

Section 5.6

Model Land Use By-Law

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Introduction

*This Model Bylaw is intended to be a guideline for drafting a Land Use Bylaw (LUB). It is a 'how to' document written for municipal planners and those interested in planning such as Councils, Planning Advisory Committees and the public. Provisions have been set out to illustrate the variety of options available within the framework of the **Municipal Government Act** (hereafter called the Act). The provisions set out are not mandatory or exhaustive. Not all of the zones or zone provisions will be appropriate for all municipalities as each planning area is unique. An attempt has also been made to say things in 'plain English'. In most instances numbers or standards are not included. Each municipality will make its own decisions on these matters. Where numbers are used, they are in the metric measurement system.*

Explanatory comments are provided, where appropriate, immediately after the LUB provision. They are printed in italics and enclosed in a shaded box. They indicate things such as whether the provision requires supporting policy in the municipal planning strategy, other options or ways of dealing with the same subject, more simply worded provisions, and any planning implications that may result from the provision. They reflect the current thinking on planning issues in light of common planning practice or Utility and Review Board or Court decisions. The rationale for each zone is also set out.

Everything printed in italics and enclosed in a box is information for the reader and not intended to be placed in the actual LUB.

The principal enabling authority for the preparation and enforcement of a LUB is found in sections 219 and 220 of the Act. Section 219 clearly links a municipal planning strategy with a LUB. It provides that:

- ▶ *provisions in a municipal planning strategy or a strategy amendment that deal with ‘regulating land use and development’ must be implemented by a LUB;*
- ▶ *the LUB implementing provisions must be adopted at the same time as the municipal planning strategy or strategy amendment; and,*
- ▶ *once a municipality has adopted a LUB it subsequently can be amended ‘to carry out the intent of the municipal planning strategy’. A LUB cannot be amended unless the amendment carries out the intent of the strategy.*

Sections 220(1) and (2) of the Act require that a LUB establish zones, lists permitted or prohibited uses for each, and provide for any other matters required to implement a strategy. Section 220(3) establishes that total prohibition of development is limited to only those situations identified in the Act. Sections 220(4) and (5) stipulate the things that can be put into a LUB with the items listed in subsection (5) requiring specific policy support in the municipal planning strategy in order for them to be regulated in the LUB.

There are some basic do’s and don’t’s that have been established over time through court decisions. They can be summarized as follows:

- ▶ *when the Act says something may be regulated it does not include the power to prohibit unless expressly stated;*
- ▶ *the term ‘regulate’ does not mean ‘require’; and,*
- ▶ *minimum and maximum standards may only be set out in a LUB where clearly enabled by the Act.*

The question that should be asked when drafting a LUB provision is ‘Where in the Act does it say that Council can do such a thing?’.

The number of zones and the provisions contained within them should reflect the level of land use control necessary and desired by the municipality. The guidance for this level of control comes from the overall planning direction set out in the municipal planning strategy.

A LUB should be written in plain English. Where possible detailed provisions should be explained using figures, charts and tables.

Municipalities have a great deal of flexibility in the way they handle land use issues. This Model Bylaw is prepared using the assumption that the simplest approach is the best. It is designed to be easy to understand, interpret and administer.

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Introduction

How to Use This Bylaw

To find information about uses permitted on a lot and the requirements for a development permit refer to:

- ▶ **Part 2 Administration** and **Part 4 Interpretation** for general information;
- ▶ the **Zoning Map** (Schedule ‘A’ of this Bylaw). Once the applicable zone is known, use the zone heading found in the table of contents of this Bylaw to locate the zone requirements;
- ▶ **Part 6 General Provisions for All Zones**. For example, look for driveway access requirements, loading space requirements, and parking requirements;
- ▶ if applicable, look in the **General Provisions for All Residential Zones** and the **General Provisions for All Commercial Zones** as well; and,
- ▶ **Part 35 Definitions** to see if any special definitions apply to the development on the lot.

Part 1 Title and Purpose

- 1.1 This Bylaw shall be known as the Land Use Bylaw for (name municipality or planning area) and shall apply to all lands within the municipal boundaries (or planning area).
- 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.

Including a 'Purpose' here is not essential. It was put into this model because it establishes a clear link to the municipal planning strategy. In addition, it helps in interpreting the various sections of the Bylaw.

Part 2 Administration

This part of the LUB is essential in that it is here where the applicant finds out who is responsible for the bylaw and what they have to do to proceed with the development. This part is sometimes set out at the end of the Bylaw.

This part does not include a section dealing with penalties. It is optional because penalties are set out in the Act and are applicable whether or not they are mentioned in the LUB (S. 266).

Summary offence tickets are another penalty option.

Administration

2.1 The Development Officer shall administer this Bylaw.

Development Permit

- 2.2
- (a) Unless otherwise stated in this Bylaw, no person shall undertake a development on a lot within (name municipality or planning area) without first obtaining a development permit from the Development Officer.
 - (b) 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 agreement, 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 the Act.
 - (c) A development permit shall expire within 12 months from the date issued if the development has not commenced.
 - (d) The Development Officer may revoke a development permit where information provided on the application is found to be inaccurate.

No Development Permit Required

- 2.3 Unless otherwise specified, no development permit shall be required for:
- (i) a development that involves the interior or exterior renovation of a building that will not change the shape of the building or increase its volume, will not add more dwelling units, or will not involve a change in use of the building;
 - (ii) a fence or wall that does not exceed 2 m. in height;
 - (iii) a sign less than 0.5 square m. in area where signs are permitted (see Part 7);
 - (iv) an accessory building less than 20 square m. in area;
 - (v) a temporary use subject to Section 6.24; and

- (vi) public and private utilities located within the street right-of-way;
- although the applicable requirements of this bylaw must still be met.

The Act clearly enables a municipality to set out in its LUB 'uses for which a development permit is not required' [S. 244(2)].

The 20 square metres referred to in clause (iv) is the size threshold beyond which a building permit would be required.

Even though the development of some uses may not require a development permit the development is still required to be in compliance with the LUB. A problem of noncompliance may result but many of the exemptions do not have applicable requirements anyway.

Application for a Development Permit

- 2.4 (a) Every application for a development permit shall be accompanied by a sketch or plan, in duplicate, drawn to an appropriate scale and showing:
- (i) the shape and dimensions 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 proposed use of the lot and any building or structure; and,
 - (vi) any other information the Development Officer deems necessary to determine whether or not the proposed development conforms to the requirements of this Bylaw.
- (b) 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 Nova Scotia Land Surveyor.

This model does not include a sample application form. If a municipality has prepared one it should be included as a schedule to this Bylaw and referred to in this section.

Signature of Applicant

2.5 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.

Getting the owners authorization is suggested as being a good practice although it is recognized it may not be practical. Sometimes all that is needed is a copy of the construction agreement.

Application Fee

2.6 Every application for a development permit or an application for a Land Use Bylaw amendment, development agreement, site plan approval or a variance, shall be accompanied by a cheque payable to the municipality in the amount specified in Appendix ‘A’ of this Bylaw.

Section 49 of the Act allows municipalities to charge a processing fee for development permit applications.

The Act also provides for an application fee [S. 220(4)(l)] for a LUB amendment, development agreement, site plan, and variance applications.

Fees are adopted by Council by policy and can be amended in the same fashion (S. 211).

It is not mandatory to charge an application fee. Some municipalities may feel that general tax revenue is sufficient to pay for this service. It is, however, an option that is available, particularly if there is a lot of development activity. (The fee charged must reflect the normal costs associated with processing a development permit.)

Advertising and Notification Costs

- 2.7 (a) Where an application to amend this Bylaw or to enter into or amend a development agreement is made, the applicant shall deposit with the clerk at the time of application, an amount established by the clerk to be sufficient to pay the costs of any advertising and notification required.
- (b) If the amount paid under clause (a) is not sufficient to cover the costs incurred, the applicant shall pay to the clerk the additional amount required. If the amount paid is more than sufficient, the clerk shall refund the excess amount.

The Act provides for the recovery of these costs even if there is no such provision in the LUB. It is included here because it is good information for a prospective applicant.

Notice to Property Owners

2.8 (a) 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 30 m. of the subject property shall be notified of the application by the clerk.

- (b) The notification set out in clause (a) 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.

The notification requirements in the Act are different for different actions. For LUB amendments, development agreements, and development agreement amendments, the LUB can establish the extent of the notification area (i.e., abutting properties or properties within a specified distance of the development or development property), the means of notification (i.e., regular mail, registered mail, hand delivered mail or sign on the property), and that the costs of such notification shall be borne by the applicant (S. 221). The Act requires two advertisements in a newspaper circulating in the area.

For site plan approval and variances there is no requirement for notification prior to the decision being made by the Development Officer. Section 236 requires notice be made to assessed property owners within 30 metres of the subject property within seven days after the decision.

Effective Date

- 2.9 This Bylaw shall take effect upon the date of publication of the notice advertising the new bylaw or amendment.

Part 3 Zones and Zoning Map(s)

Zones

3.1 For the purposes of this Bylaw the municipality is divided into the following zones, the boundaries of which are shown on the attached Schedule 'A'. Such zones may be referred to by the corresponding symbols shown below.

Zones	Symbol
Residential Low Density	R-1
Residential Medium Density	R-2
Residential High Density	R-3
Residential Manufactured Home	RMH
Residential Manufactured Home Park	RMHP
Commercial Local	C-1
Commercial General	C-2
Commercial Highway	C-3
Industrial Light	M-1
Industrial Heavy	M-2
Industrial Park	M-3
Institutional	I
Park	P
General Development	G
Rural Resource	RR
Watershed	W
Holding	H
Comprehensive Development District	CDD
Hazard	X

Special Overlay Zones

Flood Fringe
 Heritage Conservation Design District
 Site Plan Approval District
 Bonus District

The choice of zone names and symbols rests entirely with the municipality, however, certain standard practices have evolved over the years. Normally the zone symbol consists of a letter and a number. The letter represents the

class of use while the number corresponds roughly with the density or intensity of the use. R-1, then would represent a low density residential zone while R-3 would be applied to a residential zone with a higher density.

The list shown here contains a wide variety of zones that may not be appropriate to all areas.

The zones listed as 'Special Overlay Zones' do not have symbols because they will most likely be shown as a grid or patterned polygon covering only a specific area and would overlay the underlying zones. These zones introduce an extra element of control specific to the circumstances they are applied to. For example, the Heritage Conservation Design District overlay will specify special design guidelines for everything from new buildings to signs and fences. There will be more discussion of this technique later.

Zoning Map

3.2 Schedule 'A' is the Zoning Map and forms part of this Bylaw.

Zones Not on the Map

3.3 The Zoning Map may be amended, in conformance with the municipal planning strategy, to use any zone in this Bylaw, regardless of whether or not such a zone had previously appeared on the Zoning Map.

This provision refers to 'floating zones'. These are zones set up in the municipal planning strategy but not applied to any land in the municipality. For example, planning documents may include provision for a Residential Manufactured Home Park Zone (RMHP) but no lands are zoned RMHP because there are no manufactured home parks in the municipality at the time and none are planned for any specific area. When such a development is proposed, the zone can be applied through the rezoning process and no policy amendment would be necessary.

Part 4 Interpretation

Symbols

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

Interpretation of Zone Boundaries

- 4.2 (a) The extent and boundaries of zones are shown on the Zoning Map and the appropriate provisions of this Bylaw shall apply to all zones.
- (b) 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 railway right-of-way, electric transmission line 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 none of the above apply, and where appropriate, the zone boundary shall be scaled from the Zoning Map.

Some municipalities may want to keep streets and watercourses outside of the zone boundary. There are pros and cons to this. It would make it easier to deal with such things as bus shelters, telephone booths and utility poles but it complicates abutting zone requirements if the street keeps the zones from abutting.

- (iii) 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.

Interpretation of Certain Words

- 4.3 (a) In this Bylaw, words used in the present tense include the future, words in the singular number include the plural, words in the plural include the single number, the word “used” includes “arranged to be used”, “designed to be used” and “intended to be used”, and the word “shall” is mandatory.
- (ii) All official measurements are in metric. Where imperial measurements are provided they are for information purposes only.

Permitted Uses

- 4.4 (a) In this Bylaw any use not listed as a permitted use in a zone is prohibited in that zone unless otherwise indicated.
- (b) 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.

This is the standard practice but a bylaw can also do the opposite and list only the uses that are prohibited. In that case everything not listed would be permitted. This is sometimes used in rural areas where there is a greater acceptance to a mixture of uses.

All Land to be Zoned

- 4.5 All lands within the municipality (or planning area) shall be zoned except where specifically indicated as unzoned.

Schedules

- 4.6 (a) All schedules and figures attached to this Bylaw form an official part of the Bylaw.
- (b) Any appendices that may be attached to this Bylaw are for information purposes only and are not an official part of the Bylaw.

By attaching information items, like parking lot layout and stall dimensions or a list of contacts, as an appendix, these items can be updated and changed without having to go through the LUB amendment process

Part 5 Development Agreements

*Development agreements can be looked at as mini Land Use Bylaws applying to just one development. Development standards are negotiated within the parameters of the supporting policy found in the municipal planning strategy and the applicable sections of the Act. A development agreement can override the LUB and the Subdivision Bylaw. Development agreements stay with the land until discharged by council, even after a sale of the property, and must be **filed** in the local Registry of Deeds. It is good practice, but not required, to **register** the development agreement in the Registry to make it easier to find during a title search.*

Development agreements offer more direct Council control over development but they are time consuming and costly to both the municipality and the developer and should only be used where necessary.

Section 225(1) of the Act specifies that the supporting policy must clearly indicate the types of development to be considered by agreement, the area where they are to be located, and the criteria council shall have regard to when considering requests for development agreements. The Act also requires that developments to be considered by development agreement be identified in the LUB.

While not required, development agreements should contain a “sunset clause” which would allow Council to discharge the agreement, after a specified period of time, if the development has not proceeded. Without such a clause in the agreement Council can only discharge the agreement with the consent of the property owner.

The developments listed below are only a few examples of typical development agreements. They are set up to apply within certain future land use designations rather than certain zones. This allows more flexibility and avoids any necessity to rezone a lot before applying for a development agreement.

Development agreements and amendments to development agreements require a public hearing and are appealable to the Utility and Review Board. If the agreement identifies items that are not considered substantive, amending these items does not require a public hearing although they are still appealable and a newspaper notice is still required. (S. 230)

Developments to be Considered by Development Agreement

- 5.1 The following developments may be considered only by development agreement in accordance with the **Municipal Government Act** and the Municipal Planning Strategy:
- (i) a change of use of any nonconforming use, in accordance with policy . . . of the municipal planning strategy;
 - (ii) multiple unit dwelling development of more than 12 dwelling units, in a **Residential** designation, in accordance with policy . . . of the municipal planning strategy;
 - (iii) a shopping centre development in a **Commercial** designation, in accordance with policy . . . of the municipal planning strategy;

- (iv) office, hotel or residential development, or a mixture of these, more than 15 m. in height, in a **Commercial** designation, in accordance with policy . . . of the municipal planning strategy.

These examples are strictly for illustration. Development agreements should be used for developments that are outside of the normal development pattern for the community. In that way the LUB can be written to handle all of the development control requirements of the majority of developments that will take place.

In some cases, such as when dealing with local commercial uses or shopping centres, considering these uses by development agreement will eliminate the need for the Local Commercial Zone or the Shopping Centre Zone. Too many development agreements, however, will tend to slow development and create enforcement problems.

It should be noted that this example is only one way of handling development agreements. Some municipalities may prefer to place the development agreement provisions within the appropriate zone. This may make it simpler for people unfamiliar with the Bylaw to see what their development options are, all in one place.

Development Permits for Development Agreements

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

- (i) the development agreement has been approved by Council,
- (ii) the appeal period has lapsed or any appeals that may have been lodged have been dealt with by the Utility and Review Board and the ruling was in favour of the development; and,
- (iii) the development conforms to the terms of the development agreement.

Part 6 General Provisions for all Zones

The General Provisions in this model represent the most common general provisions and standards found in Land Use Bylaws in Nova Scotia. They apply to all uses in all zones except where a specific use or zone is otherwise exempted. A number of the provisions presented may not be desirable or applicable in all municipalities. Each provision should be carefully considered before being put into a LUB. In addition, if provisions are not going to be enforced, they should not be put into the LUB.

The list presented here is not exhaustive. Every municipality will have different and unique situations to deal with. Keeping of farm animals or outdoor furnaces are examples of unique situations that could be dealt with in the general provisions part of the bylaw. Also, some municipalities may want to allow public parks and playgrounds in any zone. If so, the simplest way to do it would be to include them in the general provisions.

The general provisions here are listed in alphabetical order but they could just as easily be listed in any other format or order.

Accessory Buildings and Structures

- 6.1 (a) 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 an accessory use;
 - (ii) be built in the front yard of any lot;
 - (iii) be built closer than __ m. to any lot line except that:
 - S** common garages for semidetached dwellings may be centred on a mutual side lot line;
 - S** in any residential zone, accessory buildings with no window or perforation on the side of the building that faces the lot line, may be built a minimum of __ m. from the lot line;
 - S** 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 __m. of the main building.

In the second item of clause (iii) the notion is that if there are no openings in the wall that faces the lot line it can be built closer to the line.

- (b) 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 (a).
- (c) 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.

Building to be Erected on a Lot

6.2 No building shall be erected or used unless it is erected on a single lot.

Building to be Moved

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

Calculation of Lot Frontage

- 6.4 (a) 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.
- (b) 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. (See Figure 1)

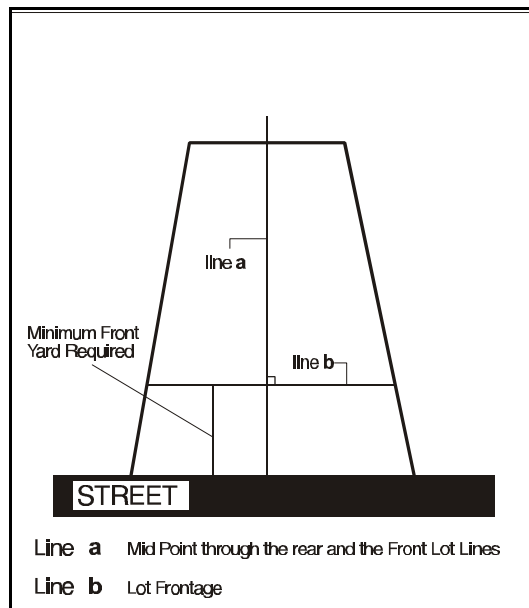


Figure 1

Some municipalities may want to simplify this by measuring all lots in the same manner as (a) except for lots located on an inside curve (concave shaped) which will be permitted a reduced frontage requirement. In this case Section 6.4 would read as follows:

- 6.4** (a) *Lot frontage shall be measured as the distance between the side lot lines where they meet the front lot line.*
- (b) *Notwithstanding the lot frontage requirements found elsewhere in this bylaw for lots located on an inside curve (concave shaped) the lot frontage requirement shall be reduced to a minimum of 6 m. (20 ft.).*

The 6 metre figure is shown just as a suggestion and may not be appropriate in every municipality. It reflects the fact that the Subdivision Regulations require that no lot can be created with a dimension less than 6 metres.

Conformity with Existing Front Yards

- 6.5 Notwithstanding the minimum front yard requirements found elsewhere in this Bylaw, in any zone, when a building is erected between two existing buildings within 30 metres 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.

Driveway Access

- 6.6 (a) A through lot shall have access to one street only.

Some municipalities may find this overly restrictive and will want to delete subsection (a). If there is a concern about traffic cutting through lots the subsection could be reworded as follows:

- (a) *Driveway access for a through lot may be provided to either or both streets but in no case shall a driveway continue from one street to the other.*

- (b) A driveway access to:
- (i) a local street shall be a minimum of 15 m. from a street intersection;
 - (ii) a collector street shall be a minimum of 25 m. from a street intersection;
 - and
 - (iii) an arterial street shall be a minimum of 30 m. from a street intersection.

To set out requirements such as this the terms local street, collector street, and arterial street should be defined.

The numbers shown here are suggestions only and reflect the differences in the functions of each type of street.

- (c) A lot fronting on a collector or arterial street shall be limited to one driveway access point for every 30 m. of street frontage or portion thereof.

This provision is designed to reduce the number of street access points on busy streets. It is most likely this provision will impact commercial development the most and in that sense it is important to be sure it does not conflict with other access requirements such as those for parking lots or for service stations.

- (d) A driveway access shall be a minimum of 3 m. and a maximum of 11 m. wide.

Encroachments Permitted

- 6.7 The following portions of structures may project into a yard required by this Bylaw to the limit of the specified distance:

Structure or Feature	Distance
sills, cornices, eaves, gutters, chimneys, pilasters, and canopies	0.5 m.
window bays, cantilevers, oil tanks, and propane tanks	1.0 m.
exterior staircases, wheelchair ramps, and fire escapes	1.5 m.
balconies	2.0 m.
verandahs, porches, and decks	4.0 m.

Not all municipalities feel it necessary to have this provision. It depends very much on the level of control desired. In an area where design control is critical, it may be very important to control not only what features may encroach, but also, which yard may be encroached upon and by which feature. Without this provision or something like it, no encroachment would be permitted at all.

Frontage on a Street

- 6.8 Except as provided for in Section 6.20, 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.

*This effectively prevents development on land locked lots or lots accessed only by water except if they are permitted under Section 6.20. Such a restriction may not be desirable for all municipalities. Also, it may be necessary to make a distinction between public and private streets. Most towns do not permit development on private streets and some rural municipalities restrict their use. If there are existing private streets but no new ones are to be allowed it will be necessary to modify the provision to allow development on both types of streets. For example: **No development permit shall be issued unless the lot intended to be used, or upon which a building or structure is to be erected, abuts and fronts upon a public street or an existing private street.***

Height Regulation Exemption

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

These examples should be evaluated to see if they are all applicable within the municipality.

Illumination

- 6.10 No person shall erect a sign with lights external to the sign itself or illuminate an area outside any building or structure unless the illumination is directed away from adjoining properties and any adjacent street.

A Bylaw provision that deals with illumination requires supporting policy in the municipal planning strategy [S. 220(5)(c)].

Licenses, Permits and Compliance With Other Bylaws

- 6.11 (a) Nothing in this Bylaw shall exempt any person from complying with the requirements of any other Bylaw of the municipality or from obtaining any license, permission, permit, authority, or approval required by any other Bylaw of the municipality or any regulation of the Province of Nova Scotia or the Government of Canada.
- (b) Where the provisions of this Bylaw conflict with those of any other Bylaw of the municipality or regulation of the Province or the Government of Canada, the higher or more stringent provision shall prevail.

Multiple Uses

- 6.12 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.

In the past this section usually said the more stringent standards would prevail in the event of a conflict. The problem was you could have a fairly insignificant use in a building dictate the standards that would be applied to all of the other uses in the same building. The standards applied to a building should be those of the dominant use of the building. In a commercial building they should be commercial standards even if a residential use is also

permitted. Conversely, in a residential building the residential standards should apply even if a commercial use is also permitted.

Municipal Government Service Facilities

6.13 Notwithstanding anything else in this Bylaw, service facilities provided by the municipality such as, but not limited to, sewage treatment plants, pumping stations, transit transfer 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.

Nonconforming Uses

6.14 (a) Any use of land or building or structure constructed, or being constructed, on or before the effective date of this Bylaw that does not conform to the requirements of this Bylaw shall be subject to the provisions of the Act respecting nonconforming uses and structures.

This is a statutory provision (S. 238, 239, 240, and 241). It does not need to be stated in the Bylaw but most municipalities put it in for information purposes.

(b) Notwithstanding subsection (a), a nonconforming industrial use shall be permitted to change to a less obnoxious or less intensive industrial use in terms of traffic generated, hours of operation, outdoor storage, noise, and fumes.

Section 242 of the Act allows for subsection (b) provided there is supporting policy in the municipal planning strategy. A development agreement can also be used to accomplish this. What constitutes 'less obnoxious', however, can be difficult to determine.

Another way of dealing with nonconforming uses is to list them as 'existing permitted uses' in the zone in which they are located. This gives them status as a permitted use but prevents new similar uses from locating in the zone. The use should be identified and it should be made clear, if so desired, that no expansion of the use on the lot will be permitted.

One Main Building on a Lot

6.15 No person shall erect more than one main building on a lot except:

- (iii) in all Industrial Zones;
- (iv) in the Commercial General (C-2) and Commercial Highway (C-3) Zones;
- (v) in the Residential Medium Density (R-2) Zone;
- (vi) in the Residential High Density (R-3) Zone;
- (vii) in the Residential Manufactured Home Park (RMHP) Zone; and

(viii) in the Rural Resource (RR) Zone.

Some municipalities may wish to allow more than one main building on a lot as long as there is an ability to subdivide them later. Such a provision could be: “Notwithstanding Section 6.15, more than one main building may be placed on a lot provided there is sufficient area and frontage to enable the creation of as many lots as there are main buildings and each building is placed in such a way that the subsequent subdivision could take place.”

Parking and Loading Requirements

6.16 (a) For every building or structure to be erected or enlarged, off-street parking shall be provided within the same zone as the use, in accordance with the following chart:

Type of Building	Parking Spaces Required
a dwelling containing less than 3 dwelling units	1 parking space for each dwelling unit
all other dwellings	1.5 parking spaces for each dwelling unit
boarding and rooming homes	1 parking space for the dwelling unit plus 1 parking space for every 2 rooms available for rent
churches, halls, auditoria, restaurants, theatres, arenas, stadia, private clubs and other places of assembly	where there are fixed seats, 1 parking space for every 5 seats, or 3 m. of bench space; where there are no fixed seats, 1 parking space for every 10 square m. of floor area
hospitals and nursing homes	1 parking space for every 2 beds or 40 square m. of floor area, whichever is greater
senior citizen housing	1 parking space for every 2 dwelling units
hotels, motels and tourist cabins	1 parking space for every suite or rental unit plus 1 parking space for every 5 square m. of floor space devoted to public use exclusive of lobbies or halls

Type of Building	Parking Spaces Required
offices	1 parking space for every 30 square m. of floor area used for offices
funeral homes	1 parking space for every 5 square m. of assembly floor area
bowling alleys and curling rinks	4 parking spaces for each bowling lane or curling sheet plus 1 parking space for every 10 square m. of other public floor space
all other commercial uses	1 parking space for every 30 square m. of floor area
elementary schools	1.5 parking spaces for each teaching classroom
junior and senior high schools	4 parking spaces for each teaching classroom
all industrial uses	1 parking space for every 50 square m. of floor area

The number of different classifications and the number of required spaces in this example is not necessarily right for every municipality. Some municipalities, for example, have adopted very simple parking standards which simply say: “Unless otherwise specified one parking space shall be provided for every dwelling unit and for every 30 square m. of nonresidential floor area.”

Some municipalities may also want to set special parking standards for downtown areas. For example reduced parking requirements may be appropriate where there is on street parking available or the Council may want to encourage transit usage.

Note that this provision does not require the parking spaces be provided on the same site as the use. In that way a single parking lot could supply parking spaces for several different uses in the same area.

- (b) A parking space shall measure 2.5 m. by 6 m. exclusive of driveways and manoeuvring aisles.
- (c) One loading space shall be provided for every 3000 gross square m. (32,400 sq. ft.) of commercial, industrial and institutional floor space to a maximum of 6 loading spaces.
- (d) A loading space is not required for any building less than 140 square m. in area.

- (e) A loading space shall be:
 - (i) a minimum of 3.5 m. by 12.5 m. with a minimum height clearance of 4.5 m.;
 - (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 the street by means of a minimum 3 m. wide driveway for one way and 6 m. wide driveway for two way traffic.

Again, the loading space requirements in this example may not be right for all municipalities. Some exemptions may be necessary for downtown buildings where the existing development pattern does not provide the required space.

Parking Lot Standards

6.17 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 4.5 m. in height and not larger than 4.6 square m. in area may be erected for use of attendants;
- (iv) where a permanent hard surface is used, each parking space shall be marked;
- (v) 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; and
- (vi) the approaches or driveways to the lot shall not exceed two in number from any one street, and shall be between 6 and 7.5 m. in width.

The main objective of parking lot controls is to make sure they are adequate for their purpose and do not create a nuisance for neighbouring properties while they exist. Landscaping requirements, which are not included here, could be added as a further way to protect adjoining properties.

Some of the requirements will require policy support in the MPS before they can be included (ie. access and illumination regulation).

Parking for People With Disabilities

- 6.18 (a) In addition to the parking requirements found in Section 6.17, 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.

- (b) Such parking spaces shall be 3.7 m. wide and be no more than 50 m. away from the entrance designed for use by people with disabilities.

The Nova Scotia Building Code Regulations call for dedicated parking spaces for disabled persons. The number and measurements used in this section come from these regulations.

Public and Private Utilities

- 6.19 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.

If the zone boundary includes the street there should be some provision made for the placement of utilities such as power and telephone lines, cable tv lines and so on, which would typically go on poles within the street right-of-way.

Reduced Lot Requirements

- 6.20 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.

The municipality's Subdivision Bylaw may allow for a number of lots to be created that do not meet the frontage and area requirements of the LUB. For example, Section 279 of the Act allows a Subdivision Bylaw to provide for a 10% variance in frontage and area requirements for two lots only. Also, the Subdivision Bylaw may allow the creation of a limited number of lots which do not have frontage on a street.

The LUB could detail which specific situations may be applicable but that is not recommended. Let the Subdivision Bylaw deal with the creation of lots and the LUB deal with their development.

The relationship between the Subdivision Bylaw and the LUB is very close but they are distinctly different. Lot size (area and frontage) is one place where the two documents must work together. In areas where a LUB is in effect the Subdivision Bylaw will defer to the LUB for lot size requirements. In areas where there is no LUB the Subdivision Bylaw must contain minimum lot size requirements. Since April 1, 1999 every municipality in the province has a Subdivision Bylaw. [S. 270(5)]

Restoration to a Safe Condition

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

This provision is statutory and therefore not required in the LUB. It is, however, important information and it is useful to include it here.

Setback for Flanking Yard

- 6.22 (a) 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 requirement for the flanking yard shall be the same as that required for the front yard.
- (b) No accessory building or structure shall be permitted within the required flanking yard.

Side Yard Waiver

- 6.23 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.

This provision is usually included in residential zone standards to accommodate semidetached dwellings and town house development. But it can also apply to other uses such as commercial or industrial buildings,.

Temporary Uses, Buildings and Structures Permitted

- 6.24 (a) 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.
- (b) 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 14 consecutive days after the close of the event.
- (c) No development permit shall be required for a temporary use.

Through Lots

- 6.25 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.

Variance

- 6.26 (a) Notwithstanding the general requirements set out for each zone in this Bylaw, the Development Officer may grant a variance from the minimum lot area and frontage, the minimum yard dimensions, and the area of land that may be built 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.
- (b) Where a variance is granted or refused the appeal and the notice provisions of the Municipal Government Act shall be complied with and the applicant shall pay to the Clerk the costs of notifying affected land owners.

The variance provisions are statutory and do not strictly have to be placed in the Bylaw. They are placed here for information purposes only. Section 235(2) of the Act enables the municipality to expand on these variance provisions through policy in the strategy and appropriate provision in the LUB

There is no statutory limitation on how large a variance can be granted. Each individual Development Officer will generally set their own standard as to what is reasonable. While each case will differ as circumstances are different, it is important to be consistent and treat each case fairly and objectively.

Visibility at Street Intersections

- 6.27 On a corner lot, within a triangular area 6 m. 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 1 m. above the grade of the abutting streets.

Waiver of Minimum Yard Standards

- 6.28 (a) 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.
- (b) 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.

This section is essentially dealing with nonconforming buildings. The Act, in section 239, gives these buildings certain rights. It allows a residential buildings to be rebuilt if it is totally destroyed, provided it is substantially the same as it was, and a nonresidential building to be rebuilt if not more than 75% of the market value of the building is destroyed. This section extends those rights by treating all buildings the same, with respect to renovations, and therefore must be supported by policy in the municipal planning strategy.

Waiver of Minimum Lot Area and Frontage Standards

- 6.29 (a) 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 had less than the minimum frontage or area required by this Bylaw, may be used for a purpose permitted in the Residential Low Density R-1 Zone, and a building may be erected on the lot provided that all other applicable provisions of this Bylaw are satisfied.
- (b) An existing undersized lot which is increased in area or frontage or both, but remains undersized, is still considered an existing undersized lot for the purposes of this section.

Every lot created after the effective date of the Bylaw will conform to the lot size requirements of the Bylaw. But there may be some lots created before the Bylaw which do not conform. These lots will need to be given special development rights. Even though the lot size and frontage requirements are waived the yard distances are not. This means that some of these undersized lots, if they are too small, cannot possibly be built upon. This waiver is only applied to residential zones and only allows the minimum residential development to take place.

The 'effective date' is the date the Bylaw is published. When a Bylaw is adopted to replace an existing Bylaw, a municipality may wish to have the effective date be the date of the original Bylaw. If that is the case, the definition of 'effective date' should be written to reflect this.

Watercourse Separation Distance

- 6.30 With the exception of marine uses, water and sewage treatment uses and accessory buildings permitted in Section 6.1, no structure shall be located closer than 15 m. (50 ft.) from a watercourse.

It may be necessary to re-evaluate this provision as more and more marine industrial uses are converted to museums and tourist related commercial uses.

Yard Requirements Concerning Natural Hazard Areas

- 6.31 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 15 percent.

Part 7 Signs

Sign regulations require the support of appropriate policy in the municipal planning strategy. At a minimum the policy should say the municipality intends to regulate or prohibit advertising signs in relation to their size, location, number and type. Where specific provisions are set out for temporary or mobile signs, these too should have policy support. In some cases, in specific areas, a municipality may want to regulate the design and materials of a sign in terms of colours, shape, style of lettering and so on. This too should be clearly spelled out in the policy.

A municipality cannot regulate sign content except for certain words or phrases that are reserved for traffic control and public safety such as “STOP”, “ONE WAY”, “CROSS WALK” and so on.

Sign regulation is a controversial issue. The provisions set out in this Part are comprehensive and may not be appropriate or wanted by all municipalities. Enforcement is also an issue in that it must be fair and is never easy.

General

- 7.1 (a) 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.
- (b) 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.

Maintenance

- 7.2 (a) Every sign shall be kept in good repair and working order.
- (b) 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.
- (c) Subsection (b) 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.

Number of Signs

- 7.3 (a) 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.

- (b) No more than one sign for any one enterprise may be erected on a lot except for a corner lot where no more than two signs for any one enterprise may be erected.

Signs Permitted in all Zones

7.4 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 0.5 square m. in area;
- (ii) signs for regulating the use of a property such as “NO TRESPASSING” and of not more than 0.5 square m. 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 0.5 square m. 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; and
- (xi) church identification signs.

Signs Prohibited in all Zones

7.5 The following signs are not permitted in any zone:

- (i) signs that incorporate flashing illumination or moving parts;
- (ii) roof signs;
- (iii) any signs or sign structures that is or could be a safety hazard;
- (iv) any signs that obstruct or detract from the visibility or effectiveness of any traffic sign or control device;
- (v) any signs that obstruct the free egress from any fire exit door, window, or other required exit way;
- (vi) signs not erected by a public authority that make use of words such as ‘STOP’, ‘LOOK’, ‘ONE WAY’, ‘DANGER’, ‘YIELD’, or any similar word, phrase, symbol, light, or character in such a manner as to mislead or confuse the traffic along a street;
- (vii) any signs 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; and
- (ix) signs not related to any business or use located on the lot or premises.

This last provision (ix) has far reaching implications because it effectively prohibits billboards and other forms of off-site advertising signs.

Wall Signs

7.6 No wall sign shall exceed ____% 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.

Projecting Signs

7.7 Projecting signs shall:

- (i) not have a sign face larger than ____ square m.;
- (ii) not project further than ____m. 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 ____ m. and not higher than ____ m. above the ground.

Ground Signs

7.8 Ground signs shall:

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

Mobile Signs

7.9 (a) Mobile signs shall be permitted, in addition to the number limits of Section 7.3, 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 ____ square m. in size.

(b) A mobile sign shall not be permitted on a lot for more than ____ 30 day periods in any calendar year.

Canopies or Awnings

7.10 Signs incorporated in a canopy or awning shall be permitted in addition to the number limits under Section 7.3.

Sandwich Board Signs

7.11 Sandwich board signs shall be permitted, in addition to the number limits under Section 7.3, only in commercial and industrial zones and only for special promotions provided they:

- (i) have a sign face no larger than ___ square m.;
- (ii) are the only such sign on the lot; and
- (iii) do not obstruct pedestrian or vehicular traffic along any publicly owned land such as a sidewalk or street right-of-way.

Signs in Sports Fields and Outdoor Arenas

7.12 Notwithstanding the number limitation in Section 7.3 and clause (ix) of Section 7.5, 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.

The provisions for signs in this Model Bylaw have prohibited billboards and other off premise advertising signs. Some municipalities may want to allow this type of advertising and therefore should have a section specifically dealing with it. Attention should be paid to location ie. the zone they will be permitted in or the roads they will be restricted to, their size, and any setback requirements. If off premise advertising signs are to be permitted the Provincial Department of Transportation and Public Works has regulations that apply to signs along provincially owned roads. Municipalities may want to consider something similar for municipally owned roads.

Billboard regulation along with all sign provisions must be supported by plan policy.

Large chain stores will quite often have a name sign incorporated into the design of the front facade of the building. In addition these stores are usually found in the middle of large parking lots and are set back from the street a fair distance. These are usually larger than a normal wall sign and should probably be treated separately. One way to do this is to add a second subsection to section 7.6 such as:

7.6 (b) *Notwithstanding subsection (a) above, business name signs that are incorporated into the design of the facade of the building or are set back from the street a distance greater than 100 m., shall be exempt from the size limitation.*

Part 8 General Provisions for Residential Zones

Home Occupations

- 8.1 (a) 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) there are no more than two assistants employed in the home occupation;
 - (iv) not more than 25 percent of the total floor area of the dwelling is devoted to the home occupation;

Some municipalities may want to put an upper square metre limit on the allowable floor space devoted to the home occupation. Also, in some cases it may be desirable to allow an accessory building to be used for a home occupation. If so, a maximum square metres should be used to restrict the size of the business.

- (v) one off street parking space, other than that required by the dwelling, is provided;
- (vi) the business identification sign advertising the business is no larger than 0.5 square m. in area and is non-illuminated;
- (vii) no mechanical equipment is used except what is reasonably consistent with the use of the dwelling; and
- (viii) there is no outdoor storage or display.

This last provision may not be acceptable in rural areas. If outdoor storage is to be allowed, it should be required to be screened or located in the rear yard.

When developing regulation for home occupations, it is important to remember these are residential dwellings in residential zones. A home occupation should not be allowed to become so large or be so noticeable that it takes away from the ability of others to enjoy the area as a residential area. Also, too many home occupations, especially large ones, can have a detrimental effect on the viability of the commercial areas of the municipality.

- (b) A home occupation shall include the following types of uses:
- (i) offices
 - (ii) artisan workshops with or without a retail sales component
 - (iii) catering establishments
 - (iv) hairdressing salon including a barbershop
 - (v) photographic studio
 - (vi) day care centre
 - (vii) bed and breakfast establishments

In some cases, particularly in rural areas, the list may also include such business as:

- ▶ *convenience store*
- ▶ *auto body repair shop*
- ▶ *small engine repair shop*
- ▶ *fishing gear manufacturing and repair.*

In some cases it might be desirable to distinguish between 'urban' home occupations in built-up areas and 'rural' home occupations in sparsely populated areas of the municipality. In all cases definitions should be used to ensure there is no confusion over what use can qualify as a home occupation.

A bed and breakfast establishment may not be suitable as a home occupation, especially given the 25% size limitation. If so, they should be listed as a permitted use in the appropriate zone (eg. R-1). It may be necessary to have special requirements for these uses such as more parking, and that they be located on certain streets or close to collector or arterial streets. In the latter case collector and arterial streets would have to be identified in the Bylaw.

Parking of Large Motor Vehicles

- 8.2 No motor vehicle larger than 6000 pound gross vehicle weight, that is not being used at the site for a commercial purpose, shall be parked overnight in any residential zone.

Large trucks can create a nuisance when parked in residential areas overnight. Particularly those that make a continuing noise like refrigeration trucks. They can be considered a part of the business equipment that should be kept at the business site.

Services Required

- 8.3 Developments with more than two units within the R-2, R-3 and the RMHP Zones shall only be located on lots served with central sewer and water services.

Because of the relative high density of dwelling units in the R-2 and R-3 zones and in a manufactured home park, central sewer and water should be required for the development of these uses.

Part 9 Residential Low Density (R-1)

Permitted Uses

9.1 The following uses shall be permitted in the Residential Low Density Zone (R-1):

- (i) single unit dwellings
- (ii) two unit dwellings
- (iii) parks and playgrounds

This list of permitted uses is small but reflects the intent of the zone. It is generally thought that single and two unit dwellings can coexist quite nicely together. Even so, some municipalities may want to place single unit dwellings into a separate zone. If so, two unit dwellings should be placed into the Residential Medium Density Zone (R-2).

Missing from the list is schools and churches which are quite often found in the residential zones. In this Bylaw these uses are treated as institutional uses not residential and as such are placed in the Institutional Zone.

For simplicity the Bylaw does not differentiate between duplex, semidetached, or accessory apartment uses. Lot size standards are set on a per unit basis.

R-1 Zone General Requirements

9.2 The following requirements apply to all uses:

Requirement	Standard with Central Sewer and Water Services	Standard without Central Sewer and Water Services
Minimum lot area	450 sq. m.(5000 sq. ft.) /dwelling unit	2700 sq. m.(30,000 sq. ft.)/ dwelling unit or larger size as required in a report from a qualified person
Minimum lot frontage	15 m. (50 ft.)	75 m. (250 ft.)
Minimum front yard	6 m. (20 ft.)	6 m. (20 ft.)
Minimum rear yard	6 m. (20 ft.)	6 m. (20 ft.)
Minimum side yard	2.4 m. (8 ft.)	2.4 m. (8 ft.)
Maximum building height	10.5 m. (35 ft.)	10.5 m. (35 ft.)

Requirement	Standard with Central Sewer and Water Services	Standard without Central Sewer and Water Services
Maximum lot coverage	35%	10%

The dimensions used here are suggestions only and may not be suitable in every situation. The minimum size of lots to be served with on-site septic and water is the standard required from the Nova Scotia Department of Environment and Labour. Depending upon soil conditions and topography a larger size may be required when an assessment is made by a qualified person. All development lots are assessed at the time of subdivision and they cannot be created unless they can properly accommodate the septic system. Serviced lots, on the other hand, can be created at any size. In this case it tends to promote an orderly form of development and it may be desirable, for planning reasons, to require different lot sizes for different types of development or in different areas of the municipality.

Part 10 Residential Medium Density (R-2)

Permitted Uses

10.1 The following uses shall be permitted in the Residential Medium Density Zone (R-2):

- (i) any use permitted in the R-1 zone subject to the R-1 Zone requirements
- (ii) dwellings with more than 2 but not more than 6 units
- (iii) bed and breakfast establishments
- (iv) day care centres
- (v) grouped dwellings with a total of not more than 6 units

R-2 Zone General Requirements

10.2 The following requirements shall apply to all uses:

Requirement	Standard
Minimum lot area	180 sq. m.(2000 sq. ft) /dwelling unit
Minimum lot frontage	30 m. (100 ft.)
Minimum front yard	6 m. (20 ft.)
Minimum rear yard	6 m. (20 ft.)
Minimum side yard	2.4 m. (8 ft.)
Maximum height of main building	10.5 m. (35 ft)
Maximum lot coverage	35%

The general requirements for the R-2 zone allow for a slightly higher density of development. The minimum lot size requirement works out to about 21 units per acre. By setting a sliding minimum lot size, based on the number of units to be developed, the density remains the same no matter how many units are to be developed.

Special Requirement - Landscaping

10.3 In the case of a building containing 3 or more units, or bed and breakfast establishments, outdoor parking and service areas shall be screened from the street and adjacent residential property through the use of landscaping or opaque fencing.

Part 11 Residential High Density (R-3)

Permitted Uses

- 11.1 The following uses shall be permitted in the Residential High Density Zone (R-3):
- (i) boarding and rooming houses
 - (ii) uses permitted in the R-2 zone subject to the R-2 Zone requirements
 - (iii) dwellings with more than 6 but not more than 12 units

The examples presented in this Model Bylaw allow multi-unit residential development up to 12 units as-of-right and anything more than 12 units to be developed through the development agreement process. The thinking is that any building with more than 12 units will be of sufficient size that it will have a more severe effect upon the surrounding neighbourhood. Because of this it should be considered more carefully in terms of the size and shape of the building, the landscaping and open space needs and whether or not the physical and social services are in place to accommodate the development.

R-3 Zone General Requirements

- 11.2 The following requirements shall apply to all uses:

Requirement	Standard
Minimum lot area	135 sq. m.(1500 sq. ft) /dwelling unit
Minimum lot frontage	30 m. (100 ft.)
Minimum front yard	6 m. (20 ft.) for every 10 m.(33 ft.) in building height
Minimum rear yard	6 m. (20 ft.)
Minimum side yard	2.4 m. (8 ft.)
Maximum height of main building	NA
Maximum lot coverage	35%

Again, in the R-3 zone, a sliding minimum lot size requirement is used based upon the number of units being developed. In this case the density is a little higher at about 29 units per acre. Also introduced here is a sliding

front yard requirement based upon the height of the building. There is no height restriction imposed because it was felt with a maximum of only 12 units and the front yard requirements, building height would not be a problem.

Special Requirement - Landscaping

- 11.3 In the case of a building containing 6 or more units, outdoor parking and service areas shall be screened from the street and adjacent residential property through the use of landscaping or opaque fencing.

Part 12

Residential Manufactured Home (RMH)

The entire issue of manufactured homes will be the subject of a separate document to be prepared and released by the Housing Division of the Department of Community Services. These zones are appropriate in a land use bylaw and the headings will be left here for reference. How to deal with them, however, will be presented in a different document.

Part 13

Residential Manufactured Home Park (RMHP)

As mentioned in Part 12, the issue of manufactured housing will be the subject of a separate document. The headings are left here for reference.

Part 14 General Provisions for All Commercial Zones

Commercial uses are much more diverse in nature than residential uses. In addition they differ with regard to such things as parking, signage, outdoor storage and traffic. Commercial zoning is difficult not so much because of the diversity but because of the delicate balance that is necessary. Not enough commercially zoned area can lead to stifling of commercial activity while too much can lead to sprawl and land use conflicts. In addition, there are always areas of transition that will need special attention.

There are three commercial zones set out in this Model Bylaw. Commercial Local, Commercial General, and Commercial Highway. Shopping centres are permitted through the development agreement process and so are not given a zone of their own. The thinking here is that shopping centres tend to have a fairly large impact on the surrounding neighbourhood and because of that should be evaluated on a case by case basis. There is no right or wrong way to do this. Some municipalities may want to give shopping centres their own zone and that is certainly a valid way to proceed.

There is no downtown commercial zone set out here. The intent is to do things as simply as possible. In that regard the downtown commercial uses were considered no different from other general commercial uses and so no special zone was needed. There may, however, be a need to have different parking standards for downtown areas.

Not all municipalities will want or need a part of the Bylaw dedicated to General Provisions for All Commercial Zones. But if there are some provisions that will apply to all commercial zones it makes sense to include them here rather than repeating them in every zone.

Special Requirement - Lots Abutting Residential and Institutional Zones

14.1 Where the yard of a lot located within any commercial zone abuts a lot in a residential, or institutional zone the following standards apply:

- (i) the minimum setback of the commercial use from the abutting lot line shall be ____ m.;
- (ii) no open storage or outdoor display shall be permitted in the abutting yard of the commercial zone;
- (iii) no portion of any parking space within the commercial zone shall be permitted in any abutting yard except where the parking space is screened from view with a ____ m. high fence; and
- (iv) in addition to the provisions of **Part 7 Signs** no sign that is greater than ____ square m. in area or greater than ____ m. in height shall be placed in the abutting yard of the commercial zone.

These provisions will require supporting policy in the municipal planning strategy. Although no numbers are given, the intent would be to protect abutting uses from the potential negative effect of the commercial use.

Automobile Service Station Requirements

14.2 Where a proposed development is for an automobile service station the following special provisions shall apply:

- (i) minimum lot frontage shall be ____ m.;
- (ii) no portion of any pump island (the raised concrete pad on which the gas pumps are situated) shall be located closer than ____ m. from the street;
- (iii) the minimum distance between driveways shall be ____ m.;
- (iv) the minimum distance from any driveway to a street intersection shall be ____ m.;
- and
- (v) the width of the driveway shall not be less than ____ m..

Automobile service stations are changing. What used to be a use devoted exclusively to the fuelling and maintenance of automobiles is now a gas station/corner store/fast food restaurant/coffee shop/dry cleaners centre. What hasn't changed, though, is the fact that these uses depend on the fast movement of vehicles both in and out of the property. Provisions that regulate access should be carefully considered and supported by policy.

Service station canopies are an issue in some municipalities. The major oil companies utilize standard station designs that usually include a large canopy over the gas pumps. The issue here is design standards and encroachment onto adjacent properties.

Screening of Refuse Containers

14.3 In any commercial zone where refuse and recycling containers are located outside the building they shall be screened from the adjacent property and the street through the use of landscaping or opaque fencing.

Services Required

14.4 Developments within the C-2 and C-3 Zones shall only be located on lots served with central sewer and water services.

Part 15 Commercial Local (C-1)

This zone is designed for small scale commercial stores and services that are intended to serve the needs of a local neighbourhood. A fairly extensive list of uses is provided to show the range of uses that could be permitted in this zone. Not all of these uses will be appropriate for every municipality. Also, it is quite common to zone only existing local commercial uses C-1 and require a rezoning if new local commercial uses are proposed for development in a residential area.

The local commercial zone is somewhat unique in that it is usually found in the Residential designation on the Generalized Future Land Use Map.

Permitted Uses

15.1 The following uses shall be permitted in the Commercial Local Zone (C-1):

- (i) bakery shop
- (ii) convenience store
- (iii) drug store
- (iv) dwelling units (within the commercial use building)
- (v) ice-cream shop
- (vi) office
- (vii) restaurant
- (viii) personal service shop
- (ix) uses permitted in the R-1 zone
- (x) video rental shop
- (xi) recycling depot

This list of permitted uses contains some generic terms such as “office” and “personal service shop”. These generic terms are useful in that they allow for the accommodation of unforeseen uses that fit into the group. Personal service shops, for example, could include laundromats, dry cleaners, barber shops, and beauty salons. If the municipality wanted to be more specific, they should be careful to state only those uses that they want permitted and stay away from generic terms.

The list of uses presented here is very broad and may not be appropriate in all cases. Just allowing convenience stores, for example, may be all that is necessary and prudent given the residential neighbourhoods in which these uses will be located.

C-1 Zone General Requirements

15.2 The following requirements apply to all uses:

Requirement	Standard with Central Sewer and Water Services	Standard without Central Sewer and Water Services
Minimum lot area	450 sq. m. (5000 sq. ft.)	2700 sq. m.(30,000 sq. ft.) /dwelling unit or larger size as required in a report from a qualified person
Minimum lot frontage	15 m. (50 ft.)	75 m. (250 ft.)
Minimum front yard	6 m. (20 ft.)	6 m. (20 ft.)
Minimum rear yard	6 m. (20 ft.)	6 m. (20 ft.)
Minimum side yard	2.4 m. (8 ft.)	2.4 m. (8 ft.)
Maximum building height	10.5 m. (35 ft.)	10.5 m. (35 ft.)
Maximum lot coverage	35%	10%

These standards are essentially the same as those required for the R-1 zone. Since this zone will typically be found in the residential areas, it seemed appropriate to apply the same standards. The only additional consideration will be the room for off street parking. The parking standards in this Bylaw would require 5 parking spaces be provided if the largest possible commercial space were utilized (135 sq. m. divided by 30). That should be able to be accommodated within the front or rear yard space.

Maximum Commercial Floor Area

15.3 The net commercial floor area for a building in the C-1 zone shall not exceed 135 sq. m. (1500 sq. ft.).

The Act does not specifically enable a municipality to set a maximum floor area for a use unless it is found in association with another use in the same building. A maximum size may, however, be set when the size is fundamental to the nature of the use. In this case, size is essential to the definition of the use and therefore a maximum floor area can be set. A local commercial use is only local by virtue of it being a certain size (in this case 135 sq. m.). If the use is larger than that it is no longer a local commercial use.

The suggested number may not be appropriate in all cases. Also, it should be noted that the regulation is for “net” commercial floor area. This would exclude any part of the building used for a residence and areas used for maintenance, washrooms, storage etc.

Special Requirement - Open Storage

15.4 No open storage or outdoor display shall be permitted in the C-1 zone.

Even though these are not uses that would normally be associated with outdoor storage a municipality may want to include a requirement such as this in the Bylaw.

Part 16 Commercial General (C-2)

This zone is applied to areas in a municipality where normal everyday commercial activity is to take place. Some municipalities will want to separate this zone into categories like “Downtown Commercial” or “Tourist Commercial” and sometimes even “Waterfront Commercial”.

This zone would typically be applied in downtown areas and commercial nodal areas outside of the downtown.

Permitted Uses

16.1 The following uses shall be permitted in the Commercial General Zone (C-2):

- (i) any business or commercial retail enterprise, **excluding** shopping centres
- (ii) day care centres
- (iii) offices
- (iv) parks and public open spaces
- (v) public transit stations
- (vi) residential uses (not on the ground floor) in combination with permitted commercial uses
- (vii) uses permitted in the Institutional (I) zone

The permitted uses in this zone are very broad. No attempt has been made to identify specific commercial uses because of the possibility of missing some unintentionally. If there are specific uses that should not be included they can be listed as prohibited.

The zone allows residential uses but only if they are in combination with a commercial use or uses. There is no real limitation here except for what will be applied by the development standards. The theory is that this kind of freedom will result in a vibrant and interesting environment.

C-2 Zone General Requirements

16.2 The following requirements apply to all uses:

Requirement	Standard
Minimum lot area	NA
Minimum lot frontage	NA
Minimum front yard	NA
Minimum rear yard	NA
Minimum side yard	NA

Requirement	Standard
Maximum building height	15 m. (50 ft.)
Maximum lot coverage	50%

There are very few general requirements applied to the Commercial General Zone because it was felt that most of these decisions are best left to the developer. It is probable that developers will want to maximize their return on investment and build as big a building as they can. The standards shown here will control that aspect of the development but will not overly restrict the placement of the building on the lot. It should also be noted that the Building Code will also have a limiting influence on building placement.

Special Requirement - Open Storage

16.3 No open storage or outdoor display shall be permitted in the C-2 zone.

This is an important provision because of the broad nature of the uses permitted in the zone. This provision will have the effect of limiting certain uses that would typically use outdoor display, such as automobile dealerships or plant nurseries, from locating in these areas. If some outdoor display is wanted, the section could apply a limit by using a maximum square metres or a maximum percentage of the lot as a measure.

Special Requirement - Parking

16.4 (a) Notwithstanding Section 6.16 of this Bylaw, Parking and Loading Requirements, in the C-2 zone, Council may accept a cash payment in lieu of the required parking spaces in accordance with the following formula: **amount of payment = (a x 18.5 sq. m. x b) + (b x 50)** where:

- S a = assessed value of land per sq. m.
- S 18.5 = number of square m. in each parking space
- S b = number of required parking spaces
- S 50 = cost of constructing one parking space in dollars

(b) A combination of cash and parking spaces may be accepted.

(c) Any cash collected in lieu of parking shall be placed in a special account and used only to provide or improve parking spaces within any commercial zone.

In some cases, it may be desirable to exempt C-2 uses from the Bylaw's parking space requirements. This may be especially true in areas like the downtown where a development pattern has been established. The exemption can be either total or partial depending upon the perceived need.

The cash-in-lieu option offers some flexibility in allowing development to proceed where the usual parking requirements cannot be met. It is not used extensively in the province as it may require the developer to pay a

considerable amount of cash to the municipality before obtaining a development permit. If a municipality were willing to pay a portion for the cost the formula could be adjusted to reflect this.

The subject of parking in downtown areas may require special study. Such things as the size of commercial lots, the existing built-up areas, availability and likelihood of public parking facilities, proximity to residential areas and the level of transit services, if any, needs to be considered. For example, if there is a very limited space available in the downtown and it is characterized by small lots, large parking space requirements may discourage new commercial development.

Part 17 Commercial Highway (C-3)

The Commercial Highway (C-3) Zone is intended to be applied to lands adjacent to the main highways leading into a community. The types of uses most suited to this zone are those that need large amounts of retail floor space, need outdoor display areas, serve the travelling public, and cater to the automobile.

An issue common to this zone is how many of the commercial general uses should be allowed to locate here. In contrast to the C-2 zone which is very broad in its permitted uses, the C-3 zone will be somewhat more restrictive. If a broader array of uses is desired then the commercial general zone can be applied along with the highway commercial zone.

Permitted Uses

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

- (i) automobile, truck and motorcycle sales, service, or rental establishments
- (ii) automobile service stations
- (iii) banks
- (iv) bowling alleys
- (v) curling rinks
- (vi) farmers markets
- (vii) funeral homes
- (viii) garden nurseries and greenhouse establishments
- (ix) hotels and motels
- (x) licensed liquor establishments
- (xi) manufactured home sales centres
- (xii) offices
- (xiii) recreation vehicle sales, service and rental establishments
- (xiv) restaurants
- (xv) retail stores
- (xvi) theatres, including cinemas
- (xvii) uses permitted in the Institutional (I) zone

C-3 Zone General Requirements

17.2 The following requirements apply to all uses:

Requirement	Standard
Minimum lot area	
Minimum lot frontage	
Minimum front yard	

Requirement	Standard
Minimum rear yard	
Minimum side yard	
Maximum building height	15 m. (50 ft.)
Maximum lot coverage	

A function of the C-3 zone is to avoid undue restriction of traffic flow. This suggests fairly large minimum lot size and frontage requirements (for example 1000 sq. m. in area and 30 m. in frontage). Another important requirement is the front yard setback. It is often kept fairly large to avoid crowding or massing of buildings along the street and to maintain safe highway sight distances. The driveway access provisions of Section 6.6 will come into play here limiting driveway access on arterial and collector streets to one every 30 metres. The minimum frontage requirement should not be less than that.

Special Requirement - Open Storage and Outdoor Display

- 17.3 (a) In the C-3 zone, outdoor storage shall be:
- (i) located in the rear yard only;
 - (ii) screened from adjacent properties and the street by a fence at least 2 m. in height; and
 - (iii) limited to a maximum of ____ percent of the lot.
- (b) In the C-3 zone, outdoor display areas shall be limited to a maximum of ____ percent of the lot.

Part 18 Industrial Light (M-1)

Industrial uses can create challenges for municipalities because of the scale at which they may operate and the impact they may have on neighbouring uses. Another issue is that industries are usually location sensitive. They quite often need specific locations in order to operate successfully. Quick and easy access to transportation corridors is usually essential, as is adequate provision for water, sewer, and power services.

In many municipalities there are industries whose locations were determined by factors existing at the turn of the century or earlier. Subsequently, they have been encircled by residential or commercial developments. These industries may still be major employers and will probably need to be treated differently than other more modern industries. Harbour related industries obviously need waterfront locations and might be dealt with by having a separate industrial zone.

Industrial parks have become the preferred way of dealing with future industrial needs. They allow municipalities to carefully plan servicing and location issues and prepare for industrial expansion in a controlled way. The park may have its own special zone or it might be zoned for light or heavy industrial use. The decision of which approach to follow will depend largely upon the municipality's overall industrial scheme in terms of the number of industrial sites, their location, and the mixture of uses permitted.

All of the industrial zones in this Model Bylaw are prepared using the assumption that the sites are serviced with sewer and water services. If this is not the case lot standards will have to be adjusted accordingly.

The zone set out here is for light industrial uses. Generally, these are industrial uses that are not considered obnoxious.

Permitted Uses

18.1 The following uses shall be permitted in the Industrial Light Zone (M-1):

- (i) any manufacturing, assembling, storage, or processing plant except those listed in Schedule 'D' of this Bylaw
- (ii) commercial uses accessory to the main use
- (iii) crematoria
- (iv) recycling depots
- (v) research facilities
- (vi) service industries
- (vii) trucking and railway depots
- (viii) utilities
- (ix) wholesale and warehouse facilities

The distinction between light and heavy industries is obvious for some industries but not so obvious for others. The attempt here is to try to make the distinction based on the nature of the use. To simplify the task we have used the Environmental Assessment Act Regulations which specify those industries that will require an environmental assessment. If it requires an assessment, it gets put into Schedule 'D' and will be prohibited in the Industrial Light (M-1) zone. This method is relatively easy and can be adapted to suit the needs of any municipality. For example,

Schedule 'D' would allow bulk storage facilities less than 5000 cubic metres in size in the M-1 zone. If this is considered too large for the M-1 zone it can be changed, in Schedule 'D', to a smaller figure.

It is most likely that a municipality will zone industrial parks for light industrial use. The question then is whether or not to allow commercial uses in industrial parks. Depending on the size of the park there may be a need for some limited commercial uses to support employees working there. This would include such things as restaurants, banks, and convenience stores. In such circumstances commercial uses may be included in the M-1 zone but care should be taken to ensure the park does not become overly commercialized. If this happens, the commercial business may eventually object to having industries located on abutting lots. The preferred approach would be to zone one or two localized areas for commercial use. This would ensure that land for industrial use is maintained while at the same time allowing for supportive commercial uses close by.

In this example commercial uses have been permitted only as accessory use to the main use.

M-1 Zone General Requirements

18.2 The following requirements apply to all uses:

Requirement	Standard
Minimum lot area	
Minimum lot frontage	
Minimum front yard	
Minimum rear yard	
Minimum side yard	
Maximum height of main building	NA
Maximum lot coverage	NA

No suggested numbers have been included here because the standard will vary depending upon the area in which the zone is located and the types of uses permitted. In old industrial areas, where other forms of development have built-up around it, the most desirable standards will likely be impossible to achieve. In new industrial parks though, fairly high standards will probably be appropriate. A maximum building height standard and a maximum lot coverage standard has not been included because these are not usually an issue for industrial uses. They should be included if there is a concern over local fire fighting capabilities (for height) or if certain nonindustrial uses are permitted in the zone.

Special Requirement - Lots Abutting a Nonindustrial Zone

- 18.3 (a) Where a lot located in the M-1 zone abuts a lot in a nonindustrial zone the following standards apply:
- (i) the industrial use shall be setback from the abutting lot line a minimum of ____ m.;
 - (ii) no open storage or sign shall be permitted in the abutting yard; and
 - (iii) no parking or loading space shall be permitted within ____ m. of the abutting lot line.

The abutting zone requirements are designed to protect neighbouring uses from the potential nuisance effect of the industrial use. Items (ii) and (iii) may not be necessary in some situations while in others additional requirements such as fencing and landscaping may be considered appropriate.

- (b) Notwithstanding subsection (a) where the yard of a lot within the M-1 zone abuts a railway line or shoreline, no setback shall be required from the abutting lot line.

Special Requirement - Accessory Commercial Uses

18.4 Accessory commercial uses are permitted within the main building or in an accessory building but in any case shall not be larger than 25 percent of the gross floor space devoted to the main use.

Services Required

18.5 Developments within the M-1 Zone shall only be located on lots served with central sewer and water services.

The requirement for central services may not be necessary in all circumstances, particularly in rural areas.

Part 19 Industrial Heavy (M-2)

This zone is set-up to deal primarily with uses that involve the processing of raw material and industrial uses that require large areas of land.

Permitted Uses

19.1 The following uses shall be permitted in the Industrial Heavy Zone (M-2):

- (i) any manufacturing, assembly, processing, storage, or transportation facility or plant
- (ii) composting facilities
- (iii) construction and demolition debris facilities
- (iv) electricity production and distribution industries
- (v) landfill sites
- (vi) marine related industries
- (vii) natural gas production and processing industries
- (viii) uses permitted in the Industrial Light M-1 zone

This list could simply say “all industrial uses”. As it is, it allows a very broad range of uses. A municipality may wish to deal with some of the more intense uses by development agreement or by setting up a separate zone for them. Alternatively large minimum lot requirements may be appropriate.

Some municipalities may want to set up a separate zone for the handling of municipal waste. This would include everything from landfill sites to composting facilities. More recently construction debris recycling facilities are becoming necessary. Much of this material can be recycled and reused.

The industrial zones are stacked (ie. M-1 uses are allowed in the M-2 zone) because it allows some flexibility for heavy industry to change to a less intense use without requiring a rezoning. It makes a municipality more industry friendly without losing control over the most intense uses. The only danger with this is the heavy industry areas could be overtaken with light industrial uses. If this begins to happen it might be an opportunity to review the industrial policies of the plan and look for areas to expand.

M-2 Zone General Requirements

19.2 The following requirements apply to all uses:

Requirement	Standard
Minimum lot area	
Minimum lot frontage	
Minimum front yard	

Requirement	Standard
Minimum rear yard	
Minimum side yard	
Maximum height of main building	NA
Maximum lot coverage	NA

The general requirements for heavy industrial uses will be fairly large given the nature of the uses permitted. In addition, there may be a need for special requirements such as fencing and landscaping.

Special Requirement - Lots Abutting a Nonindustrial Zone

- 19.3 (a) Where a lot located in the M-2 zone abuts a lot in a nonindustrial zone the following standards apply:
- (i) the industrial use shall be setback from the abutting lot line a minimum of ____ m.;
 - (ii) no open storage or sign shall be permitted in the abutting yard; and
 - (iii) no parking or loading space shall be permitted within ____ m. of the abutting lot line.

In this zone, as in the M-1 zone, the abutting yard requirements may need to be adjusted to include some form of screening.

- (b) Notwithstanding subsection (a) where the yard of a lot within the M-2 zone abuts a railway line or shoreline, no setback shall be required from the abutting lot line.

Special Requirement - Scrap Yards, Composting Facilities, and Construction and Demolition Debris Facilities

- 19.4 In addition to all other applicable requirements any scrap yard, composting facility or construction and demolition debris facility developed within the M-2 zone shall have the outdoor storage areas enclosed with an opaque fence a minimum of 2 m. (6.6 ft.) in height.

Part 20 Industrial Park (M-3)

Most municipalities will want to deal with future industrial expansion using industrial parks or at least setting aside areas where they can be developed. It may be that the industrial park zone will be the only industrial zone needed. Most likely though, there will be existing industrial areas that are not located in an area where industrial expansion is desired. In that case, the existing areas can be spot zoned as either Industrial Light (M-1) or Industrial Heavy (M-2), as appropriate, and the new industrial area zoned Industrial Park (M-3).

It is common practice for municipalities to include commercial uses in their industrial park zones. This can cause problems because, as stated earlier, there is a potential for the park to become overly commercialized. If there is a need for commercial activity in or near industrial parks the general commercial zone should be applied to the appropriate areas. This will provide certainty for the commercial operators as well as the industrial enterprises.

Permitted Uses

20.1 The following uses shall be permitted in the Industrial Park Zone (M-3):

- (i) any manufacturing, assembling, storage, or processing plant except those listed in Schedule 'D' of this Bylaw
- (ii) commercial uses accessory to the main use
- (iii) recycling depots
- (iv) research facilities
- (v) service industries
- (vi) trucking and railway depots
- (vii) utilities
- (viii) wholesale and warehouse facilities

The uses listed here are the same as those for the Industrial Light M-1 zone. If the M-1 zone is also used in the Bylaw this zone could simply say, "any use permitted in the M-1 zone".

Also missing from this list is office buildings. These are quite often seen in industrial parks. They have been left out here because the general philosophy being presented is one where commercial uses belong in commercial zones. Industrial areas should be reserved for industrial uses. If a municipality wants to take a more integrated view they should review the list and include the appropriate uses.

M-3 Zone General Requirements

20.2 The following requirements apply to all uses:

Requirement	Standard
Minimum lot area	
Minimum lot frontage	

Requirement	Standard
Minimum front yard	
Minimum rear yard	
Minimum side yard	
Maximum height of main building	NA
Maximum lot coverage	NA

Special Requirement - Lots Abutting a Nonindustrial Zone

- 20.3 (a) Where the yard of a lot located in the M-3 zone abuts a nonindustrial zone the following standards apply:
- (i) the industrial use shall be setback from the abutting lot line a minimum of ____ m.;
 - (ii) no open storage or sign shall be permitted in the abutting yard; and
 - (iii) no parking or loading space shall be permitted within ____ m. of the abutting lot line.
- (b) Notwithstanding subsection (a) where the yard of a lot within the M-3 zone abuts a railway line or shoreline, no setback shall be required from the abutting lot line.

Special Requirement - Accessory Commercial Uses

20.4 Accessory commercial uses are permitted within the main building or in an accessory building but in any case shall not be larger than 25 percent of the gross floor space devoted to the main use.

Services Required

20.5 Developments within the M-3 Zone shall only be located on lots served with central sewer and water services.

Part 21 Institutional (I)

This zone is intended for uses that serve society in various ways. Institutions have changed significantly over the years. Orphanages, for example, are no longer being built. Schools and universities have become multi-use centres providing space for public and private meetings, seminars and conventions as well as being places of learning. All of this should be considered when planning for institutional uses.

Increasingly municipalities run into problems when institutional buildings become redundant and no longer needed. Thought should be given to the possible reuse of these buildings.

Some municipalities, particularly smaller ones, include institutional uses as permitted uses in their residential zones. This may be all that is needed if institutional activity is limited.

Permitted Uses

21.1 The following uses shall be permitted in the Institutional Zone (I):

- (i) art galleries
- (ii) centres for the performing arts
- (iii) churches, associated halls and cemeteries
- (iv) community centres
- (v) community service clubs and organizations
- (vi) correctional facilities (including prisons, jails, juvenile detention centres, and half way houses)
- (vii) court houses
- (viii) emergency services facilities (ie: police, ambulance and fire stations)
- (ix) government legislative buildings
- (x) hospitals
- (xi) libraries
- (xii) military bases
- (xiii) museums
- (xiv) nursing homes (including residential care facilities)
- (xv) medical clinics
- (xvi) schools
- (xvii) senior citizen housing
- (xviii) sports facilities (indoor)
- (xix) universities and colleges including related research, office and student facilities
- (xx) veterinary clinics (including animal hospitals)

Some municipalities prefer to include sports facilities with their park zone. This model has taken the view that the park zone will be reserved for uses that do not involve buildings. Where a sports facility involves a building it will be included in the institutional zone.

Only government legislative buildings were included here which would include Town Hall/Municipal Building. Where government occupies office buildings or industrial buildings they should act as any other tenant or owner and should take into consideration the Land Use Bylaw. Provincial and federal governments are not bound by municipal bylaws and their own development policies may take precedence over those of the municipality.

Correctional facilities are included in the list of permitted uses. Because of the controversial nature of these uses it would be wise to review this and determine if a more restrictive regulation would be appropriate.

I Zone General Requirements

21.2 The following requirements apply to all uses:

Requirement	Standard
Minimum lot area	
Minimum lot frontage	
Minimum front yard	
Minimum rear yard	
Minimum side yard	
Maximum height of main building	
Maximum lot coverage	

Some municipalities do not impose any general requirements for institutional uses. Others impose the minimum standards for residential uses. In reality any large scale institutional uses will most likely be developed, owned and operated by senior levels of government. The development of a hospital or a school, for example, will carry with it its own set of standards which will probably be more stringent than any the municipality would impose.

Special Requirement - Lots Abutting Residential Zones

21.3 Where the yard of a lot located in the I zone abuts a residential zone the following standards apply:

- (i) the institutional use shall be setback from the abutting lot line a minimum of ____ m.; and
- (ii) a landscaped buffer shall be provided along the abutting lot line with vegetation sufficient to provide a screen at least 2 m. in height.

Landscaping provisions will require policy support in the strategy.

Services Required

21.4 Developments within the I Zone shall only be located on lots served with central sewer and water services.

Part 22 Park (P)

The park zone is intended to apply to any areas where open space uses (except for parking lots) are to be developed. This would include such uses as parks, playgrounds, public or private golf courses, baseball and soccer fields, campgrounds, and so on. The zone will apply to both public and private land and should allow enough uses to prevent it from becoming an unauthorized prohibition.

Some municipalities may want to separate the public park uses from the private park uses. If so, two park zones could be used.

It is likely that the P zone will be applied only to existing uses so it is important to provide, in the strategy, for an ability to rezone to the P zone from any other zone and to rezone from the P zone should circumstances call for it.

Permitted Uses

22.1 The following uses shall be permitted in the Park Zone (P):

- (i) campgrounds
- (ii) golf courses
- (iii) golf driving ranges
- (iv) marinas
- (v) mini-golf courses
- (vi) sports facilities (outdoor)
- (vii) parks and gardens
- (viii) playgrounds
- (ix) sports fields
- (x) yacht clubs

It is quite common not to require any general development standards in the park zone. Since these are, for the most part, open space uses there is no need to maintain strict control over lot sizes and yards, etc. There should, however, be some limitation placed upon accessory buildings to ensure they do not become too prominent in the development.

Special Requirement - Accessory Buildings or Structures

22.2 Any building or structure erected in the P zone shall be deemed to be an accessory building or structure and in addition to the requirements of Section 6.1 such building or structure shall occupy an area no greater than ___ percent of the total lot area of the use.

Because some of the permitted uses in this zone will generate higher levels of traffic than others it might be appropriate to limit these uses to only collector or arterial streets. If the bylaw does not identify collector and arterial streets the same thing can be accomplished by simply naming the street that the development must have access from.

Part 23 General Development (G)

The General Development (G) zone is typically a rural zone where the use made of land is not a particular issue but there is still a need to impose development standards for health and safety reasons. In this case it may be most appropriate to list those uses that are to be prohibited rather than try to list all of the uses that will be permitted. Uses should be prohibited if they could dramatically change the character of the area in some way. For example, developments such as a major shopping centre or a large industrial plant will make a big difference in a community and as such should be considered more carefully before they are developed. This can be accomplished through the rezoning or development agreement process, both of which will require a public hearing.

Alternatively, a municipality could simply list the uses that would not be permitted as-of-right such as scrap yards or fish reduction plants.

Permitted Uses

23.1 All uses shall be permitted in the General Development Zone (G), **except for the following uses which shall be prohibited:**

- (i) any commercial or industrial use with a gross floor area greater than ____ sq. m. or which occupies a land area greater than ____ sq. m.

The area threshold used should reflect the scale of the existing development pattern in the area as well as what would be appropriate in the future. For example, if the area is mostly made-up of single detached dwellings with perhaps a small corner store, a threshold of 900 sq. m. (10,000 sq. ft.) might be reasonable.

G Zone General Requirements

23.2 The following requirements apply to all uses:

Requirement	Standard with Central Sewer and Water Services	Standard without Central Sewer and Water Services
Minimum lot area		
Minimum lot frontage		
Minimum front yard		
Minimum rear yard		
Minimum side yard		
Maximum height of main building	NA	NA

Requirement	Standard with Central Sewer and Water Services	Standard without Central Sewer and Water Services
Maximum lot coverage	NA	NA

Since this is a zone likely to be applied in a rural area, the general requirements should include standards for on-site servicing. Also, because there are very few restrictions as to the type of use that can be developed, lot sizes and required front side and rear yards become even more important. Minimum lot sizes should be large enough to allow unlike uses to exist side by side (4000 sq. m. or about 1 acre is a suggestion). Side yards should also be large (6 to 15 m. or 20 to 50 ft.) for the same reasons. Even larger setbacks may be necessary for certain agricultural activities such as intensive livestock operations. Any special cases should have policy support in the strategy.

No height or lot coverage regulation has been included here because it was considered unnecessary in a rural setting.

Special Requirement - Setback for Intensive Livestock Operations

23.3 Any building, structure or land area used for intensive livestock operations shall be setback from the property line and any watercourse, a distance of ____ m..

Part 24 Rural Resource (RR)

The purpose of the Rural Resource zone is to reserve an area where resource activities can be carried out relatively free from other land use competition. This zone may not be appropriate for all rural municipalities. In areas where soil quality has been assessed as being favourable for agricultural production, it might be desirable to restrict development to agricultural uses only. This would also be in keeping with the Statement of Provincial Interest Regarding Agricultural Land.

Single unit dwellings are also listed as permitted uses here but for obvious reasons their density should be kept low.

Permitted Uses

24.1 The following uses shall be permitted in the Rural Resource Zone (RR):

- (i) resource uses excluding processing plants greater than 450 sq. m. (5000 sq. ft.)
- (ii) single unit dwellings

There are certain uses associated with a resource that could cause concern, even in this zone. Pulp mills or fish reduction plants, for example, may not be considered appropriate and as such have been excluded from the list of permitted uses by way of a size limitation. Such uses can be accommodated in the industrial zones and consideration should be given to allowing these industrial uses close to the resource zone. Alternatively these uses could be allowed in the Rural Resource Zone only by development agreement. The policy allowing this would have to be carefully written to insure people living in the area would not be affected.

Strictly speaking, cutting trees and fishing are not considered developments and therefore are not something that can be controlled through a Land Use Bylaw. But this zone limits other types of development from taking place and in that sense preserves an area for resource activities.

Also, only structures and outdoor storage sites associated with the extraction of mineral and aggregate deposits can be regulated in the Bylaw. There is no municipal authority to control the actual mining of the deposit.

RR Zone General Requirements

24.2 The following requirements apply to all uses:

Requirement	Resource Uses (Structures and Storage Only)	Residential Uses
Minimum lot area	NA	1 hectare (2.5 acres)
Minimum lot frontage	NA	100 m. (330 ft.)

Requirement	Resource Uses (Structures and Storage Only)	Residential Uses
Minimum front yard	15 m. (50 ft.)	6 m. (20 ft)
Minimum rear yard	15 m. (50 ft.)	6 m. (20 ft.)
Minimum side yard	15 m. (50 ft.)	6 m. (20 ft.)
Maximum height of main building	NA	NA
Maximum lot coverage	NA	NA

Minimum lot size and frontage requirements have been waived for resource uses because they were not needed. These are generally land intensive uses, with the exception of the fishery, and a minimum lot size and frontage is irrelevant.

Lot size and frontage requirements, for residential uses, are suggested to be larger than normal to reduce the likelihood of strip development along existing roads and to preserve as much land as possible for the resource use. The Statement of Provincial Interest on agricultural land will come into play here. The MPS policy and the treatment in this Bylaw must be reasonably consistent with that statement.

Special Requirement - Fish Sheds and Boathouses

24.3 Notwithstanding the yard requirements in Section 24.2, the yard requirement is waived for fish sheds and boathouses for that part of the building facing the water.

Special Requirement - Lots Abutting Other Zones

24.4 Where the yard of a lot in the RR zone, containing a non-residential structure or storage area, abuts any other zone the abutting yard shall be screened using trees, shrubs or fences or any combination of these, such that any structure or storage area in the RR zone is screened from view from the abutting yard.

These abutting zone requirements are necessary to reduce any negative effect the resource use may have on any neighbouring non-resource land uses. Residential uses found in the RR zone do not have the same protection. The primary function of this zone is to preserve an area for resource activity. Residential uses are secondary to that purpose.

Removal of Topsoil Prohibited

24.5 Except where incidental to sod farming operations and plant nurseries, no topsoil shall be removed from any lot within the RR zone.

Because topsoil is fundamental to the ability to carry out agricultural activity the Act does allow municipalities to control its removal provided there is supporting policy in the strategy. It is recognized that not all rural resource areas have good quality soil and this may only apply to certain soil classifications.

Part 25 Watershed (W)

The purpose of this zone is to protect the municipal water supply watershed area. This is another area where a Statement of Provincial Interest has been prepared and must be followed. Obviously the list of permitted uses will be limited to those that will have the least impact upon water quality. (Also see: Municipal Water Supply Watershed Planning - Model Municipal Planning Strategy and Land Use Bylaw and Other Management Tools, prepared by Service Nova Scotia and Municipal Relations.)

A critical part of applying this type of zone is the background study that must be done. Because of the restrictive nature of the standards the numbers must be justified and based upon a scientific study of the watershed.

The Act, in S. 180, allows the municipality to prepare a Protected Water Supply Area Bylaw that would apply to lands owned by the municipality only. In some cases, where the entire watershed is held in public hands, this may be all that is needed. If, however, private land is part of the water supply watershed, the Land Use Bylaw offers the municipality the ability to control private development in a way that also respects the public interest. Generally speaking, private land cannot be prohibited from development except in the circumstances described in S. 220(5)(n)(o) and (p). This Model Bylaw presumes that single unit dwellings located on large lots are an acceptable use of private land. If studies show that even this type of development would be detrimental to water quality, serious consideration should be given to purchasing the land in question.

Another tool that can be used in the protection of a water supply watershed is to apply to the Minister of Environment and Labour to designate the watershed as a protected watershed under the Environment Act.

Permitted Uses

25.1 The following uses shall be permitted in the Watershed Zone (W):

- (i) parks
- (ii) playgrounds
- (iii) single unit dwellings
- (iv) water supply treatment and distribution uses

If there are existing uses that do not fall into any of the permitted use categories they can be included as “existing” uses in the list of permitted uses. If they are not included they will become nonconforming. Of course, it depends very much on what the existing uses are. If they are uses that would be a hazard to water quality they should not be encouraged to stay in the zone and should not be listed as permitted.

W Zone General Requirements for Single Unit Dwellings

25.2 The following requirements apply to single unit dwelling development only:

Requirement	Standard
Minimum lot area	1 hectare (2.5 acres)
Minimum lot frontage	100 m. (330 ft.)
Minimum front yard	6 m. (20 ft.)
Minimum rear yard	6 m. (20 ft.)
Minimum side yard	3 m. (10 ft.)
Maximum height of main building	10.5 m. (35 ft.)
Maximum lot coverage	10%

The development standards for single unit dwellings in this zone are suggested to be quite large to keep density low. There are no standards for the other uses permitted in the zone because they are, for the most part, open space uses. If existing uses are to be permitted and they are not single unit dwellings, the general requirements will have to be adjusted accordingly.

Special Requirement - Setback From a Watercourse

25.3 Notwithstanding anything else in this Bylaw, within the W zone no structure, other than a water treatment or distribution facility, shall be located closer than 30 m. (100 ft.) from a watercourse.

*This special requirement provides added security to the quality of the water in the watershed. **Thirty metres is suggested but individual circumstances, such as steepness of slope or vegetation cover, may allow for a lesser distance or require a larger one.** Because the distance is so large policy support in the strategy is required.*

Special Requirement - Retention of Natural Vegetation

25.4 In relation to a development, one hundred percent of the natural vegetation surrounding a watercourse shall be maintained for a distance of 20 m. (65 ft.) back from the shore line.

*This regulation is enabled under S. 220(5)(d) but it requires supporting policy in the strategy. Its purpose is to help prevent any sedimentation and erosion of the watercourse shore line when a development is to take place. **The 20 metre distance is only a suggestion. Individual circumstances should be studied before any accurate distance can be determined.***

Part 26 Holding (H)

A holding zone is intended to be applied to areas of the municipality where all development will be prohibited. It is enabled by S. 220(5)(n) of the Act. Applying a holding zone is very rarely done in Nova Scotia because it is essentially taking away private development rights. The Act is very clear with respect to the reasons for applying such a zone. It can be applied if the cost of providing municipal sewer, water, or stormwater systems would be prohibitive or premature, or if the cost of maintaining new municipal streets would be prohibitive.

A holding zone is not meant to be a permanent way of preventing development from occurring. Its purpose is to give the municipality an opportunity to service lands at a pace it can afford. There must be strong policy explanation in the municipal planning strategy to support this zone. The policy must give a clear intention to service the land at some reasonably certain point in the future.

Permitted Uses

26.1 The following uses shall be permitted in the Holding Zone (H):

- (i) existing uses as listed in Schedule ‘C’ of this Bylaw

If there are existing uses in the area of the holding zone they should be listed as permitted uses. By listing them as such no other uses can be developed but these can continue as before.

It also may be appropriate to allow single unit dwellings served by existing sewer and water services. This would cover a situation where the holding zone was applied to lands adjacent to existing services. While extending the services may be prohibitive there would be no reason to prevent development of those lots that could be served by the existing services.

It may also be appropriate to restrict subdivision to one lot per calendar year to prevent speculation and control the demand for services.

Part 27

Comprehensive Development District (CDD)

The purpose of the Comprehensive Development District (CDD) zone is to establish where this type of development will take place and what uses will be developed there. This is a unique development option. Most of the actual development will take place through development agreements which are guided by detailed policy in the strategy. The Act does allow for some development to take place as-of-right. This is a new provision in the Act [S. 226(1)(b)] which provides some flexibility for development in these areas. Typically it is applied to a large area of land that is intended to be developed as a unit, in a coordinated way.

Permitted Uses

- 27.1 (a) The following uses shall be permitted in the Comprehensive Development District (CDD) zone only by development agreement and in accordance with policy . . . of the municipal planning strategy:
- (i) commercial general uses
 - (ii) institutional uses
 - (iii) multiple unit dwellings
- (b) The following uses shall be permitted in the Comprehensive Development District (CDD) zone as-of-right:
- (i) single unit dwellings subject to the R-1 Zone requirements
 - (ii) two unit dwellings subject to the R-1 Zone requirements

This list is just an example. The policy in the strategy will normally detail what uses will be placed in the list. The policy may be very specific as to what commercial or institutional uses will be permitted, the density of residential development, and the proportional distribution of the types of residential uses.

There are no development standards here because these will all be part of the development agreements put in place before development permits are issued.

Part 28 Hazard (X)

This zone is intended to be applied to those areas of the municipality where development should not take place due to identified hazards. This type of prohibition is authorized in S. 220(5)(p) of the Act. Typically the zone would be applied to areas susceptible to flooding (the Statement of Provincial Interest on flood risk areas requires this in an identified 1 in 20 year flood plain), steep slopes, wetlands, environmentally contaminated sites and so on.

In some cases resource uses, open space uses or passive recreational uses can be permitted but no buildings or structures can be located in the zone.

Permitted Uses

28.1 The following uses shall be permitted in the Hazard (X) Zone:

- (i) open space agricultural and forestry uses (no buildings or structures are permitted)
- (ii) parks
- (iii) parking lots

Special Overlay Zones

These special overlay zones are not intended to control uses. They are designed to apply one or more additional requirements that are area specific not use specific. The overlay may encompass an area that contains several different zones. Any development will be required to comply to the requirements of the specific zone as well as the requirements of the overlay zone.

The examples presented here are simply used to show the variety of things that may be dealt with in this way. Some municipalities may not have a need for any of the overlays while others may need more or different overlays.

Part 29 Flood Fringe Overlay

The Flood Fringe overlay would normally be applied to the 1 in 100 year floodplain. The federal and provincial governments, through the Canada/Nova Scotia Flood Damage Reduction Program, have mapped five rivers in the province showing their 1 in 20 year floodplain and their 1 in 100 year floodplain. These rivers are: the Salmon and North Rivers, Colchester County, the East River, Pictou County, the Little Sackville River, Halifax Regional Municipality, the Sackville River, Halifax Regional Municipality, and the West and Rights Rivers, Antigonish County. Municipalities with other known flood areas should also use the flood fringe overlay approach if the area prone to flooding has been identified by a study of by historical records.

The Statement of Provincial Interest on Flood Risk Areas will require land use controls similar to what is described here.

Prohibited Uses

29.1 Notwithstanding the permitted uses found elsewhere in this Bylaw, within the area designated as Flood Fringe on Schedule ‘A’, the zoning map, the following uses shall be prohibited:

- (i) residential institutions such as hospitals, nursing homes, senior citizen housing and similar facilities
- (ii) any use associated with the storage or warehousing of hazardous materials

Placement of Off-Site Fill

29.2 Notwithstanding anything else in this Bylaw, in an area designated Flood Fringe in Schedule ‘A’, the zoning map, no off-site fill shall be permitted except that required to meet the floodproofing standards found in section 29.3 of this Bylaw.

*Regulating fill will require policy support in the Strategy and can only be done in relation to a development.
S.220(5)(g)*

Floodproofing Standards

- 29.3 In addition to any other applicable requirements, for a development located in an area designated Flood Fringe on Schedule 'A', the zoning map, the floodproofing standards of either subsection (a) or (b) shall apply.
- (a) No enclosed portion of the structure shall be below the 1 in 100 year flood elevation; or
 - (b) Where an enclosed portion of the structure is below the 1 in 100 year flood elevation:
 - (i) there shall be no openings in the external walls of the structure (eg. windows or doors) below the 1 in 100 year flood elevation,
 - (ii) fill shall be placed around the perimeter of the structure to a height not less than the 1 in 100 year flood elevation, for a distance of not less than 3 m. and not greater than 6 m., and
 - (iii) the perimeter of the fill shall be stabilized by fill at a slope of 1 to 1 or by any other floodproofing measure as determined by a qualified engineer.

Part 30

Heritage Conservation Design District Overlay

In Nova Scotia, most municipalities can point to an area or areas within their boundaries that have historical value because of the architectural or cultural significance of the buildings as a group. In such cases municipalities may wish to apply a Heritage Conservation Design District Overlay along the lines of what is set out below. It should be noted, however, that this is not a substitute for the designation of historically significant buildings under the Heritage Property Act.

Historic buildings designated under the Heritage Property Act are protected from demolition or major alteration for a period of one year. A Land Use Bylaw cannot offer the same kind of protection.

The Heritage Conservation Design District Overlay has as its main purpose the control of the design features of both the new buildings to be built in the district and the renovation of existing buildings. All other aspects of development control will be dealt with by the underlying zone.

When applying this kind of district the district boundaries should be carefully considered and justified in the strategy. The best place to draw the boundary line may be along the back property lines. In this way historic streetscapes will not be negatively affected by inappropriately designed buildings or structures from across the street.

This design district will use existing buildings that have already been designated under the Heritage Property Act as historically significant, as models for the design of new buildings. If no such buildings have been designated or if the district is used for other design requirements (ie. design continuity for a waterfront area or a downtown) then more extensive research will have to be done and design guidelines prepared. These can be placed in the Bylaw as a schedule.

Design Standards

- 30.1 In addition to all other applicable requirements, the following design standards shall apply to all buildings constructed or altered within the Heritage Conservation Design District as shown on Schedule 'A', the zoning map.
- (a) When a development is proposed for new construction, all of the major architectural features of the development shall be similar to those of one of the buildings designated as historically significant pursuant to the Heritage Property Act, R.S.N.S. 1989, c. 199 and amendments thereto, which are located within the Heritage Conservation Design District. Major architectural features shall include:
- (i) roof shape,
 - (ii) window, porch, verandah and door style,
 - (iii) window area to wall area ratio,
 - (iv) building length to width ratio,
 - (v) exterior cladding,
 - (vi) exterior colour, and
 - (vii) building height.

- (b) Where a renovation is proposed to an existing building, such renovation shall not change the established character of the major architectural features identified in subsection (a) for any portion of the building that is visible from any public property.

Effective design guidelines are very difficult to draft because they must have enough detail to achieve the objective yet enough flexibility to encourage development. In addition, the requirements must be capable of being administered in a simple and efficient manner. In the sample provision, the architectural elements considered most important have been identified and existing heritage buildings have been used as a model. This approach only works, of course, if there are existing heritage buildings located in the area and if they are an appropriate model for the types of uses permitted in the zone. If there are only residential heritage buildings in the area but the zone permits commercial development, it doesn't make sense to require new commercial building to use the residential model. Given the right circumstances though, this approach can offer a simple and effective design control.

When dealing with renovation the concern is to ensure that changes to the exterior of the building do not take away from the established character. The control measures used here would prevent modern renovations to the street facades of older buildings.

An alternative to this approach would be to develop detailed design guidelines using text, drawings or photographs or a combination of all of these and place them in the Bylaw as a schedule. This will take a good deal more work and perhaps require the services of a consultant. The advantage is that a large variety of designs can be used to span the selection of uses that may be available in the zone or zones covered by the overlay.

Regardless of the method used, the requirements must be sufficiently clear that a developer can know exactly what is required in order to obtain a development permit. There must also be clear policy support in the strategy.

Design Standards for Fences and Accessory Buildings

- 30.2 (a) Where a fence is to be erected within the Heritage Conservation Design District it shall be constructed in accordance with the design requirements set out in Schedule ___ of this Bylaw and a development permit shall be required.
- (a) Where an accessory building is to be erected within the Heritage Conservation Design District :
- (i) the exterior cladding of the building shall be of wood clapboard, wood shingles, stone or brick, or a combination thereof, and
 - (ii) it shall have a pitched roof or have a roof type the same shape as the main building on the lot.

Since small things will tend to make a big difference in the Heritage Conservation Design District the design of fences and accessory structures should also be regulated. This provision uses a schedule for fence design which would identify the size and type of fence appropriate for the heritage area. Some research will be necessary but attractive wooden or wrought iron fencing should be capable of meeting most needs.

Other aspects of design that should be considered in this kind of district are signs, street furniture, street lights, garbage bins, overhead wiring, parking lots, and pedestrian circulation. Some of these are a municipal responsibility and will not be regulated in the Bylaw.

A design overlay does not have to apply only to a historic district. It can be applied to any area of the municipality where the exterior appearance of buildings and structures is an issue.

The example presented here is a fairly simple approach to design control but even this may be more than some municipalities are willing to take on. If desired, design control can be implemented in an incremental way with only one or two aspects of the regulation being brought in at a time.

Part 31

Site Plan Approval District Overlay

Site plan approval is a new development control technique that became available to municipalities when the Municipal Government Act took effect, April 1, 1999. Site plan approval allows municipalities to gain control over the site characteristics of a development in addition to controlling the use of the land. Section 231(4) of the Act details what things can be dealt with in a site plan approval process. These include the location of buildings, parking, walkways, landscaping and so on.

In order to establish a site plan approval district the strategy must contain policy support outlining where it will be applied, what uses will be subject to it, what matters will be dealt with, and what criteria will be used to evaluate it. Section 231(2) of the Act specifically prevents single and two unit dwellings from being included in any site plan approval process.

There are a couple of ways to apply these control measures. They can be applied to a specific zone or zones or specific uses within a zone in which case the zone requirements would contain additional standards for site plan approval. As an alternative, and the way it is suggested in this model, the measures can be applied as a separate overlay. The area covered by the overlay may span one or more zone areas and the standards are set out in a separate section of the Bylaw.

When a persons applies for a development permit in a site plan control area they must also submit a site plan showing the details of the site as required by the Bylaw. A statement, on the site plan itself or on a separate attached paper, stating that all work shown on the plan shall be carried out, must be signed by the applicant before the site plan can be approved by the Development Officer.

Uses Subject to Site Plan Approval

- 31.1 Any development located within the Site Plan Approval District, as shown on Schedule 'A', the zoning map, other than single and two unit dwellings, that results in a net floor area of 450 sq. m. (5000 sq. ft.) or more shall be subject to site plan approval.

The example presented for illustration assumes the strategy has set up a policy with the intent of catching any large scale development, in the area of application, for site plan approval.

There may be more than one site plan approval area, each designed to do different things. If so, they should be identified in a way that there can be no confusion between them.

Site Plan Requirements

31.2 In addition to any other applicable requirements found elsewhere in this Bylaw, the following requirements shall apply to all uses subject to site plan approval:

Requirement	Standard
Location of parking lot	Any parking lot designed for 5 or more spaces shall be located such that the vehicles are not visible from the street.
Pedestrian walkway	A 1 m. (3 ft.) wide, concrete pedestrian walkway shall be provided from the parking lot to the entrances of the building.
Outdoor lighting	All parking areas and pedestrian walkways shall be provided with sufficient illumination to ensure the safety and convenience of people walking and driving in the area.
Storm water management	The lot shall be graded and provided with a drainage system that will prevent storm water from draining to neighbouring properties.
Landscaping	At least 25% of the lot shall be landscaped using a variety of kinds and heights of vegetation.

Clearly the purpose of the site plan requirements in the example is to prevent the parking lot from becoming the dominant feature of the lot. The standards are quite general and can be accomplished in a number of ways. If the municipality so desired, the standards could be very specific, even requiring a specific tree or a special type of paving etc. However, there is usually some room left to negotiate between the Development Officer and the developer.

Application

31.3 Within any site plan approval district, an application for a development permit shall be accompanied by an application for site plan approval including a plan or sketch in sufficient detail to address all of the matters identified in Section 31.2.

Part 32

Bonus District Overlay

The concept of incentive or bonus zoning is enabled by Section 220(5)(k) of the Act. The purpose, as the name implies, is to try to elicit a benefit from a developer in exchange for a bonus that, in most cases, will improve the economics of the project. It is a technique that is usually only attractive to larger centres where they can trade off additional floor space, in the downtown for example, in exchange for additional public amenities such as a swimming pool or tennis court.

The key to successful bonus zoning is to come up with a formula that is fair and realistic given the economic circumstances of the day. The difficulty is that those economic circumstances can change fairly quickly leaving a municipality with a bonus system that is not workable. The amenity requested should be equal in value to the bonus given. If the amenity value is too high compared with the bonus to be achieved by the developer, the developer will most probably ignore the provision. If the bonus is too high in value compared to the amenity being requested, it will tend to undermine the validity of the underlying zone.

There are a number of ways to incorporate bonus provisions into the Land Use Bylaw. If only specific uses are to be permitted to use the bonus provisions they can be identified within the zone and a special bonus provision applied only to those uses. For example, perhaps only commercial office buildings are to be the target for bonus provisions. In the Commercial General zone a special provision dealing with bonus options could be placed into the zone which would identify the use and detail what the bonus options are. The example shown in the Model Bylaw is not use specific. It applies an overlay over the base zone and is aimed at building size. Any building that has reached its maximum building height will be eligible for bonus options.

What ever method is used there must be supporting policy in the strategy and the bonus provisions must be optional for the developer.

Bonus Options

- 32.1 (a) Notwithstanding any other provision in this Bylaw, any building located within the Bonus District as shown on Schedule 'A', the zoning map, shall be eligible for an increase in height of one floor for every 450 sq. m. (5000 sq. ft.) of additional open space to a maximum of ___ stories.
- (b) When a developer chooses the optional bonus provided for in subsection (a) the developer shall clearly indicate the "Bonus Open Space" on the final plans submitted with the application for a development permit.

Part 33

Definitions

The definitions included here are examples only. They define terms used in this Model Bylaw and as such may not be appropriate for every municipality. They should, therefore, be reviewed and changed where necessary to address any specific concerns a municipality may have.

Definitions can be placed at the front or at the back of the bylaw. They are placed at the back of the model because it was thought it may make it a little more user friendly.

The definition section is an integral part of any bylaw. The following list identifies some key rules that may help in formulating definitions that are brief, informative, and as easy to read as possible:

- (a) only terms used in the text of the bylaw should be defined;*
- (b) only terms that are ambiguous or unclear need to be defined;*
- (c) do not regulate using the definition;*
- (d) a definition must be consistent with the MGA;*
- (e) when ever possible a definition should be written in positive terms.*

General Definitions

33.1 In this Bylaw all words carry their customary meaning except for those words and phrases defined as follows:

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. **Act** means the Municipal Government Act, S.N.S. 1998, Chapter 18 and amendments thereto;
3. **Artisan Workshop** means a building used for the production of, or the production and sale of, works of art or crafts made by hand;
4. **Auto Body Repair Shop** means a building used for the repair of body work, detailing and painting of automobile bodies;
5. **Automobile Service Station** means a building or a clearly defined space on a lot used for the 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;
6. **Bed and Breakfast Establishment** means a single unit dwelling in which the resident supplies, for compensation, not more than ___ rooms for the temporary accommodation of the travelling public;

7. **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 ___ rooms, exclusive of those for the resident and family, and which is not open to the travelling public;
8. **Bylaw** means this bylaw which is the Land Use Bylaw for (this municipality);
9. **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;
10. **Centre for the Performing Arts** means a building designed for the production and performance of live theatre, radio, television, and motion picture production and may include a theatre school, set construction workshop, and storage facilities;
11. **Church** means a building dedicated to any religious worship and includes an associated hall or residence on the same lot or an adjacent lot;
12. **Clerk** means the Municipal Clerk for (this municipality);
13. **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;
14. **Day Care Centre** means a building where up to ___ children or adults are cared for on a daily basis, for compensation, without overnight accommodation, but does not include a school;
15. **Development** includes the erection, construction, alteration, placement, location, replacement, or relocation of, or addition to, a structure and a change or alteration in the use made of land or structures;
16. **Development Officer** means the person or persons appointed by Municipal Council to administer this bylaw;
17. **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;
18. **Dwelling, Grouped** means two or more dwelling units which are contained within two or more buildings located on a single lot;

- 19. **Dwelling, Semidetached** means a completely detached building containing only two dwelling units that share a common side wall;
- 20. **Dwelling, Single Unit** means a completely detached building containing only one dwelling unit;
- 21. **Dwelling, Two Unit** means a completely detached building containing only two dwelling units;
- 22. **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;
- 23. **Existing** means legally existing on the effective date of this bylaw;
- 24. **Farm Market** means a retail store in which farm produce, crafts and baked goods make up the major portion of the items offered for sale;
- 25. **Fill** means natural earth or gravel material deposited on a lot to alter the land level and contour of the lot;
- 26. **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;
- 27. **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, or mechanical equipment enclosure;
- 28. **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;
- 29. **Intensive Livestock Operation** means an agricultural operation consisting of only one type of livestock in which at least 30 animal units are confined to feedlots or barns for feeding, breeding, milking, or holding for egg production. One animal unit is equal to:

-1 cow with calf,	-50 chickens,
-1 bull or steer,	-25 female mink or fox (plus associated males and kits),
-1 horse,	-25 rabbits (plus males),
-4 hogs,	-1 bee hive,
-4 sheep or goats;	

30. **Landscaping** means the use of any combination of horticultural elements, decorative stone work, paving, fencing, or other architectural elements to enhance the visual quality of a property or to provide a visual barrier between one property and another;
31. **Loading Space** means an area of land reserved for the temporary parking of a commercial vehicle where merchandise or materials are loaded or unloaded;
32. **Lot** means a parcel of land described in a deed or as shown on 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; (See Figure 2)

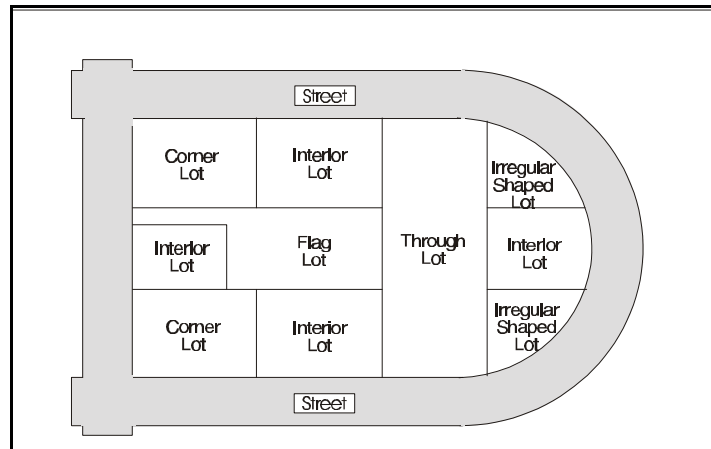


Figure 2

33. **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;
34. **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;
35. **Lot Frontage** means the length of a line between the two side lot lines measured at the front of the lot; **Minimum lot frontage** means the shortest allowable distance lot frontage can be measured;

- 36. **Main Building** means the building on a lot in which the principal use of the lot is carried out;
- 37. **Manufactured 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 6 m. (20 ft.), but does not include a travel trailer or a recreational vehicle;
- 38. **Manufactured Home Park** means a lot on which spaces are provided for more than one manufactured home dwelling unit and includes any accessory service and recreation buildings;
- 39. **Municipality** means (this municipality);
- 40. **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;
- 41. **Off-Site Fill** means fill that is brought into an area subject to flooding from a location outside of that area;
- 42. **Open Space** means an area of land on a lot not covered by buildings, structures, trees, shrubs, or gardens;
- 43. **Open Storage** means the outdoor storage of merchandise, goods or inventory of any kind, materials, equipment, or other items not intended for immediate sale;
- 44. **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;
- 45. **Parking Lot** means an open area of land devoted to the temporary storage of motor vehicles;
- 46. **Person** includes an individual, association, firm, partnership, corporation, organization or group and includes any person legally representing these;
- 47. **Private Street** means any street that is not public shown on an approved plan of subdivision;
- 48. **Qualified Person** means a person qualified as a QP1 or a QP2 under the Regulations Respecting the Installation of On-Site Sewage Disposal Systems made pursuant to the Environment Act;

49. **Recycling Depot** means a collection site for materials in a municipal recycling program but does not include a scrap or salvage yard;
50. **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;
51. **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;
52. **Scrap Yard** means an area of land used for the storage, handling, processing, and sale of scrap materials including but not limited to scrap metal, vehicles, tires, car batteries etc. but shall not include hazardous waste materials;
53. **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;
54. **Shopping Centre** 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;
55. **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 0.3 sq. m. (3.5 sq. ft.);
56. **Sign Face** means the area of a sign upon which the message is placed;
57. **Sign, Ground** means a sign supported by one or more posts, poles, or braces placed in or upon the ground;
58. **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, or trailer of a commercial motor vehicle;
59. **Sign, Projecting** means a sign that projects from and is supported by the wall of a building;
60. **Sign, Sandwich** means a self supporting, two sided, A-frame style sign that is not affixed to the ground;

- 61. **Strategy** means the Municipal Planning Strategy for (this municipality);
- 62. **Street, Local** means a street designed to serve vehicular traffic in residential neighbourhoods;
- 63. **Street, Collector** means a street designed to move vehicular traffic from residential neighbourhoods to commercial and institutional areas and to arterial streets;
- 64. **Street, Arterial** means a street designed to move large volumes of vehicular traffic between major centres;

Local, collector and arterial streets could also be defined by the number of vehicles they are designed to carry per day.

- 65. **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;
- 66. **Yard** means an open uncovered space on a lot next to a main building;
- 67. **Yard, Flanking** means the side yard of a corner lot that abuts the side street line;
- 68. **Yard, Front** means a yard extending across the full width of a lot between the front lot line and the nearest wall of any main building; **Minimum front yard** means the smallest allowable distance a front yard can be measured;
- 69. **Yard, Rear** means a yard extending across the full width of a lot between the rear lot line and the nearest wall of a main building; **Minimum rear lot** means the smallest allowable distance a rear yard can be measured;
- 70. **Yard, Side** means a yard extending from the front yard to the rear yard of a lot between the side lot line and the nearest wall of a main building; **Minimum side yard** means the smallest distance a side yard can be measured;
- 71. **Zone** means a designated area of land shown on the zoning map for which specific development control regulations are applied.

Schedule A - The Zoning Map

The Zoning Map is the most important map in the Bylaw. It is a precise visual display of where various developments can take place within the plan area. Map scale should be large enough to show all zoned areas but not so large that it makes the map unmanageable. If the planning area is such that only an extremely large map can be used the map could be divided into sections and bound together in an atlas format. Otherwise the map should be folded and put into an envelope attached to the Bylaw.

The use of tones or patterns to identify the various zones is not recommended. If more than four tones or patterns are used it becomes difficult to tell them apart.

Zone boundaries should be accurate enough to enable distances to be scaled from the map if necessary.

The legend should include:

- ▶ *the title - Schedule A Zoning Map (and the name of the planning area)*
- ▶ *a north arrow*
- ▶ *the map scale*
- ▶ *the zone names and their symbols*
- ▶ *the planning area boundary mark*
- ▶ *the zone boundary mark.*

No sample Zoning Map is included in this model.

Schedule B - Street Classification Map

The Street Classification Map is not necessary for every municipality. It is useful to include this map if certain developments are to be restricted to certain types of streets or if certain standards will apply to developments on certain types of streets. For example, this model has applied a varying distance for driveway access depending upon the type of street the driveway has access to. (S. 6.6)

No sample Street Classification Map is included in this model Bylaw.

Schedule C - Existing Permitted Uses

Listing existing uses as permitted uses in the zone is becoming a more common planning approach. It is a way of dealing with existing uses that are out of place in their zone but are not so bothersome that they warrant a nonconforming use status. As the name implies, these uses are permitted only by virtue of their being in existence on or before the effective date of the bylaw.

Because of the unusual status of these uses it is important to accurately identify them. This is accomplished by listing them in a Schedule in the Bylaw or they can be listed in the zone itself. The list should identify the use and its address of other identifying feature such as a Property Identification Number.

A schedule such as this is not mandatory but it makes the administration of the Bylaw much simpler in the event of a dispute.

Schedule D - Industrial Uses Not Permitted in the M-1 Zone

This is the Schedule referred to in Section 18.1. It lists those uses that must be considered for an environmental assessment under the Nova Scotia Environmental Assessment Act Regulations.

- ▶ All facilities for the manufacture, processing, or reprocessing of radioactive materials or other dangerous goods;
- ▶ heavy water plant;
- ▶ pulp and paper mill;
- ▶ petrochemical plant;
- ▶ cement plant;
- ▶ oil refinery;
- ▶ metal smelter;
- ▶ ferro-alloy plant;
- ▶ non-ferrous metal smelter;
- ▶ dismembering-rendering plant;
- ▶ bulk storage facilities with a total capacity of over 5000 cubic metres intended to hold liquid or gaseous substances such as hydrocarbons or chemicals;
- ▶ facilities for the chemical treatment of timber resources;
- ▶ facilities engaged in the production of fish meal.

