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4 Regulations Applying to All Uses

4.1 GENERAL PROVISIONS

4.1(1) USES PERMITTED IN ALL ZONES

The following *uses* are permitted in any zone:

- (a) Public *Parks* and Playgrounds
- (b) Public *Streets*
- (c) *Utilities*
- (d) *Safety and Emergency Services*
- (e) *Secondary Uses*

4.1(2) STREET ACCESS

- (a) No person shall erect or use a *building* or *structure* or use any *lot* unless the *lot* abuts or fronts on a public *street* or otherwise achieves satisfactory access to a public *street*.
- (b) All access locations and curb crossings shall be approved by the Development Officer.
- (c) Vehicular access to any land in a non-residential *zone* or land used for non-residential purposes shall not be permitted within a *residential zone* or on land used for residential purposes.

Z-5.59

4.1(3) UNDERSIZED LOTS

(a) Zones where Single Detached Dwellings are permitted

- (i) In zones where a *single detached dwelling* is permitted, nothing in this by-law shall prevent the use of an undersized *lot* for a *single detached dwelling* with respect to minimum *lot area*, *frontage* and *depth*, provided that all other standards of the zone are met.

(b) All Other Zones

- (i) In all other zones, nothing in this by-law, shall prevent the use of an undersized *lot* with respect to minimum *lot area*, *frontage* and *depth*, provided that:
 - (A) the use of such *lot* is permitted in the zone in which such *lot* is located;
 - (B) all other standards of the zone are maintained except:
- (ii) Despite Section 4.1(3)(b)(i) vehicle-oriented *uses* shall comply with the minimum *lot area* requirement referenced in Sections 10.2(2)(b)(i) and 10.2(2)(c)(ii).

Z-5.16

(c) Newly Created Lots

- (i) A *lot* may be undersized with respect to *minimum lot area*, *frontage* and *depth* where it is created:
 - (A) solely for the purposes of *utilities*;
 - (B) as land for public purposes; or
 - (C) for a future *street*.

Z-5.59

Z-5.82

4.1(4) STEEP SLOPED LOTS

- (a) Any part of a *lot* in which *grade* is sloped 15% or more shall not be considered as part of the *lot* for the purposes of calculating minimum *lot area*.

4.1(5) MIXED USE

- (a) Where two or more *uses* are located in one *building* or on one *lot*, the most restrictive regulations shall be deemed to be in force for that *lot* or *building* unless otherwise specified.

4.1(6) NON-CONFORMING USES

- (a) Where a zoning by-law makes a property *non-conforming*, the provisions of Section 40 of the *Community Planning Act* will apply.
- (b) The provisions of this section shall not exempt the owner of a *non-conforming use* from the obligation for proper maintenance and minimum occupancy standards of such *use*.

4.1(7) NUMBER OF MAIN BUILDINGS ON A LOT

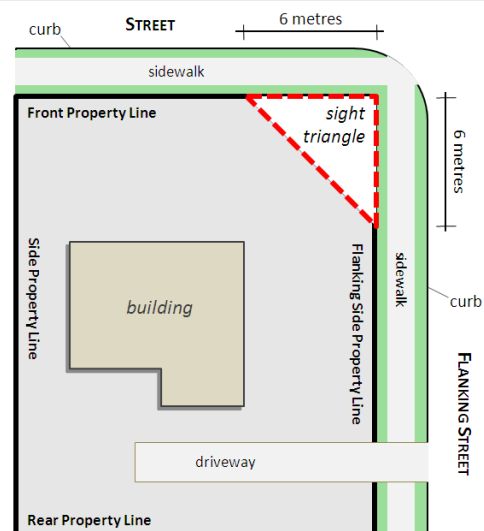
- (a) Only one main *building* shall be permitted on a *lot* unless otherwise specified in the purpose statement for each zone.

4.1(8) MINIMUM FLOOR ELEVATION ABOVE FLOOD LEVEL

- (a) No *development* of any *habitable space* shall be permitted in any zone unless the minimum geodetic elevation of the top of any floor is at least nine (9) metres. Z-5.16

4.1(9) SIGHT TRIANGLE ON CORNER LOTS

- (a) On any *corner lot* within the triangular space included between *property lines* abutting a public *street* of a distance of 6 metres from their point of intersection, no *building* or *structure* shall be erected and no shrubs or foliage shall be planted or maintained within 6 metres of the point of intersection of the *property lines* abutting a public *street*, which would obstruct the view of a driver of a vehicle approaching the intersection.



4.1(10) RESTRICTIONS ON USE OF ACCESSORY BUILDINGS

- (a) *Accessory buildings* are permitted in each zone only where there is a permitted *principal use*, main *building* or *structure* on the *lot* subject to Section 4.2(3).
- (b) An *accessory building* shall not contain or be used as a *dwelling unit* nor have a rooftop *deck* or *balcony*.
- (c) A shipping container, trailer or similar *structure* shall not be used as an *accessory building*.
- (d) Despite Section 4.1(10)(c), a shipping container may be used as an *accessory building* in the P Zone and CCI Zone.

Z-5.143

4.1(11) RESTRICTIONS ON USE OF VEHICLES

- (a) A motor vehicle, *recreational vehicle*, tractor trailer, tractor engine, container designed for commercial transport, farm tractor, road building machine and any vehicle drawn, propelled or driven by any kind of power, despite its wheels having been removed, shall not be used as a *dwelling unit*, a commercial main *building* or as an *accessory building* or *structure* in any *residential zone*, *institutional zone* or *commercial zone*.

4.1(12) SCREENING OF MECHANICAL EQUIPMENT

- (a) Any mechanical equipment located outside of a *building* shall be visually *screened* from a public *street* except for residential *development* of less than 4 *dwelling units* and *development* located in *industrial zones*.

4.1(13) LIGHTING OF SITES

- (a) All outdoor lighting shall be located and arranged so that no direct rays of light are directed at any adjoining *lot* or passing vehicular traffic or interfere with the effectiveness of any traffic control devices.

4.1(14) CONSTRUCTION BELOW GROUND

- (a) The requirements for the provision of *building setbacks* do not apply to construction wholly beneath the surface of the ground except for below *grade parking structures* within the MR-2, MR-4 and MR-5 zones which shall comply with Section 9.3(4)(h)(ii)(E), Section 9.5(4)(d)(vi), or Section 9.6(4)(d)(vi), respectively.

4.1(15) TEMPORARY STRUCTURES

- (a) Nothing in this By-law shall prevent the *use* of a temporary *building* or *structure* which is accessory to construction in progress such as a temporary work camp, *mini-home*, sales or rental office, tool or maintenance shed or scaffold provided that a building permit has been issued and that the temporary *building* or *structure* be removed within 14 days of the completion of work.

4.1(16) TEMPORARY SALES OFFICE

- (a) Temporary real estate sales *office* shall be permitted within new display or model show homes in new subdivision *developments* for a period of not more than 12 months.

4.1(17) TELECOMMUNICATION TOWERS

- (a) Telecommunication Towers are regulated by the federal government through Industry Canada. The Zoning By-law does not regulate the placement of telecommunication towers within municipalities other than those aspects of tower construction involving an *accessory building*, affixing a tower to an existing *building*, or signage placed upon a tower. Notwithstanding, the City of Fredericton has a protocol that applicants must follow prior to erecting a telecommunication tower. All applicants seeking approval of a telecommunication tower from Industry Canada must seek the opinion of the municipality as a part of their federal approval process.

Z-5.143

4.1(18) BUILDING DESIGN IN THE CITY CENTRE PLAN AREA Z-5.197

- (a) *Development* proposals located within the City Centre Plan Area as shown on Schedule 1 shall generally comply with the City Centre Built Form Design Guidelines to the satisfaction of the Development Officer.
- (b) Where the Development Officer is of the opinion that the development proposal does not generally comply with the City Centre Built Form Design Guidelines, the Development Officer may:
- (i) require that a design review of the *development* proposal be undertaken by an independent design professional(s) to determine if the *development* proposal generally complies with the City Centre Built Form Design Guidelines, and/or,
 - (ii) refer the *development* proposal to City Council for decision subject to a Development Agreement as required by Section 59 of the Community Planning Act.

4.2 STANDARDS

4.2(1) PROJECTIONS INTO YARDS

(a) **Architectural Features**

- (i) The following architectural features may extend or project into a required *side yard setback* not more than 0.6 metres and may extend or project into a required *front or rear yard setback* not more than 0.75 metres: cornices, eaves, belt courses, sills, canopies, bay windows or other similar architectural features.
- (ii) Chimneys may project into a required *front, side or rear yard setback* not more than 0.6 metres.

(b) **Steps and Stairways**

- (i) Exterior steps, stairways or stair balconies may extend or project into a required *front or rear yard setback* not more than 2.5 metres. Z-5.59
- (ii) Wheelchair ramps may project without limits into a required *front, side or rear yard setback*. Z-5.59

(c) **Decks, Platforms, and Landings**

- (i) Required *Front Yard Setback* None permitted.
Z-5.59
- (ii) Required *Side Yard Setback* Not permitted except the *structure* may extend or project to within 1.8 metres of the *side property line* when it is located on the driveway side and is at least 12 metres back from the *front property line*.
Z-5.16 Z-5.59
- (iii) Required *Rear Yard Setback*
 - (A) Within 2 metres of the *rear property line* where the mean *height* of the *structure* measured from the adjacent *grade* to the bottom of the *structure* does not exceed 0.5 metres in height. Z-5.59
 - (B) Within 4 metres of the *rear property line* where the mean *height* of the *structure* measured from the adjacent *grade* to the bottom of the *structure* exceeds 0.5 metres in height.

(d) **Balconies**

- (i) Balconies may extend or project into a required *front, side or rear yard* not more than 0.6 metres. Z-5.197

4.2(2) LANDSCAPED AREA

- (a) **For single detached dwellings, duplexes, semi-detached dwellings, converted dwellings and mini-homes:**
- (i) the *front yard* shall be *soft landscaped area* except for driveways, walkways, steps, *patios* or *decks*; Z-5.59
 - (ii) the required *rear yard setback* and non-driveway *side yard setback* shall be *soft landscaped area*; Z-5.59
- (b) **For all other uses in zones that require landscaped area:**
- (i) all areas of a *site* not covered by *buildings*, driveways, *parking*, or walkways shall be *soft landscaped area*; Z-5.16 Z-5.59
 - (ii) where a *private outdoor amenity space* is provided within a required minimum *landscaped area*, it shall be considered as satisfying both requirements;
 - (iii) existing *soft landscaped area* retained on a *site* may be considered in fulfilment of the total *landscaped area* requirement;
 - (iv) except for City boulevards, trees shall be planted in the overall minimum ratio of one tree per 45 square metres of *landscaped area* located within all required *yard setbacks*; Z-5.59
 - (v) the quality and extent of the *landscaped area* established on a *site* shall be the minimum standard to be maintained on the *site* for the life of the *development*. Adequate means of irrigating and maintaining the *landscaped area* shall be provided;
 - (vi) *soft landscaped area* shall be provided as follows:
 - (A) all plant materials shall be of a species capable of healthy growth in New Brunswick and shall conform to the standards of the International Society of Arboriculture;
 - (B) the mixture of tree sizes at the time of planting shall be equivalent to a minimum of 50 percent larger trees;
 - (C) the minimum size for deciduous trees shall be:
 - (I) 45 millimetres calliper for smaller deciduous trees, and 45 millimetres calliper for flowering ornamental trees, and
 - (II) 50 millimetres calliper for larger deciduous trees.
 - (D) the minimum size for smaller coniferous trees shall be a height of 1.5 metres, and for larger coniferous trees, a height of 2 metres;
 - (E) coniferous trees shall comprise a minimum of 25% of all trees planted and shall not encroach into City boulevards;
 - (F) wherever space permits, trees shall be planted in groups;
 - (G) shrubs shall be a minimum height or spread of 600 millimetres at the time of planting.

4.2(3) ACCESSORY BUILDINGS

- | | | | |
|-------|---|--|-------------------|
| (a) | Number of Buildings (MAX) | 2 per <i>lot</i> except in <i>industrial zones</i> , P zone, CCI zone and the I-2 Zone | Z-5.16
Z-5.143 |
| (b) | Size (MAX) | | Z-5.82 |
| (i) | In all zones except <i>commercial</i> and <i>industrial zones</i> and the I-2 Zone, the total <i>lot coverage</i> of all <i>accessory buildings</i> shall be: | 10% of the <i>lot area</i> or 70 m ² , whichever is less | Z-5.16 |
| (ii) | In <i>commercial zones</i> , the total <i>lot coverage</i> of all <i>accessory buildings</i> shall be: | 15% of the <i>lot area</i> or 100 m ² , whichever is less | |
| (iii) | If used for covered <i>parking</i> or for resident self-storage accessory to an <i>apartment building</i> , the total <i>lot coverage</i> of all <i>accessory buildings</i> shall be: | 18 m ² per <i>dwelling unit</i> | |
| (c) | Location | | |
| (i) | In all zones except <i>commercial</i> and <i>industrial zones</i> , the minimum <i>building setback</i> from any <i>property line</i> that does not abut a public <i>street</i> shall be: | 1.2 metres | |
| (ii) | In <i>commercial</i> and <i>industrial zones</i> , the minimum <i>building setback</i> from any <i>property line</i> that does not abut a public <i>street</i> shall be: | 3 metres | |
| (iii) | An <i>accessory building</i> shall not be located in the <i>front yard</i> . | | |
| (iv) | On a <i>corner lot</i> an <i>accessory building</i> or <i>structure</i> shall provide the same <i>front yard setback</i> and <i>side yard setback</i> abutting a flanking <i>street</i> as the main <i>building</i> . | | |
| (v) | In any <i>residential zone</i> an <i>accessory building</i> shall be separated from the main residential <i>building</i> by at least 1 metre. | | |
| (d) | Height | | |
| (i) | The height of an <i>accessory building</i> or <i>structure</i> shall not exceed the <i>height</i> of the main <i>building</i> on the <i>lot</i> and in no case shall it exceed: | | |
| | (A) 4.8 metres measured from <i>grade</i> to the highest point of any portion of the roof, and | | |
| | (B) 3 metres measured from the finished floor to the required <i>eave line</i> ; | | Z-5.59 |
| (ii) | except in <i>industrial zones</i> where the <i>building height</i> shall not exceed the <i>height</i> of the main <i>industrial building</i> on the <i>lot</i> . | | |

4.2(4) SWIMMING POOLS

- (a) **Residential Zones** (MIN)
- (i) *Setback* from any *street* line: 7.5 metres
 - (ii) *Setback* from any other *property* line: 2 metres
 - (iii) Any outdoor *swimming pool* shall be fully enclosed by a fence, wall or other *structure* at least 1.5 metres in height. Such enclosure shall include doors and gates with a self-latching device to restrict access. Such enclosure shall be *set back* a minimum of 1 metre from the edge of the water contained in the *swimming pool*;
 - (iv) No *swimming pool* or any portion thereof shall be located directly under any electrical service wires.
- (b) **All Other Zones** (MIN)
- (i) No *swimming pool* shall be placed in any required *front, side* or *rear yard setback*;
 - (ii) *Setback* from any *street* line if the adjacent land is in a *residential zone*: 6 metres
 - (iii) *Setback* from any other *property* line if the adjacent land is in a *residential zone*: 12 metres
 - (iv) Any outdoor *swimming pool* shall be fully enclosed by a fence, wall or other *structure* at least 1.5 metres in height. Such enclosure shall include doors and gates with a self-latching device to restrict access. Such enclosure shall be set back a minimum of 1 metre from the edge of the water contained in the *swimming pool*.

4.2(5) GARBAGE

Z-5.16

- (a) Garbage containers shall be stored inside a *building* or within a screened enclosure to the satisfaction of the Development Officer except for residential *development* of less than 4 *dwelling units*.
- (b) A garbage container enclosure shall not be located within the *front yard* in a *residential zone* and shall not be located within the required *front yard setback* in all other zones. Z-5.59
- (c) A garbage container shall be accessible and unencumbered for collection at all times.