

VILLAGE OF HILLSBOROUGH RURAL PLAN

CONSOLIDATED VERSION – May 2008

PART A:

RURAL PLAN – TITLE & AREA DESIGNATION

TITLE AND AREA DESIGNATION

Under section 27.2(1) of the *Community Planning Act*, the Council of the Village of Hillsborough, makes the following Regulation:

- 1 This Regulation may be cited as the Village of Hillsborough Rural Plan.
- 2 The area of land as shown on the map placed in Schedule A is designated for the purpose of the adoption of a rural plan and is the area which this Regulation applies.
- 3 The Village of Hillsborough Rural Plan contained in this Regulation is hereby adopted for the area described in Schedule A.

PART B:

OBJECTIVES OF THE RURAL PLAN

The Council of the Village of Hillsborough believes that the residents of the Village wish to take measures to conserve the residential character of the area, to promote commercial and tourist development and to ensure sound management of the environment.

The Village of Hillsborough has experienced a number of changes since the adoption of its current rural plan in 1974. Many of these changes have been positive for the Village. However, there are still a number of important issues that must be addressed, such as the lack of designated commercial land, increased development outside serviced areas and sufficient water quantity for Village residents.

There is a need to protect the rural character of the area as well as the quality of life of its residents. Therefore, it has been requested that this rural plan be adopted.

STATEMENTS OF POLICY AND PROPOSALS

1 Residential Uses

The Village of Hillsborough has a population of just less than 1300. There has been relatively little change in that population over the past 16 years. However, the total number of dwellings has increased in spite of the very low population increase and immigration trend. Single detached dwellings remain the predominant types of housing.

Although the residents of Hillsborough are fond of the small-scale residential character of their Village, they understand there is plenty of room for growth. They believe this growth can be accommodated without compromising their quality of life.

Within the Village, there is a mix of family types. There is also a balance among residential and other uses. Residents are happy with the sense of community that Hillsborough promotes.

Policy

P.1(1) It is the policy of the Village to conserve the residential character of the area and to have an optimum population density that fits with the Village's development constraints.

P.1(2) It is the policy of the Village to promote diverse residential uses within the community.

P.1(3) It is the policy of the Village to minimize land use conflicts between residential and other uses and to promote uses appropriate to a rural area.

Proposal

P.1(4) It is proposed that residential zones that encourage compact residential development be created within the Village. A Single-Unit Dwelling zone will accommodate single-unit dwellings only. A Two-Unit Dwelling zone will accommodate both single- and two-unit dwellings. A Mini Home Residential zone will accommodate the expansion of existing and the creation of new mini home parks.

P.1(5) It is proposed that dwelling units shall be subject to all applicable statutes and regulations including those respecting building, health and subdivision.

P.1(6) It is proposed that home occupations shall be permitted within single-unit dwellings to allow a small business to operate from a residential property.

P.1(7) It is proposed that bed and breakfast operations shall be permitted within certain residential zones to allow the rental of rooms to tourists as a secondary use.

P.1(8) It is proposed that daycare operations shall be permitted within certain residential zones to accommodate the care of children as a secondary use.

2 Commercial Uses

Within the Village, most commercial activity is centrally located. Residents can purchase most necessary living items without having to travel to the nearby municipalities of Riverview, Moncton or Dieppe. There is also the potential for new commercial uses to ensure conveniences for the residents as well as to promote economic stability within the Village.

Situated on the Fundy Coastal Trail, there is a strong seasonal tourism industry within the Village. Eco-tourism plays an important role in the local economy. Commercial uses that cater to tourists are essential in promoting the Village as a place to visit.

Part of what makes the Village unique is the combination of residential and commercial uses. Within the Village core there are single- and multiple-unit dwellings as well as secondary dwelling units within commercial buildings. While residents of the Village wish to expand the area devoted to commercial uses within the community, they also want to maintain the residential character.

Policy

P.2(1) It is the policy of the Village to control the type and location of development of commercial uses.

P.2(2) It is the policy of the Village to maintain existing and create new areas designated for commercial uses within the Village.

P.2(3) It is the policy of the Village to permit residential uses with commercial uses.

Proposal

P.2(4) It is proposed that a Village Commercial 1 zone be created incorporating the Village core. Within the Village Commercial 1 zone, uses will be focused on those that are suitable for a rural village and those that are related to the tourism industry. Appropriate standards for lot sizes and setbacks will be established incorporating existing development and creating a compact Village centre.

P.2(5) It is proposed that a Village Commercial 2 zone be created along the length of Main Street (Route 114). Within the Village Commercial 2 zone, there will be a combination of uses permitted within the Village Commercial 1 zone and rural residential uses.

P.2(6) It is proposed that within the Village Commercial 1 and Village Commercial 2 zones, certain uses will be subject to terms and conditions due to the fact that they carry with them concerns of environmental safety, traffic generation and compatibility.

P.2(7) It is proposed that secondary dwelling units will be permitted within commercial buildings in commercial zones to offer a residential alternative within the Village. As well, single-, two-, and multiple-unit dwelling units will be permitted within commercial zones.

P.2(8) It is proposed that a commercial use not indicated in the Regulation may be considered subject to an agreement pursuant to section 39 of the *Community Planning Act*.

3 Parks, Recreation and Institutional Uses

Village members are proud of the amount of recreational opportunities and open spaces available to residents and visitors. Among others, there are hiking trails, a pool, a golf course, a wetland park, the Kiwanis Centre, an arena and a ballfield. These types of recreational opportunities and open spaces help characterize Hillsborough as a friendly type of community that people enjoy living in and visiting.

Existing recreational opportunities and open spaces can be maintained and improved and new ones can be created through the utilization of the dedication of lands for public purposes or cash in lieu clause of the Subdivision By-Law.

Institutional uses are important in a community to serve its social, religious, educational and cultural needs. Some institutional uses within the Village are the schools and churches. They are also centrally located and accessible to those who use them.

Policy

P.3(1) It is the policy of the Village to facilitate the development of recreation activities and public open space for the enjoyment of the people living in the community.

P.3(2) It is the policy of the Village to take advantage of the dedication of lands for public purposes or cash in lieu clause under the Subdivision By-Law.

P.3(3) It is the policy of the Village to control the type and location of institutional uses.

Proposal

P.3(4) It is proposed that recreational facilities and public open spaces be a permitted use everywhere in the Village where it is not conflictual with residential uses or conservation areas.

P.3(6) It is proposed that institutional uses be located close to the concentration of development in order to give the service to those it is meant to serve.

4 Agriculture and Rural Uses

Agricultural and farming uses, including hobby farms, are an important part of the Village and its past. They help maintain a rural character as well as in some cases adding an economic benefit for those who choose to carry out these uses.

Much of the land within and just outside the Village boundaries reflects traditional rural activity and its complimentary uses. These rural activity uses often require larger lot sizes to ensure that conflicts do not arise between uses and to maintain a rural character.

Policy

P.4(1) It is the policy of the Village to permit agricultural operations that are compatible with the natural environment systems and the built environment.

P.4(2) It is the policy of the Village to recognize the importance of maintaining a rural character within the community.

Proposal

P.4(3) It is proposed that agricultural and farming operations, including hobby farms, be accommodated within the rural plan.

P.4(4) It is proposed that a Rural Area zone be created. Within the Rural Area zone, uses will be focused on those that create a rural character. Permitted uses may include rural-based commercial uses compatible with rural residential uses.

P.4(5) It is proposed that the required lot size and frontage of lots within the Rural Area zone shall be sufficient to allow for separation between rural activity uses to create and retain a rural landscape.

5 Resource Uses

Currently, there are companies interested in resource development, such as oil and natural gas projects and aggregate extraction, within the Village. The community feels that resource development would promote economic benefits and attractiveness of the Village as long as it was carried out in a suitable manner to protect the Village and its residents. Excavation permits, which apply to both full-time as well as wayside pits and quarries, will provide all necessary information about a project and protect the Village.

Activities such as prospecting, staking and laying claims to resources are permitted throughout the Village under the *Mining Act, Oil and Natural Gas Act, Bituminous Shale Act, Quarriable Substances Act, and the Underground Storage Act.*

Policy

P.5(1) It is the policy of the Village to permit resource activities within the community.

P.5(2) It is the policy of the Village to reduce conflicts between pit and quarry operations (including wayside pit and quarry operations) and other uses.

Proposal

P.5(3) It is proposed that gravel pit and quarry operations would be considered in accordance with the requirements of an excavation permit under this regulation.

P.5(4) It is proposed that when a request for an excavation permit has been received, the following elements shall be considered:

- (a) projected extraction plan and its impacts on the water table;
- (b) protection measures in order to protect people, adjacent properties and existing private and public infrastructure;
- (c) required inspection type and its frequency; and
- (d) site rehabilitation measures when the activity ceases.

P.5(5) It is proposed to ensure that pit and quarry sites in operation when this regulation is implemented comply with the Acts and Regulations prescribed by the Departments of Environment and Local Government, Advanced Education and Labour and Natural Resources and Energy.

6 Industrial Uses

While Council recognizes the importance of a diverse tax base, it also realizes that there is not a large amount of land suitable for industrial development within the community. There is currently some land set aside for industrial use but a lack of proper servicing and infrastructure has left it fairly undeveloped. There may also be some lands outside the industrial area that could be used for industrial use. In either case, industrial uses should remain light in nature in order to protect the Village from unwanted noise, dust, smoke and other similar interference.

Policy

P.6(1) It is a policy of the Village to control the type and location of light industrial uses.

Proposal

P.6(2) It is proposed that an Industrial Zone be created. The Industrial zone will incorporate lands previously zoned Industrial and will permit light industrial uses.

P.6(3) It is proposed that new light industrial uses outside the Industrial zone shall only be considered as a rezoning under section 39 of the *Community Planning Act*.

P.6(4) It is proposed that when a request for industrial use has been received and is considered for rezoning under section 39 of the *Community Planning Act*, that the Council give terms and conditions in regard to protection of the natural environment and the resident's quality of life.

7 Protection of Water Supplies

A dependable source of water ensures a sustainable and attractive community. Currently, Village residents rely on both on-site and shared water sources for consumption and use. However, the shared water source may need to be supplemented or replaced in the near future. Council recognizes this and new shared water sources are being sought.

Policy

P.7(1) It is the policy of the Village to provide sufficient water quantity and quality for its residents.

P.7(2) It is the policy of the Village to take every effort to protect its water supply, including on-site wells, from man-made pollution by not allowing unsuitable development.

Proposal

P.7(3) It is proposed to permit development that will have minimum impact on the water supplies of the Village.

P.7(4) It is proposed to monitor the density of development in order to have an adequate supply of water, at such time that a second water supply for the Village is found.

8 Heritage Buildings and Sites of Historical or Archeological Interest

Within the Village there are heritage buildings and sites of archeological interest that help define who a community is and how it began. A number of homes along Route 114 are considered heritage properties and have been maintained as such.

The community feels it is important to recognize the value, maintain and protect heritage buildings and sites of archeological interest. Heritage resources are important in fostering community pride and creating a sense of nostalgia, both of which are factors that sustain a population and bring visitors to an area.

Policy

P.8(1) It is the policy of the Village that local heritage character be defined, that sites or areas of archeological or historical interest, and buildings/structures of architectural or historical interest, be identified on an ongoing basis.

Proposal

P.8(2) It is proposed that heritage resources be conserved in a manner sympathetic to heritage character.

P.8(3) It is proposed that adequate measures of protection be put in place for sites, buildings or structures of historical or archeological interest.

P.8(4) It is proposed that if it is suspected that remains of archeological significance are found during the undertaking of any development, all activity in the immediate vicinity of the find shall be stopped and the Director of Archeological Services Branch, Department of Environment and Local Government shall be contacted.

9 Conservation of the Physical Environment

A large part of what makes Hillsborough an attractive area for its residents and visitors is the natural beauty, rural character, quality of life and environment of the Village. Community members are in agreement that these aspects of the Village must be maintained and protected.

Some areas within the Village present natural constraints to development, such as steep or unstable slopes, floodplains and sensitive habitats. It would not be prudent for development to occur on these sites due to the risk of degradation of the environment. As well, the safety of residents and their developments could be in jeopardy.

Policy

P.9(1) It is the policy of the Village to protect and ensure the quality of life of the residents, to control environment pollution, and to protect the aesthetic beauty of the natural environment.

P.9(2) It is the policy of the Village to respect natural development constraints such as steep or unstable slopes, floodplains and sensitive habitats.

Proposal

P.9(3) It is proposed that an Environmental Constraint zone be created. The Environmental Constraint zone will include areas such as steep or unstable slopes (25%), floodplains and sensitive habitats and uses within this zone will focus on those which will have minimal impact on these areas.

10 General Utilities

The provision of sewage collection, storm drainage, water, telephone and electric power supply are essential to development. Some components of these utilities are located within areas of the municipality by necessity. Structures range from transmission towers and switching or transformer stations to water pumping stations and water towers.

Some utility uses, such as transformer stations and high-voltage transmission lines, have a major impact on nearby users. Careful planning of the location of transmission lines and the attractive development of transformer stations can diminish much of the impact.

Federal communication authorities are in the process of deregulating the provision of local telephone services and the North American Free Trade Agreement is opening communities to competitive sources of electrical power supply. At the same time, a Trans-Maritime natural gas pipeline is now in the process of development. As a result, additional and new utility developments can be expected.

Policy

P.10(1) It is the policy of the Village to recognize the importance of utility services to its residents.

P.10(2) It is the policy of the Village to develop guidelines for the general location and site development of utility uses and a process for public information.

P.10(3) It is the policy of the Village to seek to restrict the amount of clutter as new utility services develop, and in respect to natural gas distribution, to establish the Village's role, if any, in the maintenance of public safety.

Proposal

P.10(4) It is proposed that utility-related uses be permitted in all zones.

P.10(5) It is proposed that the Village seek cooperation of utility firms in establishing guidelines for the general location and site development of utility uses, as well as establish a public information process, in order to ensure that concerns are addressed by the utility firms prior to the commencement of construction.

P.10(6) It is proposed that the Village ensure that new utilities do not create clutter, and, in respect to natural gas distribution, that the cooperation of the Province is sought in establishing the responsibility and level of inspection required.

11 Amendments and Conditional Uses

From time to time, it may be necessary to consider amendments to the Plan to accommodate changes within the Village. The Council will have to take every precaution to ensure that the amendment is in accordance with the intent of the Plan and that the Village and its residents are protected from unsuitable development.

In some cases, certain uses in the Plan shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions cannot reasonably be expected.

Policy

P.11(1) It is the policy of the Village to recognize the need to consider amendments of the Plan and uses subject to terms and conditions.

Proposal

P.11(2) It is the proposal of the Village, in considering amendments to this Regulation and/or the imposition of terms and conditions, to have appropriate regard for the following matters :

- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;

- (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Village to absorb any costs relating to the development;
 - (ii) the adequacy of central or on-site sewerage and water supply services and storm drainage measures;
 - (iii) the adequacy or proximity of school, recreation or other community facilities; and
 - (iv) the adequacy of road networks leading or adjacent to or within the development;
- (c) that controls are placed on the proposed development where necessary, so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) the type of use;
 - (ii) the height, bulk and lot coverage of any proposed building;
 - (iii) traffic generation, access to and from the site and parking;
 - (iv) open storage;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern;
- (d) that the proposed site is suitable in terms of steepness or grades, soil and geological conditions, location of watercourses, marshes or bogs and susceptibility of flooding as well as any other pertinent matter of environmental concern; and
- (e) that the proposal meets all necessary consideration in respect of public health and safety and that the site design meets all fire protection and access considerations.

P.11(3) In addition to P.11(2), it is the proposal of the Village, in considering the imposition of terms and conditions for more than one main building on a lot, to have appropriate regard for the following matters :

- (a) the provision of adequate separation distances between buildings;
- (b) the design, layout, location and number of driveways, aisles, fire lanes, pedestrian accesses and parking spaces;
- (c) provisions for landscaping both at the edges of the property and within the parking lot;
- (d) measures for the storage of snow and its subsequent spring drainage;
- (e) the provision of intra-lot vehicular access between adjacent sites occupied by similar uses in the case of commercial developments; and
- (f) the general conformity of the proposed development with any other pertinent policy of this Regulation.

PART C:
ZONING PROVISIONS

SECTION 1 - ZONING MAP & INTERPRETATION

1.1 The Zoning Map entitled "Village of Hillsborough Zoning Map" is the zoning map designated for the Village of Hillsborough Rural Plan.

1.2 In this Regulation

"accessory building" means a detached subordinate building, not used for human habitation, located on the same lot as the main building, structure or use to which it is accessory, the use of which is naturally or customarily incidental and complementary to the main use of the land, building or structure;

"accessory dwelling unit" means a dwelling unit which is secondary to the main dwelling unit, either contained within or attached to the main dwelling unit;

"accessory structure" means a structure located on the same lot as the main building, structure or use to which it is accessory, the use of which is naturally or customarily incidental and complementary to the main use of the land, building or structure;

"accessory use" means a use, other than human habitation, of land or a building or structure which is not the main building or structure of a lot which is naturally or customarily incidental and complementary to the main use of the land or to the main use being conducted in the main building or structure of the lot and which is not a secondary use;

"Act" means the *Community Planning Act*;

"agricultural or farm use" means the use of land for production of plants and animals, including the breeding, raising or maintaining of livestock, fruit growing, the keeping of bees, fish farming, forages and cereal production, greenhouse farming, hydroponics farming, vegetable growing, tree growing and sod farming, excluding piggeries, henneries, fur farming and abattoirs;

"alter" means to make any change, structurally or otherwise, in a building or structure which is not for purposes of maintenance only;

"boarding house" means a dwelling in which the proprietor supplies for a fee sleeping accommodation with board, with or without meals, for at least three persons and not more than ten persons exclusive of the proprietor, members of the proprietor's family and servants of the establishment but does not include a hostel;

"building" means a roofed erection, with solid exterior walls which is permanently affixed to the site and which is used or intended as a shelter for persons, animals or chattels;

"Commission" means the Greater Moncton Planning District Commission;

"Community Residential Care Facility" means a building or place or part of a building in which accommodation and nursing, supervisory and/or personal care is provided, or is made available for more than three persons with social health, legal, emotional, mental or physical disabilities or problems, and includes such facilities as are licensed by the Family Services Act, or by any other provincial legislation, but does not include any public or private hospital or sanatorium, or a jail, prison or reformatory, or a hospital.

"convenience store" means an establishment where food, tobacco, drugs, periodicals or similar items of household convenience are kept for retail sale to residents of the immediate neighbourhood;

"Director" means the Provincial Planning Director appointed under section 4 of the Act;

"dwelling" means a main building, or a portion of it, containing one or more dwelling units;

"dwelling unit" means a room or suite of two or more rooms designed or intended for use by an individual or family, in which culinary facilities and sanitary conveniences are provided for the exclusive use of such individual or family;

"erect" means to construct, build, assemble or relocate a building or structure and any physical operations preparatory to the construction, building, assembly or relocation of the building or structure;

"family" means one or more persons, not necessarily related, occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a hotel or boarding or rooming house;

"floor area" means the total usable floor area contained within a building;

"front yard" means, in relation to any building, structure or use on a lot, that part of the lot between such building, structure or use and a front lot line;

"garden suite" means a small, independent building, physically separate from the main dwelling unit with which it is associated, which is used as a dwelling unit;

"hobby farm" means an agricultural or farm use conducted on the property which is clearly secondary to the main use, does not change the character or use of the main use, does not significantly alter the appearance of the main use, and does not create or become a public nuisance, particularly in respect to the environment, smell, noise, traffic and/or parking;

"home occupation" means a secondary use conducted for gain and within a dwelling or within a building where the use is secondary and without limiting the generality of the foregoing, may include such occupations as doctor, dentist, architect, engineer, accountant, lawyer, designer, small appliance repair, beauty salon, barber shop and teaching of arts;

"industrial use" means the use of land, buildings or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses;

"institutional use" means the use of land, buildings or structures for a public or non-profit purpose and without limiting the generality of the foregoing, may include such uses as schools, places of worship, cemeteries, indoor recreation facilities, community centres, public hospitals and government buildings;

"lot" means a parcel of land or two or more adjoining parcels held by the same owner and used or intended to be used as the site for a building or structure or an appurtenance to the building or structure;

"lot line" means a common line between a lot and an abutting lot, lane or street;

"main building" means a building in which is conducted the main or principal use of the lot on which the building is located;

"mini home" means a building unit that is designed to be used with or without a permanent foundation as a dwelling for humans, that has a width of less than six metres throughout its entire length, exclusive of steps or porches, that is not fitted with facilities for towing or to which towing apparatus can be attached and that is capable of being transported by means of a flat-bed float trailer from the site of its construction without significant alteration;

"Minister" means the Minister of Environment and Local Government;

"mobile home" means a trailer containing a water closet and a bath or shower;

"multiple-unit dwelling" means a dwelling containing more than two dwelling units;

"park or playground" means any park or playground requiring only a minimum of equipment and includes a conservation park or nature trail, a rest spot or any other development that disturbs the natural environment as little as possible;

"personal service shop" means a shop in which persons are employed in furnishing direct services and otherwise directly administering to the individual and personal needs of persons, and without limiting the generality of the foregoing, may include such establishments as barber shops, beauty parlours, automatic laundry shops, shoe repair shops and tailoring shops, but excludes the manufacturing or fabrication of goods for retail or wholesale distribution;

"public utility" means any building, structure, plant or equipment essential to the provision and operation of services to the general public including, but not limited to, the provision of electricity, water, sewage disposal, communication services and infrastructure, pipelines, railway, roads and sidewalks, traffic management systems, vehicular and pedestrian bridges, gas distribution systems, bus stops, street furniture and engineered public recreation facilities;

"recreational use" means the use of land, buildings and structures for parks, playgrounds, tennis courts, lawn bowling greens, golf courses, boat clubs, picnic areas, swimming pools and similar uses to the foregoing, together with necessary and accessory buildings and structures but does not include commercial camping grounds nor a track for the racing of any form of motorized vehicles or any animals;

"residential establishment for adults" means a community residence, a special care home or a transition house providing services to persons with reduced mental, social and/or physical capacities as approved by the Department of Health and Community Services but does not include a facility whose primary objective is medical care or educational or correctional services;

"resource use" means the use of land, buildings or structures for the management, development and cultivation of forestry and mineral resources to ensure the continued production of products, the provision of proper environmental conditions for wildlife, the protection against floods and erosion, the protection and production of water supplies and the preservation of the recreational resource;

"secondary use" means a use, other than a main or accessory use, occupying less floor area than the main use;

"service shop" means a building used for the sale or repair of household articles and shall include the repair or servicing of communication parts and accessories, electronic devices, television sets, radios, home security systems, satellite systems, computers, furniture, appliance repair and other similar uses;

"service station" means premises or the portion thereof used or intended to be used for the servicing and repairing of motor vehicles and/or for the sale of fuel, oils and accessories for motor vehicles and may also include vehicle washing establishments;

"shared parking" means a common area of parking of eight or more off-street vehicular parking spaces;

"sign" means any display of public advertisement in the form of a placard, boarding, bill board or other form or means or device whatsoever of public advertisement whether erected, pasted or painted, and includes any form, means or device intended, suitable or adaptable for such purpose whether or not it is at the time used for such purpose;

"sign, billboard" means a large ground sign or fascia wall sign which is not related to any business or use located on the lot;

"sign, canopy" means a sign attached to or forming part of a permanent building projection, projecting or fixed structural framework which extends outward from the exterior wall of a building or is a self-supporting structure, and canopy signs shall include marquees and gas bar canopies;

"sign, directory" means a sign with more than one establishment and which displays only a listing of the names of these businesses or organizations without advertising copy, except a business logo;

"sign, facia" means a sign, other than a roof sign or projecting sign, which is attached to and supported by a wall of a building;

"sign, freestanding" means a sign, other than a portable sign, supported independently of a building and permanently fixed to the ground;

"sign, illuminated" means a sign that provides artificial light directly or through any transparent or translucent material, from a source of light connected with such sign, or a sign illuminated by a light focused upon or chiefly directed at the surface of the sign;

"sign, portable" means any sign which is specifically designed or intended to be readily moved from one location to another and which does not rely on a building or fixed concrete foundation for its structural support, and without limiting the generality of the foregoing, includes signs commonly know as a "sandwich sign" or "mobile sign" and an inflatable device tethered to any building, structure, vehicle or other device;

"sign, projecting" means a sign which is wholly or partially dependent upon a building for support and which projects more than 30 cm beyond such building;

"sign, roof" means a sign which is mounted on the roof of a building or which is wholly dependent on a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable or hip roof or the deckline of a building with a mansard roof;

"sign, sandwich" means a two-sided A-frame style self-supporting sign which is not permanently affixed to the ground and designed to be moveable;

"sign, third-party" means a sign which indicates the distance or direction, or both, to a place of business or other premises indicated on the sign;

"sight triangle" means the triangular-shaped area of land, free of buildings or structures, formed by measuring from the point of intersection of street lines on a corner lot, the distance as required by this Regulation;

"single-unit dwelling" means a dwelling containing only one dwelling unit;

"street line" means the common line between a street and a lot;

"structure" means an erection other than a building or a power or telephone pole or lines;

"swimming pool" means an artificial body of water which is used for swimming or wading purposes and which has a possible maximum depth of water greater than 0.6 metres;

"trailer" means any vehicle used for sleeping or eating accommodation of persons and so constructed as to be suitable for being attached to and drawn by a motor vehicle, notwithstanding that such vehicle is jacked up or its running gear removed;

"two-unit dwelling" means a dwelling containing two dwelling units, neither of which is contained in the basement of the dwelling;

"use" means the purpose for which land or a building or structure or any combination of land, building or structure is designed, arranged, erected, intended, occupied or maintained;

"wayside pit or quarry" means a temporary pit or quarry opened and used by a public or private road authority solely for the purpose of a particular project or contract of road construction and not located on the road right-of-way;

"width" means, in relation to a lot

(a) where the side lot lines are parallel, the distance measured across the lot at right angles to such lines, or

(b) where the side lot lines are not parallel, the distance measured across the lot along a line parallel to a line joining the points at which the side lot lines intersect the street line, such parallel line being drawn through the point at which the line of minimum set-back intersects a line from the mid-point of and perpendicular to the line to which it is parallel.

SECTION 2 – PURPOSE, ADMINISTRATION, CLASSIFICATION & CONFORMITY

Purpose

2.1 The purpose of Part C is

- (a) to divide the area referred to in Part A, paragraph 2 into zones,
- (b) to prescribe, subject to powers reserved to the Commission,
 - (i) the purpose for which land, buildings and structures in any zone may be used, and
 - (ii) standards to which land use and the placement, erection, alteration and use of buildings and structures must conform, and
- (c) to prohibit
 - (i) land use, and
 - (ii) use, placement, erection or alteration of buildings or structures,

Other than in conformity with the purposes and standards mentioned in paragraph (b).

Powers of the District Planning Commission

2.2(1) No building or structure may be erected on any site where it would otherwise be permitted under this Regulation when, in the opinion of the Commission, the site is marshy, subject to flooding, excessively steep or otherwise unsuitable by virtue of its soil or topography.

2.2(2) Upon receipt of an application and supporting information to the satisfaction of the Development Officer and a fee in the amount of \$250.00, the Commission may, subject to such terms and conditions as it considers fit:

- (a) authorize, for a temporary period not exceeding one year, a development otherwise prohibited by this By-law, and
- (b) require the termination or removal of a development authorized under 2.2(2)(a) at the end of the authorized period

Amendments

2.3(1) A person who seeks to have this Regulation amended shall

- (a) address a written and signed application to the Village of Hillsborough, and
- (b) shall pay a fee of \$1,000 dollars to the municipality.

2.3(2) The Village of Hillsborough may return to the applicant all or any part of a fee mentioned in paragraph (1)(b).

2.3(3) An application shall include such information as may be required by the Village of Hillsborough.

Classification

2.4(1) For the purposes of the Regulation, the area is divided into zones as delineated on the plan attached, entitled "Village of Hillsborough Zoning Map" and dated 2002:

as amended by the map hereto attached as Schedule "HZ-2" entitled "Village of Hillsborough Zoning Map" and dated January 16, 2007/

as amended by the map attached hereto as Schedule "HZ-1" entitled "Village of Hillsborough Zoning Map" and dated November 7, 2006.

2.4(2) The zones mentioned in subsection (1) are classified and referred to as follows:

a) Residential Zones

- (i) Single-Unit Residential Zone - R1 Zone
- (ii) Single- and Two-Unit Residential Zone – R2 Zone
- (iii) Mini Home Residential Zone – MH Zone

b) Commercial Zones

- (i) Village Commercial 1 Zone – VC1 Zone
- (ii) Village Commercial 2 Zone – VC2 Zone

c) Industrial – I Zone

d) Parks, Recreation, Institutional Zone – PRI Zone

e) Rural Area Zone – RA Zone

f) Environmental Constraint Zone – EC Zone

Conformity

2.5 In any zone:

- (a) Land may be used and developed, and buildings and structures or parts thereof may be placed, erected, altered or used, for a purpose mentioned in the specific zone in conformity with the requirements of that zone and any other provisions of this By-law;
- (b) No land may be used or developed, and no building or structure or part thereof may be placed, erected, altered or used for a purpose or in a manner other than permitted in this By-law;
- (c) No building or part thereof, altered or erected in contravention of this By-law shall be used by any person so long as such building or part hereof continues to contravene the provisions of this By-law;
- (d) Upon receipt of an application and fee in the amount of \$100.00, the Development Officer may issue a letter of confirmation regarding the zone applied to the property requested; and
- (e) Upon receipt of an application with a current building location survey certificate and fee in the amount of \$100.00, the development officer may issue a letter of regarding conformity of the property with the zoning by-law.

- 2.6 Where uses that are prescribed within any zone as being subject to terms and conditions as imposed by the Commission, no development of any such use shall commence unless an application and supporting information, to the satisfaction of the Development Officer, and a fee in the amount of \$250.00, has been received and the application has been approved by the Commission and the appropriate permits issued.
- 2.7 Upon receipt of an application and supporting information, to the satisfaction of the Development Officer, and a fee in the amount of \$250.00 the Commission may permit, subject to terms and conditions as it sees fit:
- (a) as provided for by Subsection 35(a) of the Act, a proposed use of a land or a building that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted by the By-law for the zone in which the land or building is situated; or
 - (b) such reasonable variance from the requirements of this By-law as provided for by Subsection 35(b) of the Act, as, in its opinion, is desirable for the development of a parcel of land or a building or structure and is in accordance with the general intent of the By-law and the Municipal Development Plan.
- 2.8 Upon receipt of an application and supporting information to the satisfaction of the Development Officer, and a fee in the amount of \$250.00 the Commission may, as provided for in Section 40 of the Act, permit:
- (a) the continuance of a non-conforming use, even though such non-conforming use was discontinued for a consecutive period of ten months, or such further period as the Commission sees fit;
 - (b) the repair or restoration or use of a non-conforming building or structure that has been damaged to the extent of at least half of the whole building or structure, exclusive of the foundation;
 - (c) non-conforming use of a part of a building to be extended into a portion of the building that was constructed subsequent to the date of the passing of the By-law; or
 - (d) a non-conforming use to be changed to a similar non-conforming use.
- 2.9 DEVELOPMENT PERMITS
- (a) No person shall undertake a development nor shall a development permit be issued unless the proposed development conforms to all provisions of this By Law.
 - (b) Any development permit shall be in force for a period of one (1) year from the date of issue or until the project has been completed or is discontinued for a period of one year and any permit may be re-issued upon request, subject to review by the Development Officer.
 - (c) Where any development permit is issued, such permit may include permission of any single development, or of more than one development, or of any or all elements related to any development, provided that such are specified by the permit and provided also that no development permit shall pertain to more than one (1) lot.
 - (d) Notwithstanding subsection (a), no development permit shall be required for the following:
 - (i) any accessory building or structure which has less than 6 square metres of gross floor area;
 - (ii) any sign, except signs permitted according to Section 9.1 of this By-law; and
 - (iii) any public utility.
 - (e) No development permit may be issued under this By-Law unless a fee of twenty-five dollars (\$25) has been paid.

SECTION 3 – RESIDENTIAL ZONES

R1 Zone – Single-Unit Residential Zone

Permitted Uses

3.1(1) In an R1 zone, any land, building or structure may be used for the purposes of, and for no other purpose,

- (a) one of the following main uses:
 - (i) single-unit dwelling;
 - (ii) park or playground; and
- (b) one of the following secondary uses:
 - (i) home occupation in accordance with sections 9.7 and 9.8;
 - (ii) garden suite in accordance with section 9.9;
 - (iii) accessory dwelling unit in accordance with section 9.10; or
- (c) one of the following secondary uses:
 - (i) bed and breakfast in accordance with section 9.11; or
 - (ii) daycare centre in accordance with section 9.12,

which shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions imposed cannot reasonably be expected; and

- (d) any building, structure or use accessory to an authorized main or secondary use.

Zone Requirements

3.1(2) Any permitted use in an R1 zone, other than a park or playground, must comply with the following requirements:

- (a) minimum lot area:
 - (i) serviced: 690 square metres
 - (ii) unserviced: 4000 square metres
- (b) minimum lot frontage:
 - (i) serviced: 23 metres
 - (ii) unserviced: 54 metres

- (c) minimum front or flankage yard: 6 metres
- (d) minimum side yard: 2.5 metres on one side and 1.2 metres on the opposite side, except in the case where there is vehicular access provided through a car port or garage, the larger side yard requirement of 2.5 metres may be reduced to 1.2 metres
- (e) minimum rear yard: 6 metres
- (f) maximum height of main building or structure: 9 metres
- (g) maximum lot coverage: 50%

R2 Zone – Single- and Two-Unit Residential Zone

Permitted Uses

3.2(1) In an R2 zone, any land, building or structure may be used for the purposes of, and for no other purpose,

- (a) one of the following main uses:
 - (i) single-unit dwelling;
 - (ii) two-unit dwelling; or
 - (iii) park or playground; and
- (b) one of the following secondary uses, in conjunction with a single-unit dwelling:
 - (i) home occupation in accordance with sections 9.7 and 9.8;
 - (ii) garden suite in accordance with section 9.9;
 - (iii) accessory dwelling unit in accordance with section 9.10; or
- (c) one of the following secondary uses, in conjunction with a single-unit dwelling:
 - (i) bed and breakfast in accordance with section 9.11; or
 - (ii) daycare centre in accordance with section 9.12,

which shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions imposed cannot reasonably be expected; and

- (c) any building, structure or use accessory to an authorized main or secondary use.

Zone Requirements

3.2(2) Any permitted use in an R2 zone, except a park or playground, must comply with the following requirements:

- (a) minimum lot area for single-unit dwelling:
 - (i) serviced: 1395 square metres

- (ii) unserviced: 4000 square metres
- (b) minimum lot frontage for single-unit dwelling:
 - (i) serviced: 36 metres
 - (ii) unserviced: 54 metres
- (c) where a lot is unserviced and has been approved by the district medical health officer, the lot may be used as the location of a two-family dwelling where the lot has and contains a width of at least 59 metres and an area of at least 5350 square metres
- (d) minimum front or flankage yard: 6 metres
- (e) minimum side yard: 1.2 metres
- (f) minimum rear yard: 6 metres
- (g) maximum height of main building or structure: 11 metres
- (h) maximum lot coverage : 50%

MH Zone – Mini Home Residential Zone

3.3(1) In an MH zone, any land, building or structure may be used for the purposes of, and for no other purpose,

- (a) one of the following main uses:
 - (i) mobile home park containing a minimum of 25 lots; or
 - (ii) park or playground; and
- (b) any building, structure or use accessory to an authorized main use.

3.3(2) In an MH zone, a public sewer system and water system shall service all lots.

Zone Requirements

3.3(3) Any permitted use in an MH zone, except a park or playground, must comply with the following requirements:

- (a) minimum lot area: 666 square metres
- (b) minimum lot frontage: 18 metres
- (c) minimum front yard: 7.5 metres
- (d) minimum side or rear yard: 1.5 metres
- (e) maximum height of main building or structure: 6 metres

SECTION 4 – COMMERCIAL ZONES

VC1 Zone – Village Commercial 1 Zone

Permitted Uses

4.1(1) In a VC1 zone, any land, building or structure may be used for the purposes of, and for no other purpose,

(a) one or more of the following main uses:

- (i) single-, two- or multiple-unit dwelling;
- (ii) daycare centre;
- (iii) commercial recreation use;
- (iv) restaurant including drive thru and take out;
- (v) educational establishment;
- (vi) bank and financial institution;
- (vii) funeral home;
- (viii) garden centre;
- (ix) grocery store;
- (x) hotel, motel or inn;
- (xi) beverage room, lounge or other premises licensed for the serving of alcoholic beverages (excluding an adult entertainment use);
- (xii) office use;
- (xiii) outdoor market;
- (xiv) personal service shop;
- (xv) communication use, such as radio or television station or printing establishment;
- (xvi) bake shop;
- (xvii) retail store;
- (xviii) medical clinic, office of health practitioner;
- (xix) gas bars, service stations and car washes

(b) secondary dwelling unit in a commercial building; and

(c) any building, structure or use accessory to an authorized main or secondary use.

4.1(2) Secondary dwelling units are permitted provided:

(a) they are contained either within the main building constituting the commercial use or within a single-unit dwelling; and

(b) they are located above, behind or below the permitted commercial use.

4.1(3) The use of any land, building or structure for:

(a) one or more of the following purposes:

(i) public park, playground or recreation use;

(ii) public or private school;

(iii) church or church hall;

(iv) fire and/or police station;

(v) any other institutional uses; or

(b) one of the following purposes:

(i) service shop;

(ii) automobile repair outlet or automobile sales outlet;

(iii) commercial parking lot and/or parking garage;

(iv) gas bar or service station, with or without a car wash; or

(v) building supply store and associated storage yard;

shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions imposed cannot reasonably be expected.

4.1(4) In a VC1 zone, all lots shall be serviced by a public sewer system and water system.

Zone Requirements

4.1(5) Any permitted use in a VC1 zone, other than a multiple-unit dwelling, must comply with the following requirements:

(a) minimum lot area: 540 square metres

(b) minimum lot frontage: 18 metres

(c) minimum front or flankage yard: 4.5 metres

(d) minimum rear yard: 1.2 metres

(e) minimum side yard: 1.2 metres

(f) maximum height of main building or structure: 15 metres

4.1(6) No development shall be permitted and no main building or structure may be used on a lot as a multiple unit dwelling use unless:

- (a) the lot has an area of at least 590 square metres plus an additional 50 square metres for each unit in excess of three;
- (b) the lot has a frontage of at least 21 metres for three units, 24 metres for four units and 27 metres for five or more units;
- (c) the lot has a front or flankage yard or at least 4.5 metres; and
- (d) the height of the main building is not greater than 15 metres.

4.1(7) Where any VC1 zone abuts a Residential zone or use, no portion of any parking space shall be located within any required side or rear yard except where a fence or other visual and physical barrier is provided in which case no portion of any parking space shall be located within 1 metre of the side or rear lot line nor shall any above grade parking area exceed 24 spaces.

4.1(8) Where any permitted main use includes outdoor storage, except for an automobile sales operation, the land used for such storage shall be screened from the street by a wall or decorative solid board fence not less than 2 metres and not more than 2.5 metres in height. No material shall be piled higher than the height the surrounding fence.

VC2 Zone – Village Commercial 2 Zone

Permitted Uses

4.2(1) In a VC2 zone, any land, building or structure may be used for the purposes of, and for no other purpose,

- (a) one or more of the following main uses:
 - (i) single-, two-unit or multiple-unit dwelling;
 - (ii) daycare centre;
 - (iii) recreation use;
 - (iv) cultural establishment including library or museum;
 - (v) restaurant including drive thru and take out;
 - (vi) educational establishment;
 - (vii) funeral home;
 - (viii) garden centre;
 - (ix) hotel, motel or inn;
 - (x) office use;
 - (xi) outdoor market;
 - (xii) personal service shop;

- (xiii) communication use, such as radio or television station or printing establishment;
 - (xiv) bake shop;
 - (xv) retail or convenience store;
 - (b) secondary dwelling unit in a commercial building;
 - (c) hobby farm in accordance with section 9.13 and in conjunction with a single-unit dwelling; and
 - (d) any building, structure or use accessory to an authorized main use.
- 4.2(2) Secondary dwelling units are permitted provided:
- (a) they are contained within the main building constituting the commercial use; and
 - (b) they are located above, behind or below the permitted commercial use.
- 4.2(3) The use of any land, building or structure for:
- (a) one of the following purposes:
 - (i) church or church hall;
 - (ii) service shop;
 - (iii) automobile sales operation;
 - (iv) building supply store and associated storage yard;
 - (v) car wash;

shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions imposed cannot reasonably be expected.

- 4.2(4) In a VC2 zone, all lots shall be serviced by a public sewer system and water system.

Zone Requirements

- 4.2(5) Any permitted use in a VC2 zone must comply with the following requirements:
- (a) minimum lot area: 540 square metres
 - (b) minimum lot frontage: 18 metres
 - (c) minimum lot front or flankage yard: 4.5 metres
 - (d) minimum rear yard: 6 metres
 - (e) minimum side yard: 2.5 metres on one side and 1.2 metres on the opposite side
 - (f) the height of the main building is not greater than 15 metres;

4.2(6) Where any VC2 zone abuts a Residential zone or use, no portion of any parking space shall be located within any required side or rear yard except where a fence or other visual and physical barrier is provided in which case no portion of any parking space shall be located within 1 metre of the side or rear lot line nor shall any above grade parking area exceed 24 spaces.

4.2(7) Where any permitted main use includes outdoor storage, except for an automobile sales operation, the land used for such storage shall be screened from the street and abutting property by a wall or decorative solid board fence not less than 2 metres and not more than 2.5 metres in height. No material shall be piled higher than the height of the surrounding fence.

SECTION 5 – INDUSTRIAL ZONE

I Zone – Industrial Zone

Permitted Uses

5(1) In an I zone, any land, building or structure may be used for the purposes of, and for no other purpose,

- (a) one of the following main uses:
 - (i) industrial use;
 - (ii) government garage;
 - (iii) car wash;
 - (iv) automobile repair or paint shop;
 - (v) garden nursery;
 - (vi) transportation terminal;
 - (vii) animal hospital or veterinary clinic;
 - (viii) recycling depot or salvage yard;
 - (ix) office building; or
 - (x) funeral home, including monument sales and display; and
- (b) any building, structure or use accessory to an authorized main use.

Zone Requirements

5(2) Any permitted use in an I zone must comply with the following requirements:

- (a) in the case of a lot serviced by a sewer system for public use:
 - (i) minimum lot area: 540 square metres
 - (ii) minimum lot frontage: 18 metres

- (iii) minimum front or flankage yard: 7.5 metres
- (iv) minimum rear yard: 6 metres
- (v) minimum side yard: 3 metres or one half the height of the main building to a maximum of 6 metres
- (vi) maximum height of main building or structure: 11 metres
- (vii) maximum lot coverage: 50%

(b) in the case of a lot not serviced by a sewage system for public use:

- (i) minimum lot area: 9,000 square metres
- (ii) minimum lot frontage: 70 metres
- (iii) minimum front or flankage yard : 7.5 metres
- (iv) minimum rear yard: 7.5 metres
- (v) minimum side yard: 3 metres or one half the height of the mainbuilding to a maximum of 6 metres
- (vi) maximum height of main building or structure: 11 metres
- (vii) maximum lot coverage: 50%

5(3) Where any I zone abuts a Residential zone, no portion of any parking space or storage yard shall be located within any required side or rear yard except where a fence or other visual and physical barrier is provided in which case no portion of any parking space or storage yard shall be located within 1.2 metres of the side or rear lot line nor shall any above grade parking area exceed 12 spaces.

5(4) Outside storage shall be permitted and shall be screened from the street by a wall or decorative solid board fence not less than 2 metres and not more than 2.5 metres in height. No material shall be stacked higher than the height of the surrounding fence.

SECTION 6 – PARKS, RECREATION, INSTITUTIONAL ZONE

PRI Zone – Parks, Recreation, Institutional Zone

Permitted Uses

6(1) In a PRI zone, any land, building or structure may be used for the purposes of, and for no other purpose,

(a) one or more of the following main uses:

- (i) park or open space;
- (ii) recreational use;
- (iii) institutional use;

- (iv) cultural establishment;
 - (v) municipal servicing facility;
 - (vi) sport field;
 - (vii) community residential care facility; and
- (b) any building, structure or use accessory to an authorized main use.

Zone Requirements

- 6(2) Any permitted use in a PRI zone must comply with the following requirements:
- (a) minimum lot area: 810 square metres
 - (b) minimum lot frontage: 27 metres
 - (c) minimum front or flankage yard: 6 metres
 - (d) minimum rear yard: 6 metres
 - (e) minimum side yard: 3 metres or one half the height of the main building to a maximum of 6 metres
 - (f) maximum height of main building or structure: 15 metres
 - (g) maximum lot coverage: 50%

SECTION 7 – RURAL AREA ZONE

RA Zone – Rural Area Zone

Permitted Uses

- 7(1) In an RA zone, any land, building or structure may be used for the purposes of, and for no other purpose,
- (a) one of the following main uses:
 - (i) agricultural use and a single-unit dwelling for the residence by the owner;
 - (ii) forestry use and a single-unit dwelling for the residence by the owner;
 - (iii) single-unit dwelling;
 - (iv) two-unit dwelling;
 - (v) park or playground;
 - (vi) campground;
 - (vii) boarding or rooming house;

- (viii) residential establishment for adults;
 - (ix) resource use;
 - (x) cemetery; and
- (b) one of the following secondary uses, in conjunction with a single-unit dwelling:
- (i) home occupation in accordance with sections 9.7 and 9.8;
 - (ii) garden suite in accordance with section 9.9;
 - (iii) accessory dwelling unit in accordance with section 9.10;
 - (iv) bed and breakfast in accordance with section 9.11;
 - (v) daycare centre in accordance with section 9.12; or
 - (vi) hobby farm in accordance with section 9.13; and
- (c) any building, structure or use accessory to an authorized main use.
- 7(2) The use of any land, buildings or structures for one or more of the following purposes:
- (a) public park, playground or recreation use;
 - (b) school;
 - (c) church or church hall;
 - (d) fire and/or police station;
 - (e) light industrial use; or
 - (f) any other institutional uses

shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions imposed cannot reasonably be expected.

Zone Requirements

- 7(3) Any permitted use in an RA zone must comply with the following requirements:
- (a) minimum lot area: 4000 square metres for a residential, park or playground, or fishery support use, 20 000 square metres for any other use
 - (b) minimum lot frontage: 54 metres for a residential, park or playground, or fishery support use, 150 metres for any other use
 - (c) minimum front or flankage yard: 7.5 metres for a residential, park or playground, or fishery support use, 15 metres for any other use

- (d) minimum side yard: 6 metres
- (e) minimum rear yard: 6 metres
- (f) maximum height of main building or structure: 11 metres for a residential use, 26 metres for any other use

SECTION 8 – ENVIRONMENTAL CONSTRAINT ZONE

EC Zone – Environmental Constraint Zone

Permitted Uses

8.1 In an EC zone, any land, building or structure may be used for one or more of the following uses:

- (a) passive recreational uses;
- (b) park or open space;
- (c) flood control;
- (d) natural drainage corridors;
- (e) boat launches and marinas;
- (f) passive agricultural uses; and
- (g) well head protection areas.

8.2 The uses listed in 8.1 may require a watercourse alteration permit, issued under the *Clean Water Act*.

SECTION 9 – GENERAL PROVISIONS

Licenses, Permits and Compliance with Other By-Laws

9.1 Nothing in this Regulation shall exempt any person from complying with the requirements of the Building By-Law or any other by-law in force within the Village, or to obtain any license, permission, permit, authority or approval required by any other by-law of the Village or statute and regulation of the Province of New Brunswick or Government of Canada.

Site Triangle

9.2 On a corner lot, a fence, sign, hedge, shrub, bush or tree or any other structure or building shall not be erected or permitted to grow to a height more than 1 metre above grade of the streets that abut the lot within the triangular area included within the street lines for a distance of 4.6 metres from their point of intersection.

Multiple Uses

9.3 In any zone, where any land or building is used for more than one use, all provisions of this Regulation relating to each use shall be satisfied, except as otherwise provided.

Off-street Vehicular Parking

- 9.4(1) No building or structure shall be placed, erected, altered or used unless off-street vehicular parking spaces are provided in accordance with the requirements of this section.
- 9.4(2) An off-street parking space shall have an area of at least 13.2 square metres measuring not less than 5.5 metres in length and not less than 2.4 metres in width, exclusive of driveways thereto.
- 9.4(3) An off-street mobility disabled parking space shall have an area of at least 28 square metres measuring not less than 6.1 metres in length and not less than 4.6 metres in width, exclusive of driveways thereto.
- 9.4(4) An off-street parking space
- (a) shall be readily accessible from the nearest public street; and
 - (b) shall be located on the lot containing the use for which the spaces are provided.
- 9.4(5) An off-street mobility disabled parking space
- (a) where the limits of the parking lot are defined by a curb, shall be provided with a ramped curb as close as possible to the location which it is intended to serve and in no case shall be further than 90 metres from the location which it is intended to serve;
 - (b) shall be located as close as possible to the location it is intended to serve; and
 - (c) shall be clearly identified by a ground sign and a permanently affixed freestanding sign.
- 9.4(6) The total required spaces by use are in the following charts. Where the total required spaces for any use is not a whole number, the total spaces required shall be the next largest whole number.

<u>Use</u>	<u>Parking Requirement</u>
Any dwelling except as specified below	1 space per dwelling unit
Multiple unit dwellings	1.25 spaces per dwelling unit
Senior citizen apartments	1 space per dwelling unit
Boarding and rooming houses	1 space per bedroom
Retail stores, service and personal service Shops where the floor area:	
(a) exceeds 464.5 square metres	4 spaces per 93 square metres gross floor area
(b) does not exceed 464.5 square metres	3 spaces per 93 square metres gross floor area
Banks, financial institutions and offices	3 spaces per 93 square metres gross floor area
Restaurants	1 space per 5 seats
Licensed restaurants, lounges, taverns	Greater of 1 space per 3 seats or 1 space per 10 square metres gross floor area
Theatres	1 space per 5 seats
Institutional uses except as specified below	Greater of 1 space per 4 fixed seats or 1 space per 10 square metres gross floor area
Schools	1 space per classroom plus 1 space per 10 highschool students
Hospitals	2 spaces per bed
Homes for the aged and nursing homes	2 spaces per 5 beds
Daycare facilities	1.5 spaces per 38 square metres gross floor area
Medical clinics and health practitioner office	5 spaces per consulting room
Funeral homes	15 spaces
Warehouses, transport terminals, general industrial	Greater of 2 spaces per 93 square metres gross floor area or 1 space per 4 employees
Any use not specified above	3 spaces per 93 square metres gross floor area

<u>Use</u>	<u>Parking Requirement (Mobility Disabled)</u>
Medical clinics, offices of health practitioners	1 space per 5-15 spaces required, 1 additional space for each additional 15 required spaces to a maximum of 10
Homes for the aged, nursing homes	1 space per 20 beds to a maximum of 10
Multiple unit dwellings	1 space per 30 units to a maximum of 10
Restaurants and theatres	1 space per 50 seats to a maximum of 10
All other uses excluding fire stations, boarding houses and any industrial use which does have a retail function	1 space per 15-100 spaces required, 1 additional space for each additional 100 required to a maximum of 10

9.4(7) Where a parking lot for more than four vehicles is required or proposed, the following standards shall apply:

- (a) except in the case of a home occupation, the parking lot shall be maintained with a stable surface;
- (b) lights used for illumination of the lot shall be so arranged as to divert the light away from streets, adjacent lots and buildings;
- (c) the parking lot shall be located on the same lot as the main use;
- (d) no gasoline pumps or other service station equipment shall be located or maintained on the parking lot;
- (e) approaches or driveways to the parking 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;
- (f) the location of approaches or driveways to the parking lot shall be no closer than 15.2 metres from the limits of the right-of-way at a street intersection;
- (g) entrance and exit ramps to the parking lot shall not exceed two in number and each ramp shall be a width of 7.6 metres at the street line and edge of pavement; notwithstanding, the Commission may consider the creation of more than two access ramps, subject to terms and conditions;
- (h) the width of a driveway leading to a parking lot or loading space, or of a driveway or aisle in a parking lot, shall be a minimum width of 3 metres for one-way traffic and a minimum width of 6.1 metres for two-way traffic; the maximum width of a driveway shall be 7.6 metres; and
- (i) the parking lot shall be graded and drained in such a manner as to ensure that the surface water will not escape onto abutting lots.

Accessory Buildings and Accessory Structures

9.5 No accessory building or accessory structure shall

- (a) exceed 6 metres in height;

- (b) be placed, erected or altered so that it is
 - (i) in the front yard of the main building or structure, or
 - (ii) closer than one metre to a side or rear lot line;
- (c) except for agricultural purposes or hobby farm permitted under this Regulation, be used for agricultural purposes or for the keeping of animals other than household pets; or
- (d) occupy more than ten per cent of the area of a lot in total.

Number of Main Buildings and Structures on a Lot

9.6(1) No more than one main building or structure shall be placed or erected on a lot, and no building or structure may be altered to become a second main building or structure on a lot except in accordance with this section.

9.6(2) Where more than one main building is proposed on any lot, the Commission shall consider such a proposal subject to the imposition of such terms and conditions as it deems advisable. In considering such terms and conditions, the Commission shall have regard for:

- (a) the provision of adequate separation distances between buildings ;
- (b) the design, layout, location and number of driveways, aisles, fire lanes, pedestrian accesses and parking spaces ;
- (c) provisions for landscaping both at the edges of the property and within the parking lot ;
- (d) measures for the storage of winter snow and its subsequent spring drainage ;
- (e) the provision of intra-lot vehicular access between adjacent sites occupied by similar uses in the case of commercial developments ; and
- (f) the general conformity of the proposed development with any other pertinent policy of this Regulation.

Home Occupation in the Main Dwelling

9.7 Where a home occupation is permitted under this Regulation, it is subject to the following requirements:

- (a) not more than two persons are engaged in the home occupation in addition to members of the family resident in the dwelling unit in which the home occupation is carried out;
- (b) it is confined to the dwelling unit referred to in paragraph (a) and no part of the occupation is carried on in an accessory building or accessory structure;
- (c) the floor area of the dwelling unit which is devoted to the home occupation does not exceed 35%;
- (d) no change shall be made to the dwelling unit which would indicate that a home occupation is being conducted therein, except for one non-illuminated sign which shall not exceed 0.75 square metres in gross surface area;
- (e) no goods or services other than those directly pertaining to the home occupation are supplied or sold in or from the dwelling unit;

- (f) no equipment or material used in the home occupation is stored in any other place than in the dwelling unit referred to in paragraph (a);
- (g) no sound, noise, glare, vibration, smoke, odors, heat produced as a result of the occupation which would exceed that which is normally produced by a single residence is permitted;
- (h) at least two additional parking spaces are required on the premises, other than those under section 9.4 of this Regulation; and
- (i) adequate maneuvering room shall be provided on-site to allow vehicles to leave the property front end first.

Home Occupation in a Building Where the Use is Secondary

9.8(1) A home occupation in a building where the use is secondary is subject to the following requirements:

- (a) not more than two persons are engaged in the home occupation in addition to members of the family resident in the dwelling unit on the property on which it is located;
- (b) no change shall be made to the property which would indicate that a home occupation is being conducted therein, except for one non-illuminated sign which shall not exceed 0.75 square metres in gross surface area;
- (c) there shall be no external or outside storage of materials or containers to indicate that any part of the property is being used for any purpose other than a single-family dwelling;
- (d) no sound, noise, glare, vibration, smoke, odors, heat produced as a result of the occupation which would exceed that which is normally produced by a single residence is permitted;
- (e) at least two additional parking spaces are required on the premises, other than those under section 9.4 of this Regulation; and
- (e) adequate maneuvering room shall be provided on-site to allow vehicles to leave the property front end first.

9.8(2) The following home occupations in a building where the use is secondary

- (a) carpentry workshop,
- (b) cabinet-making workshop,
- (c) craft workshop,
- (d) pottery workshop,
- (e) painting workshop,
- (f) re-upholstering workshop, or
- (g) autobody repair shop;

shall be a particular purpose in respect of which the Commission may impose terms and conditions or prohibit the use where compliance with such terms and conditions imposed cannot reasonably be expected.

Garden Suites

- 9.9 A garden suite shall comply with the following regulations:
- (a) it shall not be located closer than 1.2 metres of any side or rear lot line;
 - (b) it shall not exceed 4.6 metres in height;
 - (c) it shall be located in the rear yard;
 - (d) it shall be located on a lot which hosts a single-family dwelling as a main use; and
 - (e) it shall not exceed 75 square metres gross floor area.

Accessory Dwelling Units

- 9.10 An accessory dwelling unit shall comply with the following regulations:
- (a) it shall not exceed 35% of the gross floor area of the principal dwelling unit; and
 - (b) it shall be completely self-contained, including provisions for cooking, sleeping and bathing.

Bed and Breakfasts

- 9.11 A bed and breakfast shall comply with the following regulations:
- (a) the use shall be conducted within the principal single-family dwelling;
 - (b) the number of bedrooms devoted to the use shall not exceed five in number;
 - (c) no cooking equipment shall be provided in a room that is used for sleeping accommodation;
 - (d) no sign in connection with the use shall exceed 0.75 square metres in area nor exceed one in number; and
 - (e) parking shall be provided at the side and/or rear of the lot, but not within the required yards.

Daycare Centre

- 9.12 A daycare centre shall comply with the following regulations:
- (a) it shall be designed to accommodate not more than 15 children at any one time;
 - (b) it shall not be located on any corner lot;
 - (c) it shall be located on a local street which permits on-street parking;
 - (d) no sign in connection with the use shall be illuminated nor shall any sign exceed 0.75 square metres in gross surface area nor exceed one in number; and
 - (e) it shall comply with all Provincial regulations as stated in the Family Services Act of New Brunswick.

Hobby Farm

- 9.13 A hobby farm shall comply with the following regulations:
- (a) it shall be used for the keeping of hooved animals for non-commercial purposes;
 - (b) if it includes an enclosed structure to shelter the animal(s), the shelter shall be on the same lot as the residential use;
 - (c) the enclosed structure shall not be located in the front yard and must be set back 6 metres from rear and side lot lines;
 - (d) the enclosed structure shall not cover any more than 50% of the available rear yard; and
 - (e) a minimum lot area of 8 000 square metres shall be required for the first animal and 4 000 square metres for each additional animal.

Landscaping Requirements

9.14(1) In any zone, the owner of a lot developed for residential purposes (except multiple-family dwellings) shall landscape:

- (a) the front yard of the main building;
- (b) the required yards that abut a street; and
- (c) all of the rear yard within 4.5 metres of any main building thereon.

9.14(2) Landscaping mentioned in section 9.9(1)

- (a) include sodding or at least 80 millimetres of top soil and the seeding thereof; and
- (b) may include partial devotion to paths, patios, walkways, ornamental shrubbery or trees.

9.14(3) In any zone, the owner of a lot developed for commercial, industrial, institutional or multiple-family dwelling purposes shall comply with the following regulations:

- (a) in the case of driveways and off-street parking areas, the area is paved, except where the use abuts an RA Zone, the parking area shall be graveled or paved;
- (b) in the case of that part of the lot not subject to the operation of subsection (a), the area is landscaped; and
- (c) the required landscaped area under subsection (b) shall be grassed and trees and/or shrubs shall be planted at a minimum rate of 1 tree or shrub for each 14 square metres of the minimum landscaped area. Where possible, existing trees and shrubs shall be maintained.

9.14(4) Landscaping under this section shall be completed not later than one year from the date of the granting of the building permit for the main building located thereon.

Signs

9.15(1) No person shall construct, erect, display, alter or relocate a sign and no person being the owner or lessee of property shall permit, suffer or allow the construction, erection, display, alteration or relocation of a sign on such property without a sign permit first having been obtained in accordance with the provisions of this Regulation.

9.15(2) A \$25.00 permit fee shall be submitted for each sign for which a permit is required under the provisions of this Regulation.

9.15(3) The following signs shall be permitted in all zones and no sign permit shall be required for their erection:

- (a) any sign which has an area of not more than 0.75 square metres and which identifies the name and address of a resident;
- (b) any sign which has an area not more than 0.45 square metres and which regulates the use of a property, as do “no trespassing” signs;
- (c) any real estate sign (non-illuminated) which has an area of not more than 0.75 square metres in any residential area or 2.2 square metres in any other zone;
- (d) any sign which has an area of not more than 0.75 square metres and which regulates or denotes the direction or function of various parts of a building or premises, including parking and traffic areas;
- (e) any sign which has an area of not more than 4.6 square metres and which is incidental to construction;
- (f) any sign erected by, or under the direction of, a government body as are signs identifying public buildings, giving public information or regulating traffic or safety;
- (g) any flag, insignia, notice or advertising of any charitable, religious or fraternal organization;
- (h) any memorial sign, plaque or tablet; and
- (i) any sign that announces a candidate for public office in a municipal, provincial or federal election.

9.15(4) All signs shall comply with the following:

- (a) no sign may create a hazard to public safety or health;
- (b) no sign may, for any reason, obstruct the vision of drivers leaving a roadway or driveway, or detract from the visibility or effectiveness of any traffic sign or control device on public streets;
- (c) no sign shall obstruct free ingress to or egress from a fire escape door, window or other required exit;
- (d) no sign shall be located at or near a sharp road curve or below the crest of a hill, except a sign erected by a government body;
- (e) no sign other than a traffic control sign erected by a government body may use words such as “STOP”, “LOOK”, “DANGER”, “ONE WAY” or “YIELD” or any similar words, phrases, symbols, lights or characters used in a manner which may mislead, confuse or otherwise interfere with traffic along a public road;
- (f) no sign may incorporate a searchlight, stringlight, spinner or streamer except for occasions such as grand openings, country fairs and public festivals, or used as temporary holiday decorations for a period not exceeding 30 calendar days;
- (g) no sign may be painted on a tree, stone, cliff or other natural object; and

(h) any sign which no longer advertises a bonafide business conducted or product sold shall be deemed to be obsolete signs and shall be removed by the owner or occupant of the property upon which they are erected, within 60 days of the date of discontinuance of the business or product sold.

9.15(5) Freestanding signs are permitted in all zones except Residential zones provided that no sign shall:

- (a) exceed a maximum height of 10 metres;
- (b) exceed a maximum size of 9 square metres in gross surface area;
- (c) exceed a maximum of one in number for every 30 metres of frontage;
- (d) be located closer to any street line than 2 metres within a Commercial zone, otherwise 4.5 metres; and
- (e) in the case of a corner lot, be located closer to the street line of intersection or intersecting streets than 4.5 metres.

9.15(6) In a Rural Area zone, the following freestanding signs may be placed, erected or displayed:

- (a) one sign not exceeding 9 square metres in area indicating the name of a farm;
- (b) one sign identifying a business carried on therein or a sign located on a farm advertising the sale of products produced thereon provided such sign does not exceed 1.5 square metres in area; and
- (c) hunting and trapping signs under the *Fish and Wildlife Act*.

9.15(7) Projecting signs are permitted in all zones except Residential zones, provided that the sign shall:

- (a) not exceed a maximum of 6 square metres in area per sign face;
- (b) not project more than 2.5 metres from the building wall and be at least 3 metres from the ground;
- (c) not project over property lines;
- (d) not exceed one in number per business carried on therein; and
- (e) not project more than 30 centimetres above the roof of a building.

9.15(8) Billboard signs shall only be permitted in Industrial and Rural Area zones, provided that no sign shall:

- (a) exceed a maximum height of 10 metres;
- (b) exceed 18 square metres in gross surface area;
- (c) exceed a maximum of one sign for every 30 metres of frontage; and
- (d) be located so that it is closer to any street line than 7.5 metres.

9.15(9) Facia wall signs shall be permitted in all zones, provided that:

- (a) in Residential and Rural Area zones, facia signs shall not exceed 0.75 square metres in area nor shall any sign be illuminated or be used for any purpose other than to identify the residents therein, to warn against trespassing or to announce a secondary use;

- (b) no sign shall be painted upon or cover a fence or roof;
- (c) signs be limited to a height not exceeding 1.5 metres;
- (d) signs shall not exceed the length of the wall of the building upon which the sign is displayed; and
- (e) signs shall not project more than 23 centimetres from the wall on which the sign is located.

9.15(10) Third-party signs shall be permitted in all zones, provided that:

- (a) such signs shall not be erected without the written consent of the owner, or an agent acting on behalf of the owner, of the lot on which it is erected; and
- (b) such signs shall not exceed three in number for each business.

9.15(11) The provisions of this Regulation with respect to existing signs which do not conform to the Regulation at the time of its effective date shall not be construed to have a retroactive effect, except that relocation, alteration, or removal of any such non-conforming signs shall render such signs subject to the provision of this Regulation. The provision of this section shall not exempt the owner of a non-conforming sign from the obligations for proper maintenance of such sign.

9.15(12) No person being the owner or lessee of property upon which a sign is located shall permit, suffer or allow such sign, its faces, supports, electrical systems or anchorage to become unsightly, dilapidated or unsafe.

9.15(13) Every sign and its parts thereof, including framework, supports, background, anchors and wiring systems shall be constructed in compliance with any Building By-Law requirements and relevant fire and electrical codes. A sign, which in the opinion of the Development Officer, has become unsightly, or is in such a state of disrepair as to constitute a hazard, may be required to be removed.

Screening of Commercial, Industrial, Multiple-Family Uses

9.16 Where a lot in a commercial, industrial or multiple-family dwelling zone abuts an R1 or R2 zone, such lot shall not be developed for commercial, industrial or multiple-family dwelling use unless a screening facility, such as an earth berm, hedge or fence or a combination thereof, is provided and maintained along abutting property lines.

Fences and Walls

9.17(1) A fence or wall in a front yard shall not exceed eighty centimetres in height unless it is a security fence of chain link construction.

9.17(2) No fence or wall shall exceed in height

- (a) two metres in an R1 or R2 zone and be made from material likely to harm people, such as barb wires, or
- (b) two and one-half metres in any other zone.

Enclosures for Swimming Pools

9.18 The provisions of New Brunswick regulations 81-126, Provincial Building Regulation, Community Planning Act, respecting enclosures for swimming pools, apply to uses permitted under this Regulation.

Excavation of Sand, Gravel or Rock

- 9.19(1) No person shall undertake or continue the excavation of sand, gravel or rock unless an excavation permit has been issued for the excavation by the Building Inspector under this section.
- 9.19(2) A person seeking to obtain an excavation permit under this section shall make application in writing to the Building Inspector on a form provided by the inspector.
- 9.19(3) An application referred to in subsection (2) shall
- (a) state the name and address of the applicant and the location of the proposed excavation,
 - (b) be accompanied by a plan drawn to a scale not less than one to one thousand indicating the boundaries of the land involved in the proposed excavation and the boundaries of that part proposed to be excavated,
 - (c) indicate the lowest level of the proposed excavation,
 - (d) set out the methods to be employed by the person named in the proposed permit to maintain accesses to the excavation and public streets over which excavated material is transported in a dust-free condition by means of paving, sweeping, calcium chloride or the use of water,
 - (e) indicate the estimated date of commencement of the work involved in the excavation, and
 - (f) include a proposal for rehabilitation of the site of the excavation as provided for in this Regulation and the proposed time limit for the rehabilitation.
- 9.19(4) Subject to subsection (7), the Building Inspector shall issue an excavation permit if
- (a) an application under subsection (2) has been received;
 - (b) the proposed excavation and the proposal for rehabilitation of the site meet the requirements of this Regulation;
 - (c) the fee set out in subsection (14) has been paid; and
 - (d) the applicant has deposited the sum of money or the surety bond mentioned under paragraph 9.19(11) to the account of the Commission.
- 9.19(5) An excavation permit is valid until the thirty-first day of December of the year of issue.
- 9.19(6) An excavation permit shall
- (a) be on a form provided by the Building Inspector,
 - (b) set out the details of the proposal set out in the application for the permit, and
 - (c) be signed by both the Building Inspector and the applicant.
- 9.19(7) A Building Inspector shall not issue an excavation permit if the inspector is of the opinion that

- (a) the proposed work would be apt to
 - (i) create a hazard to human life,
 - (ii) cause injury to a person,
 - (iii) damage adjoining property, or
 - (iv) adversely affect a public water main, a sewer, a watercourse or a street,
- (b) the land of the site is or would be subject to geological instability or flood hazard to the extent that no reasonable amount of corrective work could eliminate or sufficiently reduce the instability of hazard, or
- (c) the Building Inspector and the applicant have not agreed on
 - (i) the level referred to in paragraph 9.19(3)(c), or
 - (ii) a time limit referred to in paragraph 9.19(3)(f).

9.19(8) An excavation permit is subject to the following terms and conditions:

- (a) that no excavation take place below the lowest level agreed to between the Building Inspector and the applicant;
- (b) accesses to the excavation and public streets over which excavated material is transported are maintained by the holder of the permit in a dust-free condition by means of paving, sweeping calcium chloride or the use of water;
- (c) that the excavation and any related work is carried on only between the hours of 7:00 a.m. and 7:00 p.m. and only on days others than Sundays and statutory holidays unless authorized as a condition of the permit;
- (d) that no operation relating to the excavation is conducted so as
 - (i) to be apt to create a hazard to human life, to cause injury to person or to damage adjoining property,
 - (ii) to permit ponding of water in excess of 60 centimetres in depth,
 - (iii) to lower the water table on adjoining properties, or
 - (iv) to prejudice proposed or required rehabilitation of the land;
- (e) that adequate measures are taken to prevent surface water from damaging the face of the excavation;
- (d) that the final perimeter of an excavation shall not be located within:
 - (i) 30 metres of the right-of-way boundary of a public highway, unless with the written permission of the Minister of Department of Transportation;
 - (ii) 15 metres of any non-residential property boundary, unless with the written permission of the property owner;
 - (iii) 60 metres of the bank or the ordinary high water mark of any watercourse, unless a watercourse alteration permit is obtained from the Minister of Environment and Local Government;

- (iv) 100 metres of the boundary of any existing area which has been designated by the Minister of Natural Resources and Energy as a natural protected area or the Minister of Tourism and Parks as a cultural heritage resource;
 - (v) 100 metres of the foundation of a residential, industrial, institutional or commercial structure unless with the written permission of the owner;
 - (vi) the protected area of a public water supply wellfield;
 - (vii) a Protected Area as designated by the *Clean Water Act* for drinking water supply watersheds;
 - (viii) 100 metres of a private water supply well in the case of a pit, unless with the written permission of the well owner;
 - (ix) 300 metres of a commercial, industrial, agricultural or communal well in the case of a pit, unless with the written permission of the Minister of Environment and Local Government and the well owner;
 - (x) 600 metres of any water supply well in the case of a quarry, unless with the permission of the Minister of Environment and Local Government and the well owner and unless it can be technically demonstrated to the Minister of Environment and Local Government that extraction activities will not impact on the water supply, in no case shall this limit be less than 300 metres;
- (e) that an undisturbed buffer strip shall be maintained at least 15 metres wide between the final perimeter of an excavation and a public highway or a non-residential property;
- (f) that a remnant berm between two adjacent properties that area excavated may be removed entirely with a written, legally documented agreement by both property owners;
- (g) that in the event that an historic site is unearthed in an excavation the operator shall notify the Heritage Branch of the Department of Environment and Local Government and shall cease operations until assessment and instructions are provided by said authority;
- (h) that the following blasting standards shall be followed:
- (i) the proponent shall perform a pre-blast survey for all structures within 600 metres of the excavation operation;
 - (ii) the proponent shall perform a representative pre-blast survey of water quality and quantity for drinking water wells within 600 metres of the excavation operation;
 - (iii) all blasts shall be monitored in accordance with an approved schedule for air blast concussion and ground vibration;
 - (iv) air blast concussion shall not exceed 128 dB within 7 metres of the nearest structure located off the site;
 - (v) ground vibration shall not exceed 12.5 mm/sec (0.5 inches per second) peak particle velocity measured below grade or less than 1 metre above grade in any building or structure located off site.

- (i) that adequate signage is posted around the perimeter and visible from any access, warning people of any dangerous situations associated with the operation, including but not limited to such activities as blasting, heavy equipment operation, open holes, moving vehicles, etc.;
- (j) that gates shall be at all entrances and exits to operating sites and these gates shall be closed and locked when the site(s) is not operating;
- (k) that a barricade such as a fence or berm shall be put in place around any excavation that has (a) a vertical face slope steeper than 60 degrees from horizontal and in excess of 3 metres in height and (b) more than 60 centimetres of standing water;
- (l) that if there is any liquid discharge from the operation, an explanation for this and a water treatment and sedimentation control plan shall be included in the permit application that shall ensure the following standards are met: (a) maximum suspended solids less than 25 ppm and (b) pH between 6.5 and 9.0;
- (m) that if there is the potential for noise to impact an adjacent property owner, a noise mitigation strategy must be submitted with the permit application demonstrating the means by which the proponent will alleviate or reduce sources of noise associated with the excavation activity, the objective of which shall be to achieve a noise level of less than 5dB at the point of reception;
- (n) that when operations cease annually at the end of the summer, the slope of the excavation is not steeper than 1 1/2 horizontal to 1 vertical for the full depth of the slope; and
- (q) that the land of the site of the excavation is rehabilitated as provided for in this section.

9.19(9) The owner of the site of the excavation for which an excavation permit has been issued shall rehabilitate the land of the site within the time limit specified in the permit upon

- (a) depletion of the shale, sand, gravel or rock from the site to the extent that further operation would no longer be viable,
- (b) the expiration or revocation of the permit, or
- (c) cessation of operations for a period of at least one year.

9.19(10) Rehabilitation referred to in subsection (9) shall include the following:

- (a) where an excavation is over 6 metres deep, a terrace shall be provided not less than 6 metre in width at each 6 metre interval of the depth;
- (b) except for terraces provided for under paragraph (a), slopes of the excavation shall be not steeper than 1 1/2 horizontal to 1 vertical;
- (c) all plants, equipment, buildings or structures placed or erected on the site for purposes of the excavation shall be removed;
- (d) all stock piles, shale or other excavated material shall be removed from the site, back-filled into the excavation where feasible or brought to a common grade with the rest of the land; and
- (e) the site shall be cleared of debris and, except for areas under water or on exposed rock, covered with a layer of soil, capable of supporting vegetation, to a depth of at least 15 centimetres, seeded with grass or other ground cover to prevent erosion and replanted with the species and quantity of trees originally found on the land.

9.19(11) No permit may be issued under this section until the applicant has deposited a sum of money, or a surety bond in lieu thereof, issued by an insurance company licensed to carry on business in the Province of New Brunswick, in an amount determined by the Commission, and payable to the Commission, to be adequate to insure the excavation project will be completed and to cover the estimated cost of rehabilitation required under section 9.18(13).

9.19(12) If the holder of an excavation permit violates any of the terms and conditions referred to in subsection (8), or any provision of this section, the building inspector may suspend or revoke the excavation permit, and may, if the violation is rectified, reinstate a suspended permit.

9.19(13) If an owner referred to in subsection (9) fails to meet the requirements of that subsection, the Minister may cause the required rehabilitation to be done and may recover from the owner all costs connected with the rehabilitation.

9.19(14) The fee for the issue or renewal of an excavation permit is \$500 for commercial use or \$25 for non-commercial use.

Landfill

9.20(1) No person shall use any of the following materials as landfill:

- (a) toxic or radioactive materials;
- (b) waste;
- (c) scrap iron;
- (d) construction leavings; or
- (e) material likely to harm a watercourse or the water table.

9.20(2) No landfill shall be placed within 30.00 metres of the banks or shores of any watercourse, lake or marsh of more than 1 hectare in area.

Heritage and Archeological value

9.21(1) For any development, construction, or demolition that will have a foreseeable impact on a building or site designated under the *Historic Sites Protection Act*, the developer must contact the Heritage Planner, Heritage Branch of the Department of Environment and Local Government for approval of the proposed development or project.

9.21(2) For any development or project such as sewage/wastewater, treatment facility, park small craft launching facility or uses having direct access to the shore or any major body of water, i.e. lake, pond, or marsh of more than 2 hectares, the developer must contact the Resource Management Officer, Archeological Services Branch, Department of Environment and Local Government, for approval of the proposed development or project.

KIM JARDINE, Minister
Department of Environment and Local Government

Date