelve months for a renewal

fee of thirty dollars (\$30.00).

3.2.4 The Development Officer may revoke a development permit where information provided on the application is found to be inaccurate.

### **3.3 No Development Permit Required**

3.3.1 Unless otherwise specified, no development permit shall be required for:

- (i) a fence or wall that does not exceed 6 ft in height;
- (ii) a sign less than 5 sq ft in area where signs are permitted (see Part 8);
- (iii) a temporary use subject to Section 7.23; and
- (iv) public and private utilities located within the street right-of-way;
- (v) shingling;
- (vi) siding;
- (vii) roofing;
- (viii) repainting;
- (ix) chimney maintenance or rebuilding
- (x) replacement of windows and doors;
- (xi) other routine maintenance which has the effect of maintaining or restoring a structure or any of its elements to its original state or condition;
- (xii) installing clotheslines, poles and radio and television antennae or satellite dishes less than 2 feet in diameter;
- (xiii) making a garden;
- (xiv) inflatable swimming pools and children's play equipment;
- (xv) making landscaping improvements or constructing ornamental structures less than 100 sq ft;
- (xvi) laying paving material for patios, sidewalks and driveways;
- (xvii) accessory buildings less than 120 sq ft in area;

although the applicable requirements of this Bylaw must still be met.

### **3.4 Application for a Development Permit**

3.4.1 Every application for a development permit shall be accompanied by a sketch or plan, drawn to an appropriate scale and showing:

- (i) the shape and dimension of the lot to be used;
- (ii) the distance from the lot boundaries, dimension, and height of the building or structure proposed to be erected;
- (iii) the distance from the lot boundaries and size of every building or structure already erected on the lot and the general location of the buildings on abutting lots;

- (iv) the proposed location and dimension of any parking space, loading space, driveway, and landscaped area;
- (v) the storm water drainage pattern;
- (vi) the proposed use of the lot and any building or structure; and
- (vii) any other information the Development Officer deems necessary to determine whether or not the proposed development conforms to the requirements of this Bylaw.

3.4.2 Every application for a development permit, for new construction or extensive additions only, must also be accompanied by a floor plan of the proposed structure as well as the exterior view showing the elevations of all four sides.

3.4.3 Where the Development Officer is unable to determine whether the proposed development conforms to this Bylaw, the Development Officer may require that the plans submitted under clause (a) be based upon a survey certified and stamped by a Prince Edward Island Land Surveyor.

3.4.4 Where an entranceway permit is required under the Roads Act Highway Access Regulations, its issuance shall be a precondition of the permit approval.

3.4.3 All applications for a development permit must be submitted on the form provided by the Town of Montague.

3.4.4 All applications for a development permit shall be processed as expeditiously as possible. In circumstances where the Development Officer has authority to issue a permit, the developer must be notified, within seven (7) working days from the date the application is received, if the development has been approved, denied or if additional information is required.

In circumstances where the development application requires Council approval, the developer must be notified, within 14 working days from the date the application is received, if the development has been approved, denied or if additional information is required.

In cases where additional information is required, the date of receipt of the required information will be considered the date of receipt of the completed application.

### **3.5 Signature of Applicant**

3.5.1 The application for a development permit shall be signed by the registered owner of the lot or by the owner's agent duly authorized in writing to act for the owner.

### **3.6 Application Fee**

- 3.6.1 Every application for a development permit or an application for a Land Use Bylaw amendment, development agreement, site plan approval or variance, shall be accompanied by a cheque payable to the municipality in the amount specified in Appendix "A" of this Bylaw.
- 3.6.2 Where an application to amend this Bylaw or to enter into or amend a development agreement is made, the applicant shall deposit with the Administrator at the time of the application, an amount established by the Administrator to be sufficient to pay the costs of any advertising and notification required.
- 3.6.3 If the amount paid under clause 3.6.2 is not sufficient to cover the costs incurred, the applicant shall pay to the Administrator the additional amount required. If the amount paid is more than sufficient, the Administrator shall refund the excess amount.
- 3.6.4 If a project is not commenced, the developer, on application, will be entitled to a refund of the fee less an administrative charge equal to 25% of the fee and the costs of any legal fees incurred by the town in processing the application.

### 3.7 Amendments to the Zoning Bylaw

- 3.7.1 A person, who seeks to rezone a parcel of land or otherwise have this Bylaw amended, shall complete an application in a form authorized by the Development Officer.
- 3.7.2 All applications for a rezoning or bylaw amendment must be submitted to the Planning Board for review and recommendation to Council.
- 3.7.2. An application under this section shall include such information as may be required by the Development Officer and/or the Planning Board for the purpose of adequately assessing the desirability of the proposal, and if the application is for a re-zoning shall include:
- (i) either a legal description and a plot plan or a survey plan accurately showing the location of the property or properties to be re-zoned; and
  - (ii) the names and addresses of the Owners of the properties and, if the applicant is not the owner, a statement as to the applicant's interest in the property.
- 3.7.3. The applicant shall, when submitting the application, deposit with the Town an amount estimated to be sufficient to pay a fee for any required advertising and mail-outs.
- 3.7.4. When an application has been received to amend this Bylaw for a site specific purpose, enter into a development agreement, or amend a development agreement, all property owners within 200 ft. of the subject property shall be notified of the application by the Administrator.

3.7.5. The notification set out in clause 3.7.4 shall be in addition to the advertisement for public hearing and shall be delivered to all affected property owners by mail prior to the public hearing.

3.7.6 Before amending any portion of this bylaw or re-zoning any parcel of land, Council shall conduct a public meeting to receive the views and opinions of the public and the applicant, and Notice of the hearing and its purpose shall be given by publishing a Notice in not less than two issues of a newspaper circulating in the Town with the first notice at least seven (7) clear days prior to the public hearing date.

### **3.8 Variances**

#### **3.8.1 Minor Variances**

3.8.1.1 Where the Development Officer is not able to issue a Building or Development Permit because the proposed Building or Development does not meet the minimum standards of this Bylaw, the Development Officer shall be empowered to grant a variance of up to 10% of the minimum setback requirements for a front, rear, side or flankage yard and 10% of other minimum standards pertaining to lot area, lot frontage or building height, provided that:

- (i) a current plot plan or survey plan is provided showing the existing and any proposed alterations to a building;
- (ii) the need for consideration of a variance is owing to conditions peculiar to the property or unique to the area and not the result of actions of the owner, and a literal enforcement of this bylaw would result in unnecessary and undue hardship;
- (iii) the proposed building or development complies with the general intent and purpose of the Official Plan and this Bylaw;
- (iv) the proposal is desirable and represents an appropriate development or use of the site;
- (v) no previous variance has been granted for the lot or property;
- (vi) the proposed variance from the requirements of the Bylaw is minor in nature;
- (vii) the variance does not entail a rezoning application.

3.8.1.2 Before processing any variance under this section, the Development Officer shall:

- (i) receive from the applicant sufficient funds to cover the costs associated with the mail-outs and processing of this application;
- (ii) provide written notice by ordinary mail explaining the purpose of the variance to all affected property owners within 100 feet of the boundaries of the subject lot;
- (iii) ensure that the Notice identifies the subject Lot and describes the variance application and the date by which written objections must be received.

3.8.1.3 If any objections are received within fourteen (14) calendar days from the date of the notice, the requested variance will be automatically referred to the Planning Board which

shall consider the request having regard for the foregoing criteria and recommend to the Development Officer to approve or reject the application. If no objections are received within that time, the variance may be granted by the Development Officer.

3.8.1.4 When an application for a variance has been lawfully determined, the same or a similar variance application shall not be considered within one year of the decision unless Council is of the opinion that there is valid new information or a substantial change in the application.

3.8.1.5 If after one (1) year of a variance approval by the Development Officer, no building permit is issued or the building permit is not acted upon (i.e. construction has not commenced), the variance and any permits shall automatically be deemed null and void.

### 3.8.2 Other Variances

3.8.2.1 Where the Development Officer cannot issue a Development Permit because a variance being sought is not a minor variance as specified in this Bylaw, the Council may, under special circumstances and on recommendation from the Planning Board, give particular consideration to the application for the following:

- (a) the extension of a non-conforming use upon a site occupied by such use or building on the effective date of this bylaw;
- (b) a temporary use of land in a manner otherwise prohibited by this bylaw for a period not exceeding four months in any year;
- (c) a non-conforming use of a building site or a structure which has been discontinued for a period of six months or more to be returned to a non-conforming use;
- (d) a less intensive use of the building or site other than the previous non-conforming use provided that the building or structure has not at any time in the interim become a conforming use;
- (e) an accessory building to be located on a lot closer to the street than the main building on the lot;
- (f) an existing commercial building to be expanded to one side lot line with zero setback;
- (g) a new commercial development in the C-1 zone to be constructed with zero lot lines.

3.8.2.2 If after giving particular consideration to the criteria as contained in subsection 1, and after following the procedure in section 3.8.1.2, except that all property owners within 200 feet from the boundaries of the subject lot shall receive written notification of the proposed variance, and receiving a recommendation from the Planning Board, Council may, without prejudice direct the Development Officer to approve the variance and issue the permit.

3.8.2.3 If, after one year of a variance approval by Council, no building permit has been issued or the building permit is not acted upon (construction has not commenced) the variance and any permits shall automatically be deemed null and void.

### **3.9 Bylaw Enforcement**

- 3.9.1 The Development Officer, or Designate, is authorized, with cause, to enter any land, building, or structure in the Town, provided such entry is not excessive or by force, is at a reasonable time, and is for the purpose of making an inspection or examination relating to this Bylaw.
- 3.9.2 The Development Officer may issue a "Stop Work Order" to a developer or contractor in instances where a development has been started without a valid development permit.
- 3.9.3 Bylaw enforcement may be undertaken by the Town in accordance with the procedures established in PART IV of the Planning Act, R.S.P.E.I.
- 3.9.4 The Development Officer may apply to a Justice of the Peace or Provincial Court Judge for an order authorizing entry on to the property in question in the event that any person refuses or does not permit an inspection to be carried out pursuant to this Bylaw.
- 3.9.5 The Provincial Court Judge or Justice of the Peace may at any time issue a warrant in the prescribed form authorizing a person named in the warrant to enter and inspect a building, receptacle or place if the Provincial Court Judge or Justice of the Peace is satisfied by information on oath that there are reasonable grounds to believe that an offence is being committed and the entry will afford evidence relevant to an offence, and such a warrant shall name the date upon which it expires which shall not be later than fifteen (15) days after the warrant is issued.
- 3.9.6 In addition to any fine or penalty imposed, the Provincial Court of Prince Edward Island may order the person convicted to restore the premises or land on which the offence has occurred to its original condition or to the satisfaction of the authority having jurisdiction, unless such restoration will constitute a safety or health hazard.
- 3.9.7 In addition to, or instead of, the penalties referred to in this Bylaw, the Supreme Court of Prince Edward Island may, upon application by the Town, cease or prohibit by injunction any development which does not comply with the provisions of this Bylaw.
- 3.9.8 The Town, its Officers or employees shall not be liable for any damage caused to any property when **acting under** the authority of this section.

### **3.10 Offences**

- 3.10.1 Any person who, being the owner or occupant of any land, building, or structure to which this Bylaw applies, fails to:
- (i) remove any sign;
  - (ii) comply with the provisions;

- (iii) obtain a permit; or
- (iv) cease work on, and restore to its original condition, any property on which a Development has been undertaken;

in contravention of this Bylaw is guilty of an offence and liable under conviction to a fine and, in default of payment, to a term of imprisonment.

3.10.2 Any person who impedes, attempts to impede, refuses or does not permit inspection of a property pursuant to this Bylaw shall be guilty of an offence.

3.10.3 Where a person convicted under this section fails to commence the restoration ordered within sixty (60) days after the order has been made, the Town may take such steps as it deems necessary to restore or remove the subject matter of the offence at the expense of the owner or occupier.

3.10.4 When an offence under this Bylaw is committed or continued for more than one (1) day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

### **3.11 Penalties**

3.11.1 A person, contractor or owner who violates this Bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars (\$2,000) in each case together with the cost of prosecution.

3.11.2 Where the offence is a continuing offence in addition to the penalties provided in this section, such person shall be liable for all costs in immediate removal of such an offence, and the Provincial Judge may impose a penalty not exceeding four hundred dollars (\$400) for every day the said offence continues.

3.11.3 Where there is default of payment, any person or corporate officer is liable to be imprisoned in accordance with Section 31(3) of the Summary Convictions Act.

### **3.12 Demolition Permits**

3.12.1 A Demolition Permit may be issued by the Development Officer for a building, or structure, or parts thereof.

3.12.2 A Demolition Permit shall be valid for sixty (60) days.

### **3.13 Licenses, Permits and Compliance with Other Bylaws**

3.13.1 Nothing in this Bylaw shall exempt any person from complying with the requirements of any other Bylaw in force within the Town, or from obtaining any license, permission, permit, authority, or approval required by any other Bylaw of the Town, or statute or regulation of the province of Prince Edward Island or the Government of Canada.

3.13.2 Where the provisions of this Bylaw conflict with those of any other Town Bylaw or any regulations or codes of the Province of Prince Edward Island, the higher or more stringent requirement shall prevail.

### **3.14 Public Notice**

3.14.1 A general "Public Notice" of all decisions respecting all applications received under the requirements of this bylaw must be given by posting the decisions in a conspicuous place in the Montague Town Hall. The date of posting must be displayed along with a statement advising the public of its right to appeal the decision, in accordance with **the Planning Act**, within 21 days from the date of posting.

### **3.15 Effective Date**

**3.15.1** This Bylaw shall take effect upon the date of approval by the Minister.

# Part 4                      Zones and Zoning Maps

## 4.1     Zones:

4.1.1 For the purpose of this By-law, the Town of Montague is divided into the following zones, the boundaries of which are shown on the attached Appendix "B". Such zones may be referred to by the corresponding symbols shown below.

Zones	<u>Symbol</u>
Residential Single Family	(R- 1 )
Residential Two Family	(R-2)
Residential Multiple Family	(R-3)
Mobile Home Park	(R-MHP)
Central Business District — Traditional	(C-1)
Central Business District — Development	(C-2)
Commercial - Other	(C-3)
Waterfront Development	(WFD)
Industrial	(M)
Park and Open Space	(P)
Government and Institutional	(G-1)

## **Part 5 Interpretation**

### **5.1 Symbols**

The symbols used on the Zoning Map refer to the corresponding zones established in the Bylaw.

### **5.2 Interpretation of Zone Boundaries**

5.2.1 The extent and boundaries of zones are shown on the Zoning Map and the appropriate provisions of this Bylaw shall apply to all zones.

5.2.2 Boundaries between zones shall be determined as follows:

- (i) where a zone boundary is indicated as following a street the boundary shall be the centre line of the street unless otherwise indicated;
- (ii) where the zone boundary is indicated as approximately following lot lines the boundary shall follow the lot lines;
- (iii) where a right-of-way or a watercourse shown on a zoning map serves as a zone boundary, the centre line of the right-of-way or watercourse shall be considered the boundary between the zones unless otherwise indicated;
- (iv) where a zone boundary is indicated as following the edge of a watercourse the zone shall follow any change in the boundary of that watercourse;
- (v) where none of the above apply, and where appropriate, the zone boundary shall be scaled from the Zoning Map.

### **5.3 Interpretation of Certain Words**

5.3.1 In this Bylaw, words used in the present tense include future; words in the singular number include the plural; words in the plural include the singular; and the word "used" includes "arranged to be used", "designed to be used" or "intended to be used"; the word "shall" is mandatory.

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

### **5.4 Permitted Uses**

5.4.1 In this Bylaw any use not listed as a permitted use in a zone is prohibited in that zone unless otherwise indicated.

5.4.2 Where a permitted use within any zone is defined in this Bylaw, the uses permitted in the

zone include any similar uses that satisfy such definition except where a definition specifically excludes any similar use.

## **5.5 All Land to be Zoned**

5.5.1 All lands within the municipality shall be zoned.

## **5.6 Schedules**

5.6.1 All schedules, figures and appendices attached to this Bylaw form an official part of the Bylaw.

# **Part 6 Development Control Contract**

## **6.1 Developments to be Considered by Development Control Contract**

6.1.1 The following developments may be considered only by development control contract in accordance with the Municipal Planning Strategy and the Planning Act:

- (i) multiple unit dwelling development of more than 6 dwelling units, in a residential or commercial designation, except Residential Single Family (R-1) Zone, in accordance with policy 2.6 of the municipal planning strategy.
- (ii) R-1 and R-2 residential uses on lots that do not front on a public street, in accordance with policy 2.9 of the municipal planning strategy;
- (iii) one or more of the uses permitted in the Commercial or Industrial Zones which exceed the limitations stated in policy 4.8, in accordance with policy 4.9 and 4.10 of the municipal planning strategy;
- (iv) commercial tourist (C-3) uses outside the C-3 zone, in accordance with policy 4.11 of the municipal planning strategy;
- (v) bed and breakfast establishments in any residential zone which exceed the limitations stated in policy 4.14, in accordance with policy 4.15 of the municipal planning strategy;
- (vi) industrial activities, not listed as a permitted use in the Industrial Zone (M), in accordance with policy 5.2 and 5.3 of the municipal planning strategy;
- (vii) an auxiliary dwelling unit, commonly known as a "Garden Suite" in a residential zone.

## **6.2 Development Permits for Development Control Contract**

6.2.1 A development permit may be issued for a development listed in this Part, pursuant to the Act, provided:

- (i) the development control contract has been approved by Council;
- (ii) the appeal period has elapsed or any appeals that may have been lodged have been resolved in favour of the development;
- (iii) the development conforms to the terms of the development control contract.

### 6.3 Scope of Development Control Contract

6.3.1 The Development Control Contract referred to in this Part shall, in conformity with policies contained in the Town's Official Plan respecting development, govern, but not be restricted to, such matters as:

- (i) streets or roads;
- (ii) central sewer and water services;
- (iii) open space and/or recreational areas;
- (iv) refuse collection and refuse storage facilities;
- (v) sidewalks;
- (vi) storm sewers;
- (vii) curbs and gutters;
- (viii) phasing of the development; and
- (ix) any other services which Council deems appropriate and required.

6.3.2 The developer shall be responsible for any/all cost(s) associated with providing any of the services which constitute part of the Development Control Contract referred to in this Part.

6.3.3 Appendix "E" to this Bylaw shall constitute a sample Development Control Contract.

## **Part 7                      General Provisions for all Zones**

### **7.1      Accessory Buildings and Structures**

7.1.1 An accessory building or structure is permitted in any zone and may be used only as an accessory use to the main building or use, but it shall not:

- (i) be used for human habitation except where a dwelling is a permitted accessory use;
- (ii) be built in the front yard of any lot;
- (iii) be built closer than four (4) feet to the side lot line or rear lot line except that:

- common garages for semidetached dwellings may be centred on a mutual side lot line;
- boat houses and docks may be built to the lot line where the lot line corresponds to the water's edge;
- (iv) be built within six (6) feet of the main building.

7.1.2 Notwithstanding anything else in this Bylaw, awnings, clothesline poles, flag poles, garden trellises, retaining walls, signs, and fences shall be exempt from any requirement under subsection 7.1.1

7.1.3 No accessory building or structure shall be constructed:

- (i) prior to the time of construction of the main building to which it is accessory, or
- (ii) prior to the establishment of the main use of the land where no main building is to be built.

## **7.2 Building to be Erected on a Lot**

7.2.1 No building shall be erected or used unless it is erected upon a single lot.

## **7.3 Building to be Moved**

7.3.1 No building shall be moved to a lot within the municipality without the owner first obtaining a development permit to locate the building.

## **7.4 Calculation of Lot Frontage**

7.4.1 Lot frontage for a lot with a regular shape shall be measured as the distance between the side lot lines where they meet the front lot line.

7.4.2 Lot frontage for a lot with an irregular shape shall be measured as the distance between the side lot lines drawn at a 90 degree angle from a line drawn from the mid point of the rear lot line to the mid point of the front lot line and at a point equal to the required front yard.

## **7.5 Conformity with Existing Front Yards**

7.5.1 Notwithstanding the minimum front yard requirements found elsewhere in this Bylaw, in

any zone, when a building is erected between two existing buildings within 200 ft of the proposed building, the minimum front yard requirement shall be no less than that of the adjacent building which is closest to the street, but in no case shall the front yard requirement be less than 10 feet and need be no greater than the front yard requirement prescribed for that zone.

## **7.6 Driveway Access**

7.6.1 Driveway access for a through lot may be provided to either or both streets.

7.6.2 A driveway access to:

- (i) a local street shall be a minimum of 50 ft. from a street intersection;
- (ii) a collector street shall be a minimum of 80 ft. from a street intersection;
- (iii) an arterial street shall be a minimum of 100 ft. from a street intersection.

7.6.3 A lot fronting on a collector or arterial street shall be limited to one driveway access point for every 100 ft. of street frontage or portion thereof.

7.6.4 A driveway access shall be a minimum of 10 ft. and a maximum of 33 ft. wide.

## **7.7 Frontage on a Street**

7.7.1 Except as provided for in Section 6.1(ii) and Section 7.20, no development permit shall be issued unless the lot intended to be used, or upon which a building or structure is to be erected, fronts upon a street.

## **7.8 Grade of Site**

7.8.1 No permanent building shall be erected or placed without showing the pattern and allowing for surface water run off on the lot so as not to cause damage or water run off onto adjacent lots.

## **7.9 Height Regulation Exemption**

7.9.1 Any maximum height requirement set out in this Bylaw shall not apply to a church spire, lightning rod, water tank, monument, elevator enclosure, flag pole, television or radio antenna, telecommunications tower, ventilator, skylight, chimney, clock tower, solar collector, power transmission towers, roof top cupola, or wind power generator.

## **7.10 Illumination**

7.10.1 No person shall erect any illuminated sign or illuminate an area outside any building unless such illumination is directed away from adjoining properties and any adjacent street.

## **7.11 Multiple Uses**

7.11.1 In any zone, where any land or building is used for more than one purpose, all provisions of the Bylaw relating to each use shall be satisfied. Where there is a conflict, such as in the case of lot size or frontage, the standards that apply to the most dominant use shall prevail.

## **7.12 Municipal Government Service Facilities**

7.12.1 Notwithstanding anything else in this Bylaw, service facilities provided by the municipality such as, but not limited to, sewage treatment plants, pumping stations, water storage reservoirs, and storm water management facilities, may be located in any zone and no development permit shall be required and no zone standards shall apply.

## **7.13 Non Conforming Structure or Use**

7.13.1 A nonconforming structure, nonconforming use of land or nonconforming use in a structure, may continue if it exists and is lawfully permitted on or before the effective date of this Bylaw.

7.13.2 Where a nonconforming structure is located in a zone that permits the use made of it, it may be:

- (i) rebuilt or repaired, if destroyed or damaged by fire or otherwise, if it is substantially the same as it was before the destruction or damage and it is occupied by the same use;
- (ii) enlarged, reconstructed, repaired or renovated where the enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform to the zoning bylaw and all other applicable provisions of the zoning bylaw except minimum frontage and area are satisfied.

7.13.3 A nonconforming use of land may not be

- (i) extended beyond the limits that the use legally occupies;
- (ii) changed to any other use except a use permitted in the zone; and

- (iii) re-commenced, if discontinued for a continuous period of six months.

7.13.4 Where there is a nonconforming use in a structure, the structure may not be

- (i) expanded or altered so as to increase the volume of the structure capable of being occupied;
- (ii) repaired or rebuilt, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the zoning bylaw and after the repair or rebuilding it may only be occupied by a use permitted in the zone.

7.13.5 Where there is a nonconforming use in a structure, the nonconforming use

- (i) may be extended throughout the structure;
- (ii) may not be changed to any other use except a use permitted in the zone;
- (iii) may not be recommenced, if discontinued for a continuous period of six months.

**7.14 One Main Building on a Lot**

7.14.1 No person shall erect more than one (1) main building on a lot except

- (i) in the Central Business District (C-1 or C-2) and Commercial — Other (C-3) Zones;
- (ii) grouped dwellings in the Residential (R-3) Multiple Unit zone; and
- (iii) mobile homes in the Mobile Home Park (MHP) zone.

**7.15 Parking and Loading Requirements**

7.15.1 For every building or structure to be erected or enlarged, off-street parking having unobstructed access to a public street shall be provided and maintained in conformity with the following schedule:

TYPE OF BUILDING	PARKING SPACES REQUIRED
A dwelling containing not more than two dwelling units	One (1) parking space for each dwelling unit.
All other dwellings	one and one-half (1.5) spaces for each dwelling unit.
Churches, church halls, auditoriums, restaurants, theatres, halls, stadium, private clubs, and other places of assembly.	Where there are fixed seats one (1) parking space for every five (5) seats, or 12'-0" of bench space. Where there are no fixed seats, one (1) parking

	space for each one hundred (100) sq. ft. of floor area devoted to public use.
Hospitals and nursing homes	One (1) parking space for every two beds or 400 square feet of floor area, which ever is greater.
Senior Citizen Housing	One (1) parking space for each dwelling units.
Hotels, staff houses, motels, tourist cabins, bed & breakfast	One (1) parking space per suite or rental unit plus 1 parking space for every 50 square feet of floor space devoted to public use exclusive of lobbies or halls.
Offices	One (1) parking space per 300 square feet of floor area.
Shopping Centre	5.5 parking spaces per 1000 sq. feet of gross leaseable floor area, exclusive of common mall between stores.
Funeral Homes	One (1) parking space for each three (3) seat capacity of the chapel with a minimum of ten (10) parking spaces.
Arenas, Bowling Alleys and Curling Club	One (1) parking space for each two (2) persons in the designed capacity of the establishment.
All other Commercial Uses	One (1) parking space for each 300 sq. ft. of floor area.
Elementary Educational Centres	One and one half (1.5) parking spaces for each teaching classroom.
High School Educational Centres	Four (4) parking spaces for each teaching classroom
Industrial	One (1) parking space for every 1000 sq ft of floor space

7.15.2 A parking space shall measure 10 ft by 20 ft exclusive of driveways and manoeuvring aisles, except for parallel parking spaces which shall be 8 ft by 23 ft;

7.15.3 One loading space shall be provided for every 10,000 sq ft of commercial, industrial and

institutional floor space to a maximum of 6 loading spaces.

7.15.4 A loading space is not required for any building less than 1,500 sq ft in area.

7.15.5 A loading space shall be:

- (i) a minimum of 12 ft, by 30 ft, with a minimum of 15 ft height clearance;
- (ii) located in the rear or side yard only and screened from adjoining residential or park uses;
- (iii) constructed with a stable surface which is treated to prevent the raising of dust or loose particles; and
- (iv) have access to a street by means of a minimum 12 ft wide driveway for one way and 24 ft. wide driveway for two way traffic.

7.15.6 Notwithstanding the provisions of this bylaw, Council may, within any Commercial Zone or Waterfront Development (WFD) Zone, accept cash-in-lieu of the required on-site parking or a combination of parking spaces and cash for the balance of the required parking from the developer. The cash-in-lieu contribution shall be calculated with the following formula:

- (i) Developer's contribution =  $[S + (L \times 200)] \times R \times 0.5$ ;
- (ii) S = structural cost of a single parking space to be set by Council;
- (iii) L = current assessed value per square foot of land within the Commercial or Waterfront Development Zone;
- (iv) 200 = number of square feet allotted to one parking space;
- (v) R number of parking spaces for which payment in lieu is required by the developer;
- (vi) 0.5 = developers share of the actual cost of parking spaces for which cash in-lieu is desired.

## **7.16 Parking Lot Standards**

7.16.1 Where a parking lot for more than four spaces is to be constructed:

- (i) the parking lot shall be constructed with a stable surface that is treated to prevent the raising of dust or loose particles;
- (ii) any lighting used to illuminate the parking lot shall be arranged in such a manner to divert light away from streets, adjoining lots and buildings;
- (iii) a structure not more than 15 ft in height and not larger than 50 sq ft in area may be erected for use of permanent attendants;
- (iv) where a permanent hard surface is used, each parking space shall be marked;
- (v) the parking lot shall be within 300 feet of the location it is intended to serve;
- (vi) the approaches or driveways to the lot shall be defined by a curb of concrete or rolled asphalt and the limits of the lot shall be defined by a

- fence, curb or other suitable obstruction designed to provide a neat appearance;
- (vii) the approaches or driveways to a lot shall not exceed two in number from any one street and shall be 25 feet in width;
  - (viii) parking lots which abut residential uses shall be screened by landscape buffers, fences or a combination thereof;

### **7.17 Parking for People with Disabilities**

7.17.1 In addition to the parking requirements found in Section 7.17, where off street parking is to be provided on the same lot as the building, one space dedicated to people with disabilities shall be provided for every 100 spaces provided, or part thereof.

7.17.2 Such parking spaces shall be 12 ft wide and be not more than 150 ft away from the entrance designed for use by people with disabilities.

### **7.18 Public and private Utilities**

7.18.1 Notwithstanding anything else in this Bylaw, public and private utilities located within the street right-of-way or underground may be placed in any zone, and no development permit shall be required and no zone standards shall apply.

### **7.19 Reduced Lot Requirements**

7.19.1 Notwithstanding anything else in this Bylaw, a lot approved in accordance with the Subdivision Bylaw may be used for a purpose permitted in the zone in which it is located and a building may be erected provided all other applicable provisions of this Bylaw are satisfied.

### **7.20 Restoration to a Safe Condition**

7.20.1 Nothing in this Bylaw shall prevent the strengthening or restoring to a safe condition, any building or structure.

### **7.21 Setback for Flanking Yard**

7.21.1 Notwithstanding anything else in this Bylaw, on a corner lot in any zone, where there are adjacent buildings facing the flanking street, the minimum yard requirements for the flanking yard shall be the same as that required for the front yard.

7.21.2 No accessory building or structure shall be permitted within the required flanking yard.

## **7.22 Side Yard Waiver**

7.22.1 Notwithstanding anything else in this Bylaw, where buildings on adjacent lots share a common wall, the applicable side yard requirement will be zero along the common lot line.

## **7.23 Temporary Uses, Buildings and Structures Permitted**

7.23.1 Nothing in this Bylaw shall prevent the temporary use of land or the temporary use of a building or structure incidental to a construction project provided that a development permit has been issued for the main construction project and the temporary use is discontinued and removed within 30 days following completion of the main construction project.

7.23.2 A building or structure may be erected, or an area of land used, for a special occasion or holiday provided that no such building or structure shall remain in place for more than 10 consecutive days.

7.23.3 No development permit shall be required for a temporary use.

## **7.24 Through Lots**

**7.24.1 Notwithstanding anything else in this Bylaw, on a through lot, a building may be erected facing either street and, for the purposes of determining yard standards, the front yard standard shall apply on both streets.**

## **7.25 Variance**

7.25.1 Notwithstanding the general requirements set out for each zone in this Bylaw, the Development Officer may grant a variance, not exceeding 10%, from the minimum lot area and frontage, the minimum yard dimensions, and the area of land that may be build upon, provided there is no intentional disregard for this Bylaw or for the intent of the Bylaw and the difficulty is not general to the area.

## **7.26 Visibility of Street Intersections**

7.26.1 On a corner lot, within a triangle area of 20 ft back from the intersecting corner lot lines, no building, structure or vegetation of any kind shall be erected or permitted to grow to a height greater than 3 ft above the grade of the abutting street.

## **7.27 Waiver of Minimum Yard Standards**

7.27.1 Notwithstanding anything else in this Bylaw, a building erected on or before the effective date of this Bylaw and which has less than the minimum yard distances required by this Bylaw, may be enlarged, reconstructed, renovated or repaired provided the said development does not further reduce the yard distance that does not conform to this Bylaw and all other applicable provisions of this Bylaw are satisfied.

7.27.2 Any building erected on or before the effective date of this Bylaw may be used in a manner permitted in the zone in which the building is located.

## **7.28 Waiver of Minimum Lot Area and Frontage Standards**

7.28.1 Notwithstanding anything else in this Bylaw, in a residential zone, a lot served with municipal sewer and water services, which existed on or before the effective date of this Bylaw and which has less than the minimum frontage or area required by this Bylaw, may be used for a purpose permitted in the Residential (**R-1**) Zone, and a building may be erected on the lot provided that all other applicable provisions of this Bylaw are satisfied.

7.28.2 An existing undersized lot which is increased in area or frontage or both, but remains undersized, is still considered an existing undersized lot for purposes of this section.

## **7.29 Watercourse Separation Distance**

7.29.1 With the exception of marine uses, conservation outlooks, water and sewerage treatment uses and accessory buildings permitted in Section 7.1, no structure shall be located closer than 30 ft from a watercourse.

## **7.30 Yard Requirements Concerning Natural Hazards**

7.30.1 The required front, rear or side yard as set out in this Bylaw shall not include any portion of the lot covered by a natural hazard such as, but not limited to, a marsh, the bank of a watercourse, or a slope greater than 25 percent.

### 7.31 Ground Cover

7.31.1 Every development that alters or removes ground cover (i.e. soil, sand, clay or similar type material) or stores ground material on a property must minimize the siltation by:

- (i) limiting the removal of ground cover for the placement of footings and foundation walls to a maximum of six feet
- (ii) surrounding all material with geo-textiles or an environmentally approved barrier to ensure that water runoff must pass through at least one layer of environmental protection.

### 7.32 Permitted Encroachments in Yards

7.32.1 Except for accessory buildings, every part of any yard required by the Bylaw shall be open and unobstructed by any structure from the ground to the sky, provided however, that those structures listed in the following table shall be permitted to project for the specified distances indicated as follows.

Structure	Permitted Yard	Maximum Projection Permitted from Main Wall
Sills, belt courses, cornices, eaves, gutters or chimneys	Any yard	24",
Window Bays	Any yard	3'-6" with a maximum width of 10'-0"
Fire Escape and Exterior Staircases	Rear and side yards only	4'-0" over a maximum width of 10'-0"
Balconies	Any yard for all residential buildings.	4'-0"
Open, roofed porches not exceeding one storey in height, uncovered terraces.	Any yard	4'-0" including eaves.

### 7.33 Sewerage Systems

7.33.1 On-site septic systems are prohibited within the boundaries of the Town of Montague.

7.33.2 All customers connected to the Montague Sewerage System must have a properly

installed and operating back flow check valve in place.

### **7.34 Swimming Pools**

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

- (i) the developer shall secure a development permit in accordance with this bylaw;
- (ii) a 6 ft. opaque fence shall be constructed around the pool and adjacent patio area in such a manner so as to impede unauthorized persons from entering over or under said fence; and
- (iii) any gate on such fence shall be equipped with self closing, self latching mechanisms.

### **7.35 Petroleum Storage**

7.35.1 All petroleum storage tanks exceeding a capacity of 250 gallons must be placed in a concrete, metal or polyethylene containment vessel of 1.5 times the capacity of the tank.

### **7.36 Well Field Protection**

7.36.1 To ensure the protection of the Town of Montague Municipal Water Supply, the following restrictions will apply within 3 specific protective zones representing differing "times of travel" to the well:

- (a) 25 Year Zone
  - no sewage treatment or solid waste facilities;
  - no use of chlorinated solvents;
  - no quarries or excavation pits.
  
- (b) 5 Year Zone
  - no sewage treatment or solid waste facilities;
  - no use of chlorinated solvents;
  - no quarries or excavation pits;
  - no underground petroleum storage tanks;
  - limits on application of manure or agro-chemicals.
  
- (c) 250 Day Zone
  - no sewage treatment or solid waste facilities;
  - no use of chlorinated solvents;
  - no quarries or excavation pits;
  - no underground petroleum storage tanks;

limits on application of manure or agro-chemicals  
no on-site sewage disposal  
no manure/agro-chemical storage or application  
no petroleum hydrocarbon storage.

7.36.2 The protective zones are those areas shown on the maps attached as Appendix "C" and Appendix "D".

## **Part 8            Signs**

### **8.1      General**

8.1.1 Except where otherwise exempted in this Bylaw, no person shall erect a sign without first obtaining a development permit from the Development Officer and no development permit to erect a sign shall be issued unless all sign provisions of this Bylaw are satisfied and the main use for which the sign is intended has been completed.

8.1.2 An indoor sign shall not be considered a sign for the purposes of this Bylaw unless it is intended to be viewed from outside of the building.

### **8.2      Maintenance**

8.2.1 Every sign shall be kept in good repair and working order.

8.2.2 If the business, service or other enterprise for which a sign is erected is no longer in operation the sign shall be removed, by the owner, within 30 days of the date the operations cease. Removal of a sign includes the support structure or apparatus to which it is attached.

8.2.3 Subsection 8.2.2 shall not apply to a seasonal enterprise that normally closes during part of the year, however, a sign advertising a seasonal enterprise shall indicate the time of year the enterprise is in operation or conversely, the time of year it is not in operation.

### **8.3      Number of Signs**

8.3.1 For the purposes of this section a sign structure with two or more faces such as a projecting sign or a ground sign, shall count as one sign.

8.3.2 No more than two signs, other than wall signs, may be erected on a lot at any one time.

**8.3.3 (a)** Where there are more than two businesses on a lot, there shall be one directory sign per lot and free standing signs shall not be permitted for each business.

**(b)** The maximum size of a directory sign shall not exceed 200 sq. ft. in area or a maximum size calculated at a rate of .50 sq. ft. for every foot of lot frontage, whichever is less.

#### **8.4 Signs Permitted in All Zones**

**8.4.1** The following signs shall be permitted in all zones and no development permit shall be required:

- (i)** signs identifying the name and address of a resident and not more than 4 sq ft in area;
- (ii)** signs for regulating the use of a property such as "NO TRESPASSING" and of not more than 4 sq. ft in area;
- (iii)** real estate signs which advertise the sale, rental or lease of the premises;
- (iv)** on-premise directional or traffic control signs not more than 4 sq. ft in area;
- (v)** signs erected by a government body or under the direction of a government body;
- (vi)** memorial signs or tablets;
- (vii)** community identification signs;
- (viii)** the flag, pennant or insignia of any government, religious, charitable or fraternal organization;
- (ix)** temporary election signs;
- (x)** temporary signs advertising a construction firm in the area where the construction is taking place, provided the sign does not exceed 32 sq. ft in area in a residential zone or 64 sq. ft in all other zones;
- (xi)** church identification signs;
- (xii)** temporary signs that form part of a decorative display of a seasonal nature to celebrate a holiday or event (e.g. Christmas, Halloween, etc) provided such sign is not displayed for a period exceeding 60 days;
- (xiii)** temporary signs erected by a civic, philanthropic, educational or religious organization promoting a fund raising or community event provided such signs are not displayed for a period exceeding 30 days.

#### **8.5 Signs Prohibited in All Zones**

**8.5.1** The following signs are not permitted in any zone:

- (i)** signs that incorporate flashing illumination or moving parts;
- (ii)** roof signs;
- (iii)** any sign or sign structure that is or could be a safety hazard;

- (iv) any sign that obstructs or detracts from the visibility or effectiveness of any traffic sign or control device;
- (v) any sign that obstructs the free egress from any fire exit door, window, or other required exit way;
- (vi) any sign not erected by a public authority that makes use of words such as 'STOP', 'LOOK', 'ONE WAY', 'DANGER', 'YIELD', or any similar word, phrase, symbol, light, or character in such manner as to mislead or confuse the traffic along a street;
- (vii) any sign erected upon a public property or a public right-of-way unless erected by a public authority or authorized by a public authority;
- (viii) signs painted on, attached to or supported by a tree, stone cliff or other natural object;
- (ix) balloon, or gas filled figure, signs;
- (xi) a sign erected on a vehicle or trailer, parked on public or private property so as to be visible from a street, for the sole purpose of advertising products or directing people to a business or activity located on the same or nearby property or any other premises;
- (xii) signs not related to any business or use located on the lot or premises.

## 8.6 Wall Signs

8.6.1 No wall sign shall exceed 15% of the area of the wall to which it is affixed or extend above the top or beyond the sides of the wall to which it is affixed.

8.6.2 Notwithstanding subsection (a) above, business name signs that are incorporated into the design of the façade of the building, or are set back from the street a distance greater than 300 ft, shall be exempt from the size limitation.

## 8.7 Projecting Signs

8.7.1 Projecting signs shall:

- (i) not have a sign face larger than 10 sq. ft.;
- (ii) not project further than 3 ft from the wall to which it is affixed;
- (iii) not project above the wall to which it is affixed;
- (iv) not extend beyond the property line of the property on which it is erected;
- (v) not swing freely on its support; and
- (vi) be erected not lower than 10 ft and not higher than 15 ft above the ground.

## 8.8 Ground Signs

**8.8.1 Ground signs shall:**

- (i) not exceed 40 ft in height;
- (ii) not have a sign face larger than 50 sq. ft; and
- (iii) not extend beyond the property line of the property on which it is erected.

**8.9 Mobile Signs**

**8.9.1 Mobile signs shall be permitted, in addition to the number limits of Section 8.3, only in commercial and industrial zones and under the following conditions:**

- (i) no more than one such sign is permitted on a lot;
- (ii) the sign will be removed after a maximum of 30 consecutive days;
- (iii) the sign has no moving parts or flashing or unshielded lights; and
- (iv) the sign does not exceed 60 sq. ft in size.

**8.9.2 A mobile sign shall not be permitted on a lot for more than three 30 day periods in any calendar year.**

**8.10 Canopies or Awnings**

**8.10.1 Signs incorporated in a canopy or awning shall be permitted in addition to the number limits under Section 8.3.**

**8.11 Sandwich Board Signs**

**8.11.1 Sandwich board signs shall be permitted, in addition to the number limits under Section 8.3, only in Commercial, Waterfront and Industrial zones and only for special promotions provided:**

- (i) they have a sign face no larger than 10 sq. ft;
- (ii) there is only one such sign, per business, on the lot; and
- (iii) they do not obstruct pedestrian or vehicular traffic along any publicly owned land such as a sidewalk or street right-of-way.

**8.12 Menu Signs**

**8.12.1 For commercial operations, such as fast food restaurants, that operate a drive through, menu boards shall be permitted, in addition to all other signage, provided they do not exceed 16 square feet, are positioned so that lighting does not project on neighbouring properties, including street right of way, and the set back requirements are met.**

## **8.13 Signs in Sports Fields and Outdoor Arenas**

8.13.1 Notwithstanding the number limitations in Section 8.3 and clause (ix) of Section 8.5, any number of sponsorship signs may be erected in a sports field or outdoor arena provided the signs are intended for view from within the sports field or outdoor arena.

# **Part 9 General Requirements for all Residential Zones**

## **9.1 Home Occupations**

9.1.1 Any dwelling may be used for a home occupation provided that:

- (i) the dwelling is occupied as the principal residence of the operator of the home occupation;
- (ii) the external appearance of the dwelling is not changed by the home occupation;
- (iii) the total floor area that may be used for a home based business, including the area used for storage, whether carried out in the dwelling or accessory building, shall not exceed 25% of the area of the main floor of the dwelling unit or 500 sq ft, whichever is lesser figure;
- (iv) one off-street parking space, other than that required by the dwelling, is provided for every 200 sq. feet, or part thereof, of floor space occupied by the home occupation; or in the case of bed and breakfast establishments, there shall be one (1) parking space for each bedroom devoted to the home occupation in addition to one (1) parking space required by the dwelling owner;
- (v) there is no outdoor storage or display;
- (vi) it shall be conducted within the dwelling or accessory building;
- (vii) no mechanical equipment is used except what is reasonably consistent with a dwelling; and,
- (viii) there shall be not more than one (1) assistant who is not a resident in the dwelling employed in the home occupation;
- (ix) there is no advertising other than one non-illuminated business identification sign with a maximum size of 4 sq ft placed flat against the dwelling unit or accessory building;
- (x) retail sales of a product or item shall only be permitted through telephone, mail order or internet sales. Customers are not permitted to enter the lot to inspect, purchase or take possession of goods;
- (xi) a home based business, its employees and suppliers shall not use on street parking. Motor vehicles using on site parking shall include no more than one vehicle displaying the name of the home based business.

- (xii) the maximum number of bedrooms in a bed and breakfast establishment shall be limited to two (2) bedrooms within the R-1 and R-2 zones and a maximum of four (4) rooms within the R-3 zone.

9.1.2 A development permit shall be required prior to the commencement of a home occupation.

## 9.2 Parking of Commercial Motor Vehicles

9.2.1 No commercial motor vehicle, while parked overnight in a residential zone, shall disturb the quiet of the neighbourhood by having its motor, or a refrigeration unit, operating between the hours of 10:00 pm and 7:00 am the following day.

## 9.3 Landscaping

9.3.1 The following requirements shall apply to permitted uses in any residential zone:

- (i) All areas within the required front, side, rear and flanking yards, excluding parking areas, shall be landscaped with grass or other vegetative cover; and
- (ii) Excluding parking areas in RMHP Zones, areas for parking, vehicular access and manoeuvring within required front and flanking yards shall not exceed 33% of the yard area with a maximum width of 20 feet.

## 9.4 Garden Suite

9.4.1 One Garden Suite may be located, by Development Control Contract, as a second dwelling unit on a lot or parcel of land subject to the following requirements:

- (a) a single unit dwelling unit already exists on the lot or existing parcel of land;
- (b) the garden suite meets all the requirements of any applicable sections of these **regulations**;
- (c) the garden suite utilizes the existing access to the lot or existing parcel of land;
- (d) the owner of the single unit dwelling applies for and receives a development permit for the garden suite;
- (e) the garden suite and the single unit dwelling are connected to a common water supply system and a common sewage disposal system, where feasible, and where these systems are considered capable of handling the increase;
- (f) the garden suite is approved by the Provincial Fire Marshall.

## **Part 10 Residential Single Family (R-1)**

### **10.1 Permitted Uses**

10.1.1 The following uses shall be permitted in the Residential Single Family Zone (R-1):  
single unit dwellings;  
home occupations;  
public recreational facilities including tot lots, parks and playgrounds.

### **10.2 Special Permit Uses**

10.2.1 Notwithstanding Section 10.1 above, Council may issue a Development Permit for the following uses subject to such terms and conditions as Council deems necessary:

- (i) Group Homes;
- (ii) Community Care Facilities;
- (iii) Child Care Facilities.

10.2 .2 Prior to the issuance of a Development Permit for a Special Permit Use Council shall ensure that:

- (i) the Development is deemed appropriate and complements the scale of the existing residential development;
- (ii) the Development has sufficient landscape Buffer around the periphery of the Property;
- (iii) in the opinion of Council, the Development does not cause any hardship to surrounding Property Owners due to excessive noise, traffic congestion or any other potential nuisance;
- (iv) Written notice is provided by ordinary mail explaining the purpose of the development to all affected property owners within 100 feet of the boundaries of the subject lot;
- (v) The Notice identifies the subject Lot and describes the development application and the date by which written objections must be received;
- (vi) If any objections are received within fourteen (14) calendar days from the date of the notice, a public meeting will be held to consider the objections and receive input from the public. If no objections are received within that time, the development may be granted by the Development Officer; and
- (vii) all other relevant provisions of this Bylaw are met.

### 10.3 R-1 Zone General requirements

10.3.1 The following requirements apply to all uses within a serviced area:

Minimum Lot Area	7500 sq ft
Minimum Lot Frontage	75 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard I) one side ii) other side	10 ft. 10 ft. plus 2 ft. for every storey over one
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

10.3.2 The following requirements apply to uses within an area serviced by municipal sewer but not by municipal water:

10.3.3

Minimum Lot Area	7500 sq ft
Minimum Lot Frontage	75 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard I) one side ii) other side	10 ft. 10 ft. plus 2 ft. for every storey over one
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

## **10.4 Site Plan Approval**

**10.4.1** Site plan approval is required for all Bed & Breakfast Establishments and Boarding Houses to address the placement and screening from the street and adjoining residential property of outdoor parking and service areas through the use of landscaping or opaque fencing.

10.4.2 Application for site plan approval shall be accompanied by a plan or sketch of sufficient detail to address the matters identified above.

## **10.5 Development Control Contract**

10.5.1 Notwithstanding the General Lot Requirements for Residential Single Family Zone (R-1), a development permit may be issued with respect to a lot, existing at the time of the passing of this bylaw, which does not front on a public street. The development permit will only be issued in instances where:

- (i) a Development Control Contract has been reached between the property owner and the town;
- (ii) all other provisions of the Zoning Bylaw have been met;
- (iii) a private right-of way exists between the property and a local or arterial road; and
- (iv) an agreement is registered in the P.E.I. Registry Office, binding on all land owners abutting or fronting on the private right-of-way providing for the long term ownership and maintenance of the right-of-way, such agreement shall be binding on all heirs, successors and assigns of the current property owners.

# Part 11 Residential Two Family Zone (R-2)

## 11.1 Permitted Uses

11.1.1 The following uses shall be permitted in the Residential Two Family Zone (R-2): any use permitted in the R-1 zone subject to the R-1 zone requirements; and two unit dwellings.

## 11.2 R-2 Zone General Requirements

11.2.1 The following requirements shall apply to all uses in a serviced area:

Minimum Lot Area	7500 sq ft or 3750 sq. ft. each unit
Minimum Lot Frontage	75 ft. (37.5 ft each unit)
Minimum Front Yard	25 ft.
Minimum Side Yard I) one side ii) other side	10 ft. 10 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

11.2.2 The following requirements shall apply to all uses within an area serviced by municipal sewer but not by municipal water:

Minimum Lot Area	7500 sq ft
Minimum Lot Frontage	75 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard	

I) one side	10 ft.
ii) other side	10 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

### 11.3 Converted Dwelling Requirements

11.3.1 No development permit shall be issued for a converted dwelling unless the conversion has been approved by the Development Officer and approval has been received from the Fire Marshals Office.

### 11.4 Site Plan Approval

11.4.1 Site plan approval is required for all Bed & Breakfast Establishments and Boarding Houses to address the placement and screening from the street and adjoining residential property of outdoor parking and service areas through the use of landscaping or opaque fencing.

11.4.2 Application for site plan approval shall be accompanied by a plan or sketch of sufficient detail to address the matters identified above.

### 11.5 Development Control Contract

11.5.1 Notwithstanding the General Lot Requirements for Residential Two Family Zone (R-2), a development permit may be issued with respect to a lot, existing at the time of the passing of this bylaw, which does not front on a public street. The development permit will only be issued in instances where:

- (i) a Development Control Contract has been reached between the property owner and the town;
- (ii) all other provisions of the Zoning Bylaw have been met;
- (iii) a private right-of way exists between the property and a local or arterial road; and
- (iv) an agreement is registered in the P.E.I. Registry Office, binding on all land owners abutting or fronting on the private right-of-way providing for the long term ownership and maintenance of the right-of-way, such agreement shall be binding on all heirs, successors and assigns of the current property owners.

## **11.6 Subdividing Attached Dwelling**

11.6.1 A semi-detached duplex may be divided independently for individual sale and ownership provided that:

- (i) A subdivision of the parcel of land has been approved by Council (such subdivision to provide for appropriate easements or common area to allow entry by an owner of any portion of the building to his back yard area);
- (ii) The units must be separated from the basement floor to the underside of the roof by a vertical fire wall built in accordance with National Building and Fire Code regulations;
- (iii) Separate water and sewer service is provided for each unit in accordance with policies governing water supply and sewerage services for the Town;
- (iv) A separate electrical service is provided for each unit;
- (v) A separate heating device is provided for each unit;
- (vi) Separate parking to be provided unless Council waives same;
- (vii) A copy of the agreement made between the Owners covering the following terms is approved by Council and registered on the title of each unit:
  - 1. common walls
  - 2. maintenance
  - 3. fire insurance
  - 4. easements
  - 5. parking
  - 6. snow removal and
  - 7. any other items jointly owned or used.

## **11.7 Special Requirement for Semi-detached**

11.7.1 No semi-detached dwelling shall be erected in a manner which will not permit subdivision into individual units pursuant to Section 11.2.1 and 11.6.

# Part 12 Residential Medium Density Zone (R-3)

## 12J Permitted Uses

12.1.1 The following uses shall be permitted in the Residential Medium Density Zone (R-3):

- (i) triplex dwellings;
- (ii) townhouse/rowhouse dwellings;
- (iii) **multiple** unit dwellings;
- (iv) converted dwellings or expansions to existing converted dwellings;
- (v) boarding houses with a maximum of six rooms to rent;
- (vi) bed and breakfasts with a maximum of six rooms to rent;
- (viii) senior citizen housing;
- (ix) nursing homes and homes for the aged
- (x) doctor's office and medical, or para-medical, clinic;
- (xi) dentist's office and dental, or para-dental, clinic;
- (xii) optometrist office;
- (xiii) lawyer's office or para-legal office;
- (xiv) accountants and bookkeeping office;
- (xv) insurance and financial planners office
- (xvi) veterinarian's office and small animal hospital;
- (xvii) similar professional office or service;
- (xviii) funeral home;
- (xix) parking lot;
- (xx) flower shops, provided they are located on a main thoroughfare, specifically Main Street, Queen's Road and Wood Islands Road;
- (viii) any use permitted in the R-2 Zone subject to the R-2 Zone requirements.

## 12.2 R-3 Zone General Requirements

### 12.2.1 Lot Sizes

	<b>Triplex</b>	<b>Townhouse/Rowhouse</b>	<b>Multiple Unit</b>	<b>Converted</b>
<b>minimum lot area</b>	7500 sq. ft	7500 sq. ft plus 2000 sq. ft for each unit over three unit	9000 sq. ft for first 4 units plus 1000 sq. ft for each additional unit	8000 sq. ft for first 4 units plus 1000 sq. ft. for each additional unit
<b>minimum frontage</b>	75 ft	75 ft plus 30 ft for every unit over three	90 ft	90
<b>minimum front yard</b>	20 ft	20 ft	20 ft	20 ft
<b>minimum rear yard</b>	20 ft	20 ft	20 ft	20 ft

<b>minimum side yard</b>	10 ft	10 ft	10 ft	10 ft. plus 2 ft for every storey over one
<b>maximum height</b>	35 ft	35 ft	35 ft	35 ft

### 12.3 Converted Dwelling Requirements

12.3.1 No development permit shall be issued for a converted dwelling unless the conversion has been approved by the Development Officer and approval has been received from the Fire Marshals Office.

### 12.4 Services Required

12.4.1 No Development Permit shall be issued for a permitted use in the Residential Multiple Unit (R3) Zone unless the use is located on a street served by the Town's central water and sewer systems.

### 12.5 Landscaping

12.5.1 The following additional landscaping requirements shall apply to all R-3 Zone uses:

- (i) When an R-3 Zone abuts an R-1 or R-2 Zone, the minimum side and rear requirements for the abutting yard shall be 20 ft.;
- (ii) No parking space shall be permitted within a required yard, which abuts an R-1 or R-2 Zone, except where an opaque fence or landscaped buffer strip of a minimum height of 6 ft. is provided;
- (iii) Outdoor garbage, compost and recycling bins shall be screened by a 6 ft. high opaque fence or landscaped buffer strip and shall not be located within the front yard.

### 12.6 Amenity Space

12.6.1 All multiple unit dwellings with three or more dwelling units shall provide amenity areas of not less than 100 sq. ft. for each bachelor or one bedroom unit; 300 sq. ft. for each two bedroom unit; and 500 sq. ft. for each three bedroom unit. An amenity area shall be a space set aside for recreational purposes such as communal play areas, recreational rooms, roof decks, balconies, swimming pools and tennis courts. Any area of the site to be used as an amenity area outside and not attached to the building shall not have a dimension of less than 30 ft.

If adequate space cannot be provided in accordance with this bylaw, then the developer shall provide the Town with a sum of money equal to 5% of the development's cost, as determined on the development permit application.

## **12.7 Site Plan Approval**

**12.7.1** Site plan approval is required for all Bed & Breakfast Establishments and Boarding Houses to address the placement and screening from the street and adjoining residential property of outdoor parking and service areas through the use of landscaping or opaque fencing.

12.7.2 Application for site plan approval shall be accompanied by a plan or sketch of sufficient detail to address the matters identified above.

# Part 13 Residential Mobile Home Park Zone (RMHP)

## 13.1 Permitted Uses

13.1.1 The following uses shall be permitted in the Residential Mobile Home Park Zone (RMHP):

- (i) mobile homes parks;
- (ii) mobile home park offices and maintenance equipment storage related and incidental to the operation of the park;
- (iii) neighbourhood parks and playgrounds;

## 13.2 RMHP Zone General Requirements

13.2.1 The following requirements shall apply to all uses permitted in the Residential Mobile Home Park Zone (RMHP):

Minimum Park Area	1 acre
Minimum Lot Area per Home	5000 sq. ft.
Minimum Distance between Mobile Homes	30 ft.
Minimum Distance between property boundary or street and a Mobile Home	20 ft.,

## 13.3 Special Requirements

13.3.1 When a Residential Mobile Home Park Zone (RMHP) abuts another residential or institutional zone, opaque fencing or a landscaped buffer strip a minimum of 6 feet in height shall be provided along the side and rear lot lines (excluding access driveways) and all required yards shall be landscaped, with grass or other vegetative cover.

13.3.2 All mobile home dwellings must be fully skirted with a durable, opaque material.

13.3.3 All mobile home dwellings must be permanently hooked to electric, sewer and water facilities.

## **Part 14 General Provisions for All Commercial Zones**

### **14 Abutting Zone Requirements**

- 14.1.1 Where a Commercial Zone abuts a Residential or Park and Open Space Zone, the following standards shall apply to an abutting yard within the Commercial Zone:
- (i) the minimum side and rear yard requirement for the abutting side yard shall be 20 feet and all areas within the abutting yards, excluding areas for parking, shall be landscaped, with grass or other vegetative cover;
  - (ii) no open storage or outdoor display shall be permitted in an abutting yard in any Commercial Zone;
  - (iii) no parking space shall be permitted in an abutting yard, except where an opaque fence (minimum of six (6) feet in height) or a landscaped buffer (minimum height of six (6) feet, minimum width of ten (10) feet) is provided.

### **14.2 Refuse Containers**

- 14.2.1 No portion of any lot in a commercial zone shall be used for the collection or storage of refuse unless the refuse container is screened by an opaque fence or landscaped buffer strip a minimum of 6 feet in height.
- 14.2.2 Litter receptacles shall be placed, and maintained, at convenient locations in commercial parking lots and outside any establishment that sells fast food or snacks for immediate consumption.

### **14.3 Outdoor Storage**

- 14.3.1 For those Commercial Zone(s) in which outdoor storage or display is permitted, the following restrictions apply:
- (i) no open storage or outdoor display shall be permitted within 25 feet of a road right-of-way;
  - (ii) the area devoted to open storage or outdoor display shall not exceed fifty percent (50%) of the total lot area.

### **14.4 Restriction on Commercial Use of Mobile Home**

- 14.4.1 No Development Permit shall be granted in a Commercial Zone to permit the permanent

commercial use of a mobile home or travel trailer.

#### **14.5 Special Requirement for Automobile Service Stations**

14.5.1 Where automobile service stations are permitted in a Commercial Zone, the following special requirements shall apply:

- (i) The lot front shall be a minimum of 150 feet, or in the case of a corner lot both the front and flanking lines shall be a minimum of 100 ft;
- (ii) no portion of any pump island shall be located closer than 20 feet from any street line;
- (iii) the minimum distance between ramps or driveways shall not be less than 30 feet;
- (iv) the minimum distance from a ramp or driveway to a street intersection shall be 50 ft;
- (v) the minimum angle of intersection of a ramp to a street line shall be forty-five (45) degrees; and the maximum angle of intersection shall be ninety (90) degrees;
- (vi) the minimum width of a ramp or driveway shall be 25 feet;
- (vii) a service station canopy for sheltering pump islands may be erected provided that no part of the canopy is located closer than 10 ft from any street line.

#### **14.6 Transient or Temporary Commercial Permits**

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

- (i) the development shall not result in any traffic hazard;
- (ii) the development shall not interfere with the parking requirements of permanent users of the lot in which the development will be located;
- (iii) the development shall not create a public nuisance;
- (iv) the temporary permit shall not exceed a period of twenty (20) weeks;
- (v) the applicant shall provide a letter of approval from the owner of the lot on which the temporary development will be situated;
- (vi) where required, the applicant shall provide proof of compliance with all health and/or environmental regulations.

#### **14.7 Signs**

14.7.1 Notwithstanding clause 8.5.1 (xii), third party signs are permitted within all commercial Zones provided they are constructed within the design standards adopted by Council and erected in accordance with all other provisions of this bylaw.

## **14.8 Reduced Frontage for Shared Accesses**

14.8.1 Where two or more commercial lots share a common access to a street and/or access to a traffic controlled intersection, Council may approve a development with a reduced lot frontage.

# Part 15                    **Commercial Business District Traditional (C-1) Zone**

## **15.1    C-1 Zone Uses Permitted**

**15.1.1 The following uses shall** be permitted in the Commercial Business District Traditional (C-1) Zone.

- (i) R-1, R-2, and R-3, uses as herein set out;
- (ii) Arenas and Auditoriums;
- (iii) Automobile Service Stations (including automobile supply establishments) and/or convenience stores;
- (iv) Bakery shops;
- (v) Bank and Financial Institutions;
- (vi) Bed & Breakfast Establishments, to a maximum of 6 bedrooms;
- (vii) Building Supply Outlets;
- (viii) Business and Professional Offices;
- (ix) Churches and Cemeteries;
- (x) Commercial Schools;
- (xi) Community Centres;
- (xii) Government Offices and Facilities;
- (xiii) Hotels and Motels and associated uses;
- (xiv) Institutional Uses;
- (xv) Medical Clinics and other professional offices;
- (xvi) News and Magazine Stands;
- (xvii) Places of Entertainment, Recreation and Assembly;
- (xviii) Repair Shops;
- (xix) Restaurants, take-out restaurants, beverage rooms and lounges;
- (xx) Retail Stores, retail outlets including, but not limited to, grocery stores, bakeries, dry cleaning establishments and Laundromats, etc.;
- (xxi) Service and Personal Service Shops;
- (xxii) Taxi Stations;
- (xxiii) Parks and Community Centres;
- (xxiv) Residential dwellings in the same building as any commercial use;
- (xxv) Any uses accessory to any of the foregoing uses;
- (xxvi) Waterfront and Associated uses;

## 15.2 C-1 Zone Requirements

15.2.1 In a Commercial Business District Traditional (C-1) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	7,500 sq. ft.
Minimum Lot Frontage	75 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard	10 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

## 15.3 Parking Requirements

15.3.1 Notwithstanding the provisions set forward in the general requirements section of this bylaw, parking in the C-1 Zone shall meet the following:

- (i) Residential Uses 1.25 spaces per unit
- (ii) All other Uses 1 space per 380 sq. ft. of floor area

## 15.4 Special Requirement: Churches

15.4.1 In addition to any other applicable provisions of this By-law, churches shall conform to the requirements as provided for in the G-1 Zone.

## 15.5 Special Requirement: Design Requirements

15.5.1 In the Commercial Business District Traditional (C-1) Zone, the following design requirements shall apply to the development of a new main building on a lot:

- (i) exterior sheathing must be brick, stone, decorative concrete block, natural wood products, or other similar high quality material;
- (ii) the architectural design of the building or structure must integrate into the historical and architectural significance of the higher quality buildings in existence in the C-1 Zone.

# **Part 16            Central Business District Development (C-2) Zone**

## **16.1 C-2 Zone Uses Permitted**

16.1.1 The following uses shall be permitted in the Commercial Business District Development (C-2) Zone:

- (i) Animal Hospitals and Veterinary establishments;
- (ii) Automobile sales establishments;
- (iii) Automobile Service Stations (including automobile supply establishments) and/or convenience stores;
- (iv) Bakery shops;
- (v) Bank and Financial Institutions;
- (vi) Bed & Breakfast Establishments, to a maximum of six bedrooms;
- (vii) Building Supply Outlets;
- (viii) Business and Professional Offices;
- (ix) Churches and Cemeteries;
- (x) Commercial Schools;
- (xi) Community Centres;
- (xii) Existing residential uses;
- (xiii) Funeral parlour, monument, and undertaker establishments;
- (ix) Garden and nursery sales, greenhouses and supplies;
- (x) Government Offices and Facilities;
- (xi) Hotels and Motels and associated uses;
- (xii) Institutional Uses;
- (xiii) Medical Clinics and other professional offices;
- (xiv) News and Magazine Stands;
- (xv) Places of Entertainment, Recreation and Assembly;
- (xvi) Repair Shops;
- (xvii) Restaurants, take-out restaurants, beverage rooms and lounges;
- (xviii) Retail Stores, retail outlets including, but not limited to, grocery stores, bakeries, dry cleaning establishments and Laundromats, etc.;
- (xix) Service and Personal Service Shops;
- (xx) Taxi Stations;
- (xxi) Parks and Community Centres;
- (xxi) Residential dwellings in the same building as any commercial use;
- (xxii) Any use permitted in an R-3 zone;
- (xxiii) Any uses accessory to any of the foregoing uses;

## 16.2 C-2 Zone Requirements

16.2.1 In a Commercial Business District Development (C-2) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	10,000 sq. ft.
Minimum Lot Frontage	100 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard	10 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

## 163 Multiple Buildings

16.2.1 More than one commercial building will be permitted on a commercial lot provided all zone requirements are met.

# Part 17 Commercial Other (C-3) Zone

## 17.1 C-3 Zones Uses Permitted

17.1.1 The following uses shall be permitted in the Commercial Other (C-3) Zone:

- Any use permitted in the R-2 Zone, subject to the R-2 requirements;
- Business and Professional offices, including doctor's office, medical clinic, paramedical office, dentist's office, dental clinic, optometrist's office, lawyer's office, paralegal office, accounting office, bookkeeping office, insurance office, financial planner's office, veterinarian's office, small animal hospital and funeral homes;

Tourism facilities including hotels, motels, tourist resorts, tourist cabins, tourist inns, bed & breakfast establishments, restaurants, dining rooms, coffee shops and gift shops.

Retail operations which provide services and/or sell products associated with the services provided by the above-noted businesses and professional offices, including, but not limited to, pharmacies, eyeglass sales, medical device sales, etc.;

Residential uses ancillary to the main use.

## 17.2 C-3 Zone Requirements

17.2.1 In a Commercial Other (C-3) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	10,000 sq. ft.
Minimum Lot Frontage	100 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard	20 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

## 17.3 Multiple Buildings

17.3.1 For tourist related activities, more than one commercial building will be permitted on a lot by way of a Development Control Contract.

## **Part 18 Waterfront Development (WFD) Zone**

### **18.1 WFD Zone Uses Permitted**

18.1.1 The following uses shall be permitted in the Waterfront Development Zone (WFD) Zone:

- (i) Bed and breakfast establishments, to a maximum of six bedrooms;
- (ii) Business and professional offices ;
- (iii) Public parks and recreation areas;
- (iv) Residential uses permitted in an R-3 zone;
- (v) Restaurants;
- (vi) Hotels and motels;
- (vii) Retail stores;
- (viii) Marinas and boat clubs;
- (ix) Service and personal service shops;
- (x) Wharves and docks;
- (xi) Pavilions and band shells;
- (xii) Residential dwellings ancillary to a commercial use;

### **18.2 WFD Zone Requirements**

18.2.1 In the Waterfront Development (WFD) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	10,000 sq. ft.
Minimum Lot Frontage	100 ft.
Minimum Front Yard	25 ft.
Minimum Side Yard	10 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

### **18.3 Special Requirement: Design Requirements**

18.3.1 In the Waterfront Development (WFD) Zone, the following design requirements shall apply to the development of a new main building on a lot:

- (i) the building's roof line shall be pitched with a minimum slope of thirty (30) degrees;
- (ii) exterior sheathing must be brick, stone, decorative concrete block, natural wood products, or other similar high quality material;
- (iii) the architectural design of the building or structure must integrate into the historical and architectural significance of the higher quality buildings in existence in the Town Centre Zone.

### **18.4 Special Requirements: Landscape Design**

18.4.1 In the Waterfront Development (WFD) Zone, the following landscape design requirements apply:

- (i) ten percent (10%) of the area under development must be dedicated to green space;
- (ii) a landscape buffer strip, or decorative opaque fencing, shall be provided along the side and rear lot lines;
- (iii) outdoor garbage, compost and recycling bins shall be screened by a 6 ft high opaque fence or landscaped buffer strip and shall not be located within the front yard.

## Part 19 Industrial (M) Zone

### 19.1 Industrial Uses Permitted

19.1.1 The following uses shall be permitted in the Industrial (M) Zone:

- (i) Any manufacturing, industrial, assembly or warehousing operation or recycling depot conducted and wholly contained within an enclosed building and which is not obnoxious by reason of sound, odour, dust, fumes or smoke or other obnoxious emission of refuse matter or water carried waste or by reason of unsightly outdoor storage;
- (ii) Storage buildings for commercial fishing gear;
- (iii) Wholesale fish establishments

### 19.2 General Lot Requirements

19.2.1 In an Industrial Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	12,000 sq. ft.
Minimum Lot Frontage	100 ft
Minimum Front Yard	25 ft.
Minimum Side Yard i) one side ii) other side	15 ft. 15 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

### 19.3 Abutting Yard Zone Provisions

19.3.1(a) Where an Industrial Zone abuts any other zone, the following restrictions shall apply to the abutting yard within the Industrial Zone.

minimum side yard requirement	25 ft
minimum rear yard requirement	25 ft.

19.3.1(b) Where the side yard and/or rear yard of any lot(s) within an Industrial Zone abuts a lot(s) within a non-industrial zone, the side and/or rear yard of the industrial lot(s) shall be

separated from the non-industrial lot(s) by either an opaque fence (minimum height six (6) feet) or a landscaped buffer strip (minimum height of six (6) feet, minimum width of ten (10) feet).

19.3.2 Where outdoor display, storage and/or garbage is permitted on the lot, outdoor display, storage and/or garbage shall not be permitted in an abutting yard in the Industrial Zone.

19.3.3 Parking spaces shall not be permitted in an abutting yard within 20.0 ft. of a side or rear lot line.

19.3.4 Signs shall be regulated as provided in this By-law.

#### **19.4 Restrictions on Open Storage, Outdoor Display and Garbage bins**

19.4.1 In addition to above, where outdoor display, storage and/or garbage are permitted, the following restrictions shall apply:

- (i) outdoor storage, display and garbage shall not be permitted within the required front yard of a lot; and
- (ii) the area devoted to outdoor storage, display and garbage shall not exceed fifty (50) percent of the lot area.
- (iii) all garbage bins associated with the industrial use shall be screened by an opaque fence at a height adequate to visually screen the bin.

#### **19.5 Development Control Contract**

19.5.1 Council may consider other industrial activities, not listed above, by Development Control Contract.

## Part 20 Government and Institutional (G-1) Zone

### 20.1 G-1 Zone Uses Permitted

20.1.1 The following uses shall be permitted in the Government and Institutional (G-1) Zone:

- cultural uses
- religious uses
- governmental uses
- educational uses
- health care uses, including the sale of pharmaceuticals
- emergency service uses
- special care facilities
- day cares
- private recreational facilities and clubs
- public recreational uses
- any other institutional use
- uses accessory to the above listed uses

### 20.2 G-1 Zone Requirements

20.2.1 In the Government and Institutional (G-1) Zone, no development permit shall be issued except in conformity with the following requirements:

Minimum Lot Area	7,500 sq. ft.
Minimum Lot Frontage	75 ft
Minimum Front Yard	25 ft.
Minimum Side Yard	10 ft.
Minimum Rear Yard	25 ft.
Maximum Height of Main Building	35 ft.

### **20.3 Abutting Yard Zone Provisions**

20.3.1 Where the side yard and/or rear yard of any lot within a Government and Institutional Zone abuts a lot(s) within a residential zone, the side and/or rear yard of the government and institutional lot(s) shall be separated from the residential lot(s) by either an opaque fence (minimum height six (6) feet) or a landscaped buffer strip (minimum height of six (6) feet, minimum width of ten (10) feet).

## **Part 21 Parks & Open Space (P) Zone**

### **21.1 Parks & Open Space (P) Uses Permitted**

21.1.1 The following uses shall be permitted in the Parks & Open Space (P) Zone:

- Community gardens;
- Hiking trails;
- Pavilions and band shells;
- Picnic areas;
- Parks and recreation areas, and facilities;
- Buildings and structures accessory to the foregoing including a refreshment booth

### **21.2 General Lot Requirements**

21.2.1 No development permit shall be issued in a Parks & Open Space (P) Zone unless the minimum setback from any lot line for any main building is 25 feet.

## **Part 22 Repeal**

### **22.1 Former Zoning Bylaw**

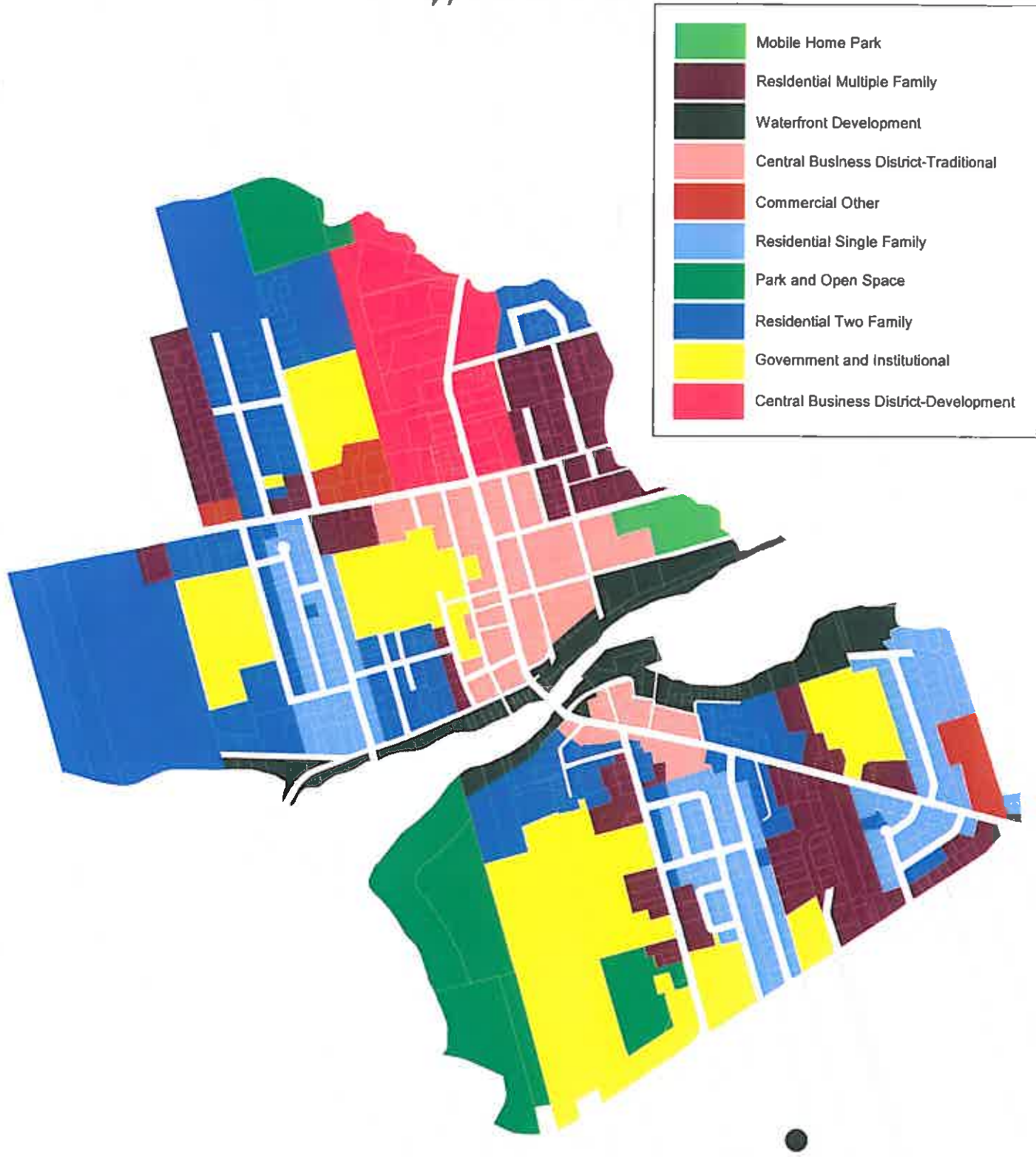
22.1.1 All former Zoning Bylaws of the Town of Montague are hereby repealed.

## Appendix “A”

### Examination Fees

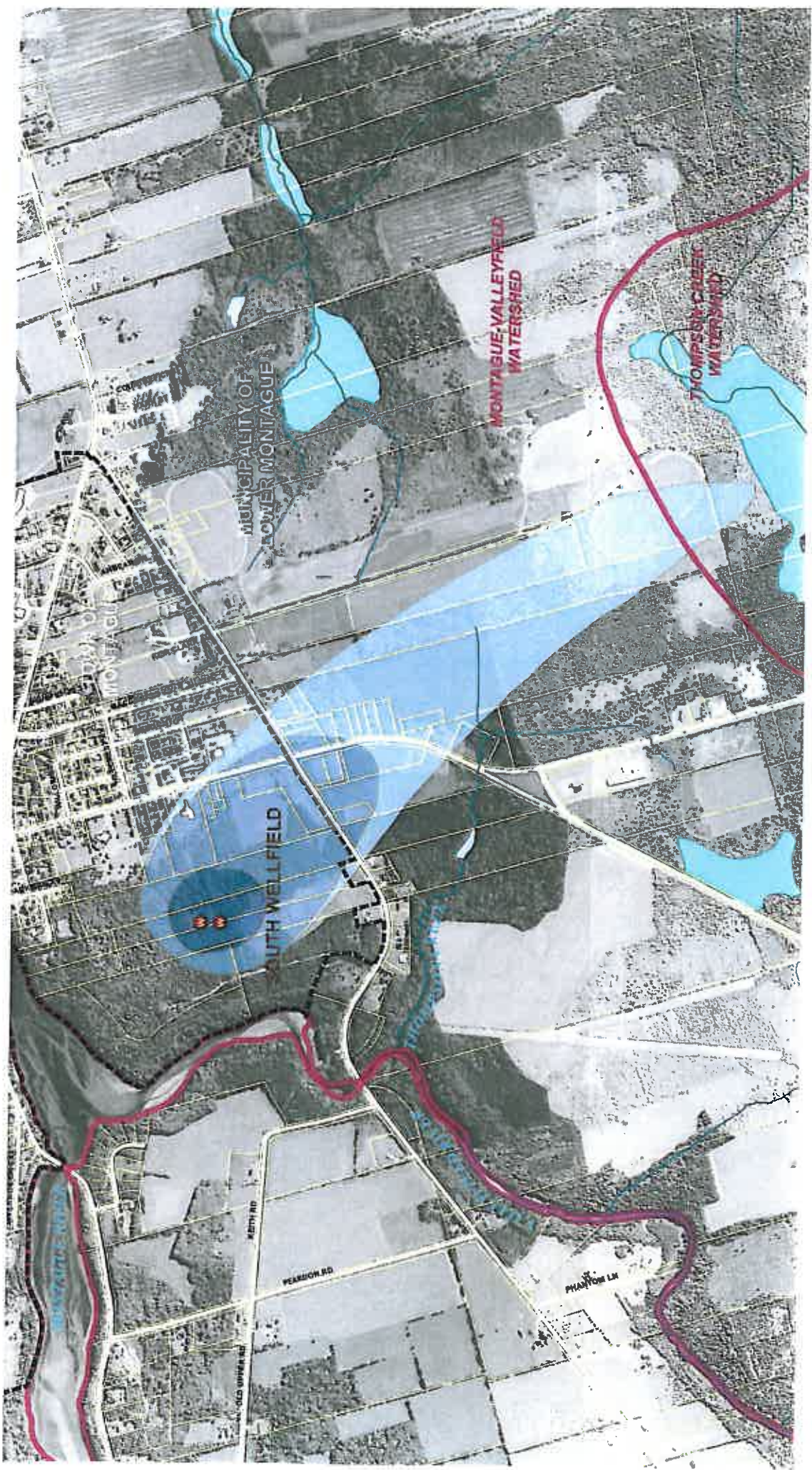
Development Permit Application		
- New Construction	- Residential	\$0.25 per sq ft of building footprint
- New Construction	- Other	\$0.50 per sq ft of building footprint
- Renovations	- Residential	0.25% of value
- Renovations	- Other	0.50% of value
- Signs (each)		\$ 25.00
- Site Plan		\$ 50.00
- Change of Use		\$ 50.00
- Demolition		\$ 50.00
Applications Submitted after Work Commenced		Double regular examination fee
Variance Application		\$ 50.00 plus cost of public notification
Land Use Bylaw Amendment Application		\$ 50.00 plus cost of public notification
Development Agreement		\$ 50.00 plus cost of public notification

**(The minimum fee for a Development Permit Application shall be \$25.00 Residential or \$50.00 other)**



**Town of Montague**  
**Zoning Map**  
April 2011





Appendix "D"