

Schedule A Zoning Map

Schedule B

Definitions

For the purpose of this Bylaw, all words shall carry their customary meaning except for those defined hereafter.

In this Bylaw:

ACCESSORY BUILDING - means a separate subordinate building, not used for human habitation which is used or intended for the better or more convenient enjoyment of the main building to which it is accessory, and located upon the parcel of land upon which such building is to be erected, and is compatible in design to the main buildings and surrounding structures.

ACCESSORY USE - means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.

AGRICULTURAL USE includes:

“General Agricultural Use” - means an agricultural use of a building or land, such as animal husbandry, dairying, field cropping, horticulture, market gardening, pasturage, and any associated packing and storage of agricultural products, but excluding any *intensive agricultural use*, or any agricultural processing (see *heavy industry*).

“Intensive Agricultural Use” - means an agricultural use of a building or land which is an *obnoxious use*, such as potato production, tobacco production, and intensive livestock operations such as abattoirs, piggeries, year-round feed lots, and commercial poultry-keeping based on confinement rather than free-range operations.

ALLOWABLE USE - means a use identified as allowable in a *zone*, including:

“Permitted Use” - means a use which is allowable by right, subject to meeting applicable Bylaw requirements.

“Special Permit Use” - means a use presumed to be generally appropriate within a development *zone* but whose intensity, impacts or other characteristics require discretionary review to ensure that projects meet all applicable standards and findings for the use at the designated location.

ALTER - means any change in the structural component or physical appearance of a building or any increase in the volume of a building or structure.

AMENITY AREA - means an area of land set aside for the purpose of visual improvement or relaxation except where an Amenity Area is required for any multiple unit dwelling, in which case the area may also include that portion of the building which is devoted to relaxation such as games rooms and balconies.

APPLICANT - means any person responsible for completing an application for a *development permit* or zoning or Official Plan amendment and for fulfilling any required preconditions or conditions of permit approval under this Bylaw.

ATTACHED - means a building or structure which has a common wall and/or common roof line and the building or structure may be considered common as long as a minimum of twenty (20) percent of the length of the wall or roof line is common with the main building or structure wall or roof.

BED AND BREAKFAST - means a dwelling occupied by a family and used incidentally to provide accommodation of up to three (3) separate rooms and meals to transient travellers and includes a tourist home but does not include a boarding house, rooming house, domiciliary hostel, group home, hotel, motel, restaurant or lounge.

BLOCK - means any unit of land consisting of a grouping of lots bounded on all sides by watercourses, streets or large land boundaries or as otherwise defined by the municipality.

BUILDING - includes any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal or chattel.

BUILDING HEIGHT - means the vertical distance measured from the averaged finished grade to the highest point of roof surface.

BUILDING LINE - means any line defining the position of a building or structure on a lot.

BUILDING SETBACK - means the distance between the street line and the nearest main wall of any building or structure, except fences, and extending the full width of the lot.

BUSINESS OR PROFESSIONAL OFFICE - means premises where services are offered for a fee but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.

COASTAL AREA - means all the land, including surface water bodies, streams, rivers, and off-shore islands in the province, lying within 500 metres inland and seaward of the high water mark of all coastal and tidal waters.

COUNCIL - means the Council for the Municipality of Malpeque Bay.

DEMOLITION - means to remove, pull down or destroy a structure.

DEVELOPER - means any person who is responsible for any undertaking that requires a development permit, subdivision approval or consolidation approval.

DEVELOPMENT - means the carrying out of any building, engineering, excavation, dumping, filling or other operations in, on, over or under land, or the making of any material change in the use, or the intensity of use of any land, buildings, or premises without limiting the generality of the foregoing.

DEVELOPMENT PERMIT - means the formal and written authorization for a person to carry out any development.

DWELLING - means a building or portion thereof designated or used for residential occupancy, but does not include hotels and motels.

"Dwelling Unit" - means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of such individuals, with a private entrance from outside of the building or from a common hallway or stairway inside the building.

"Duplex Dwelling" - a building that is divided horizontally into two dwellings, each with their own outdoor entrance.

"Multiple Unit Dwelling" - means a building containing three or more dwelling units.

"Single Family Dwelling" - means a building designed or used for occupancy as one dwelling unit, except where an *accessory apartment* is also allowed in the same building, and shall include *modular homes*.

ERECT - means to build, construct, reconstruct, alter or relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, filling or draining.

FARMING - means the outdoor cultivation of agricultural products, and the raising of farm livestock.

FARM or FARM PROPERTY - means land comprising an area of 1.2 hectares or more, including any complementary buildings, utilized for the purpose of sowing, cultivation and harvesting of crops, rearing of livestock or production of raw dairy products, and may comprise a lesser area when operated as a farm enterprise by a *bona fide* farmer as defined in the Real Property Assessment Act, R.S.P.E.I. 1988, Cap. R-4.

FARM ENTERPRISE – for the purposes of these regulations has the same meaning as set out in the Real Property Assessment Act, R.S.P.E.I. 1988, Cap. R-4.

FENCE - means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA - means:

- (a) With reference to "**Dwelling**" - the area contained within the outside walls excluding any private garage, porch, veranda, sunroom, greenhouse, unfinished attic, unfinished basement, and other rooms not habitable at all seasons of the year.
- (b) With reference to "**Commercial Building**" - the total usable floor area within a building used for commercial purposes excluding washrooms, furnace rooms and common halls between stores.
- (c) With reference to "**Accessory Building**" - the area contained within the outside walls.

FORESTRY USE - means the use of land for the growing, conservation, or harvesting of trees, but shall not include the processing or manufacturing of wood products.

FRONTAGE - means the horizontal distance between the side lot lines bordering on a street and according to the direction of the front of the dwelling or structure.

GRADE - means the highest among the average, finished ground levels around each respective *main wall* of a building, excluding consideration of local depressions on the ground, such as for vehicle or pedestrian entrances.

HEAVY INDUSTRY - means a building used for the processing of products predominantly derived from extracted or raw materials, such as feed, fertilizer and gravel plants, potato processors, pulp mills and sawmills, including industries which for application purposes under this Bylaw may be considered an *obnoxious use*.

HIGHWAY, ROAD or STREET - means all the area within the boundary lines of every road, street or right-of-way which is vested in the Province of Prince Edward Island or the municipality and used or intended for use by the general public for the passage of vehicles and includes any bridge over which any such road, street or right-of-way passes.

INDUSTRIAL PREMISES - means premises in or from which goods or materials are manufactured, processed, assembled or extracted or premises from which wholesale trade is carried on including warehousing.

INSTITUTIONAL BUILDINGS - means premises, other than retail or industrial, used for community services and includes:

- (a) cemeteries
- (b) churches, places of worship and religious institutions
- (c) colleges, universities and non-commercial schools
- (d) community centres
- (e) golf courses
- (f) government offices
- (g) senior citizens homes, community care facilities, and nursing homes
- (h) clinics and hospitals
- (i) libraries, museums and art galleries
- (j) public and private parks
- (k) public and private recreational centres
- (l) public and private schools
- (m) experimental farms
- (n) child care facilities.

INTENSIFICATION - means the development of a property or site at a higher density than previously existed and includes redevelopment or development within existing communities, infill development, or development on vacant lots or underdeveloped lots within a built-up area, conversion or the change of use an existing structure or land use, and the creation of apartments or other accommodation in houses.

INTENSIVE AGRICULTURAL USE - see *agricultural use*

LANDSCAPING - means all the elements of a *lot* or site *development* other than the building or buildings, and may include vehicle and pedestrian facilities, grass and other ground cover, flower beds, shrubbery, trees, hedges, berms, fences and retaining structures, off-street lighting devices, forms of natural landscaping, and various combinations thereof.

LOT or PROPERTY - means any parcel of land described in a deed or as shown in a registered subdivision plan.

"Lot Area" - means the total area included within the lot lines.

"Corner Lot" - means a lot situated at an intersection of and abutting on two or more street.

"Front Lot Line" - means the lot line abutting the street upon which the building or structure erected or to be erected has its principal entrance.

"Lot Depth" - means the depth from the front lot line to the rear lot line.

"Lot Line" - means any boundary of a lot.

"Rear Lot Line" - means the lot line further from and opposite to the front lot line.

"Side Lot Line" - means a lot line other than a front, rear or flankage lot line.

"Through Lot" - means a lot bounded on two opposite sides by streets.

LOT CONSOLIDATION - means the legal incorporation of two or more existing parcels of land to form a single, larger parcel.

MAIN BUILDING - means that building in which is carried on the principal purpose or purposes for which the lot is used, the nature of the use of which determines the status of the lot upon which it is authorized to be constructed or upon which it is constructed.

MAJOR DEVELOPMENT - means any *development* that will have a major impact on the Municipality as a whole or any part thereof including, but so as not to limit the foregoing, any major impact on municipal services, transportation, tax rates, retail outlets, institutions and residential expansion.

MINI-HOME - means a pre-manufactured dwelling unit having an average width of less than six (6) metres (20 ft), not including entries, porches or other appurtenances.

MOBILE HOME - means a transportable dwelling unit suitable for permanent occupancy, designed to be transported with or without its own wheeled chassis and may include a pre-manufactured dwelling unit commonly referred to as a "mini-home".

MODULAR HOME - means a remanufactured dwelling unit having an average width of six (6) metres or more, not including appurtenances such as porches, entries, etc.

OBNOXIOUS USE - means any use of a building or land which, because of its nature, may potentially:

- (a) create a serious nuisance;
- (b) be offensive by the creation of noise or vibration or by reason of the emission of gases, fumes, dust, and any objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other materials; or
- (c) constitute a significant environmental hazard to public health or to the natural environment.

OFFICIAL PLAN - means the Municipality of Malpeque Bay's Official Plan as adopted by *Council*.

OPEN SPACE - means that portion of a lot which may be used for landscaping, recreational space or leisure activities normally carried on outdoors; but does not include space used for service drive-ways, off-street parking, or loading spaces.

OPEN STORAGE - means the outdoor storage of merchandise, goods or inventory of any kind, materials, equipment, or other items not intended for immediate sale.

PARKING SPACE - means an area of land which is suitable for the parking of a vehicle, not less than three metres (10 ft) wide and six metres (20 ft) long, accessible to vehicles without the need to move other vehicles on adjacent areas.

PERSON - means an individual, association, corporation, contractor, commission, public utility, firm, partnership, trust, heirs, executors or other legal representatives of a person, or organization of any kind, including both principal and agent in an agency situation.

PERSONAL SERVICE SHOP - means a building in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons. (including but not limited to: barbershop, hairdressing shops, beauty parlours, shoe repair, laundromats, tailoring, dry-cleaning, etc.)

PHASE - means to develop a parcel of land over time in a series of prescribed stages; or one of such stages.

PLANNING BOARD - means the Planning Board of the Municipality of Malpeque Bay appointed by Council.

PROVINCE - means the Province of Prince Edward Island.

PUBLIC PARK or PARKLAND - means land owned by the Municipality or some other level of government used or intended for use by members of the public.

RECREATIONAL TRAILER or VEHICLE - means a vehicle which provides sleeping and other facilities for short periods of time, while travelling or vacationing, designed to be towed behind a motor vehicle, or self-propelled, and includes such vehicles commonly known as travel trailers, camper trailers, pick-up coaches, motorized campers, motorized homes, recreation vehicles or other similar vehicles.

RESOURCE USES - means any uses involving the processing or storing of natural resource materials including but not limited to agricultural, forestry, fishing and mining resources and shall include the production of agricultural products and the keeping of farm animals, but shall not include related industrial uses such as processing plants.

RESTAURANT - means buildings or structures or part thereof where food and drink is prepared and offered for sale to the public.

RETAIL STORE - means a building or part thereof in which foods, goods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public at retail.

SERVICE SHOP - means a building or part thereof used for the sale and repair of household articles and shall include electronic and appliance repair shops but shall not include industrial, manufacturing or motor vehicle body repair shops.

SEWERAGE SYSTEM - means a system of pipes for the disposal of sewage controlled by a utility.

SITE PLAN - means a plan drawn to a suitable architectural scale showing details of existing and proposed features on a parcel of land which is the subject of an application for development.

STOREY - means that portion of a building between any floor and ceiling or roof next above, provided that any portion of a building partly below grade level shall not be deemed a storey unless its ceiling is at least 1.8 m (approximately 6 feet) above grade and provided also that any portion of a building between any floor and ceiling or roof next above exceeding 4.2 m (approximately 14 feet) in height shall be deemed an additional storey.

STREET or ROAD - see *Highway*

STRUCTURE - means any construction including a building fixed to, supported by or sunk into land or water, but excludes concrete and asphalt paving or similar surfacing and fencing and includes a swimming pool.

SUBDIVISION - means a division, consolidation, or other reconfiguration of *lots*.

SURVEY PLAN - means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island land surveyor.

TOURIST ESTABLISHMENT - means a dwelling in which is operated the seasonal business of providing or offering overnight accommodation for transient guests for compensation.

MUNICIPALITY or COMMUNITY- means the area incorporated and known as the Community of Malpeque Bay.

USE - means any purpose for which a building or other structure or parcel of land may be designed, arranged, intended, maintained or occupied, and includes any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a parcel.

VEHICLE - means any motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.

WATERCOURSE - means the full length and width, including the sediment bed, bank and shore, of any stream, spring, creek, brook, river, lake, pond, bay, estuary, or coast water body or any part

thereof, whether the same contains water or not, but does not include (i) a grassed waterway, or (ii) a tap drain, unless a watercourse has been diverted into the tap drain.

WETLAND - means lands commonly referred to as marshes, saltmarshes, swamps, bogs, flats and shallow water areas that are saturated with water long enough to promote wetland or aquatic biological processes which are indicated by poorly drained soil, water-tolerant vegetation, and biological activities adapted to a wet environment.

YARD - means an open, uncovered space on a lot appurtenant to a building and unoccupied by buildings or structures except as specifically permitted in this Bylaw and

"Front Yard" - means a yard extending fully across a lot between the *front lot line* and the nearest point of the *main wall* of any *main building* on the lot. The 'minimum front yard' is measured at the minimum yard depth as required under this Bylaw.

"Rear Yard" - means a yard extending fully across a lot between the *rear lot line* and the nearest point of the *main wall* of any *main building* on the lot. The 'minimum rear yard' is measured at the minimum yard depth as required under this Bylaw.

"Side Yard" - means a yard extending between the *front* and *rear yards* and the nearest point of the *main wall* of any *main building* on the lot. The 'minimum side yard' is measured at the minimum yard depth as required under this Bylaw.

"Flankage Yard" or **"Flanking Yard"** - means the side yard of a *corner lot* extending from the *front yard* to the *rear yard* and between the *flanking lot line* and the nearest point on the *main wall* of any *main building* on the lot. The 'minimum flankage yard' is measured at the minimum yard depth as required under this Bylaw. Where a minimum flankage yard is not separately specified, the 'minimum side yard' shall also apply to a flankage yard.

ZONE - means a designated area of land shown on the zoning map of the Bylaw within which land uses are restricted to those specified by this Bylaw.

"Floating Zone" - means a zone with criteria and permitted uses, but not applied to any land in the municipality. A designated area of land may be rezoned to a floating zone following the process for rezoning.

Schedule C

Provincial Minimum Lot Size Standards

- 1) Notwithstanding any other provisions of this Bylaw, no person shall subdivide a lot intended to be serviced by an on-site sewerage system except in conformance with the minimum lot size standards noted in Table 1 and Table 2 below.

TABLE 1
MINIMUM LOT SIZE STANDARDS
RESIDENTIAL DEVELOPMENTS

a) servicing	b) lot category	c) number of dwelling units	d) minimum lot area sq. ft./sq. m.	e) minimum circle diameter to be contained within the boundaries of the lot feet/metres
on-site water and on-site sewerage system	I	1	25,000 sq.ft. / 2,322.5 sq.m.	150 ft. / 45.7 m.
		2		160 ft. / 48.8 m.
		3	30,000 sq .ft. / 2,787 sq. m.	175 ft. / 53.3 m.
		4	35,000 sq. ft. / 3,251.5 sq.m.	200 ft. / 61 m.
		more than 4	40,000 sq. ft. / 3,717 sq. m 40,000 sq. ft. / 3,717 sq. m. plus 1,500 sq. ft. / 457 sq.m. for each additional unit	200 ft. / 61 m.
on-site water and on-site sewerage system	II	1	35,000 sq.ft. / 3,251.5 sq.m.	175 ft. / 53.3 m.
		2		200 ft. / 61 m.
		3	40,000 sq. ft. / 3,717 sq. m.	225 ft. / 68.6 m.
		4	45,000 sq. ft. / 4,180.5 sq. m.	250 ft. / 76.2

		more than 4	50,000 sq. ft. / 4,645 sq. m. 50,000 sq.ft. / 4,645 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	m. 250 ft. / 76.2 m.
--	--	-------------	---	-----------------------------

on-site water and on-site sewerage system	III	1 2 3 4 more than 4	51,000 sq. ft. / 4,738 sq. m. 56,000 sq. ft. / 5,202 sq. m. 61,000 sq. ft. / 5,667 sq. m. 66,000 sq. ft. / 6,131 sq. m. 66,000 sq. ft. / 6,131 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	225 ft. / 68.6 m. 250 ft. / 76.2 m. 275 ft. / 83.8 m. 300 ft. / 91.4 m. 300 ft. / 91.4 m.
central water supply and on-site sewerage system	I	1 2 3 4 more than 4	20,000 sq.ft. / 1,858 sq. m. 25,000 sq.ft. / 2,322.5 sq.m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and on-site sewerage system	II	1 2 3 4 more than 4	25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq.ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq.m. 40,000 sq.ft. / 3,717 sq. m. 40,000 sq. ft. / 3,717 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 200 ft. / 61 m. 200 ft. / 61 m.

central water supply and on-site sewerage system	III	1 2 3 4 more than 4	40,000 sq.ft. / 3.717 sq.m. 45,000 sq.ft. / 4,180.5 sq.m. 50,000 sq. ft. / 4,045 sq. m. 55,000 sq. ft. / 5,110 sq. m. 55,000 sq. ft. / 5,110 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61.m. 225 ft. / 68.6 m. 250 ft. / 76.2 m. 275 ft. / 83.8 m. 275 ft. / 83.8 m.
on-site water supply and central waste treatment system	I or II	1 2 3 4 more than 4	15,000 sq.ft. / 1,393.5 sq.m. 20,000 sq. ft. / 1,858 sq. m. 25,000 sq.ft. / 2,322.5 sq.m. 30,000 sq. ft. / 2,787 sq. m 30,000 sq. ft. / 2,787 sq. m. plus 1,500 sq. ft. / 457 sq. m for each additional unit	100 ft. / 30.5 m. 125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 160 ft. / 48.8 m.
on-site water supply and central waste treatment system	III	1 2 3 4 more than 4	20,000 sq. ft. / 1,858 sq. m. 25,000 sq.ft. / 2,322.5 sq.m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq.ft. / 3,251.5 sq.m. 35,000 sq. ft. / 3,251.5 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and	I, II or III	any number	as determined by the authority having jurisdiction	as determined by the authority

waste treatment systems				having jurisdiction
-------------------------	--	--	--	---------------------

**TABLE 2
MINIMUM LOT SIZE STANDARDS
NON-RESIDENTIAL DEVELOPMENTS**

a) servicing	b) lot category	c) minimum lot area sq. ft. / sq. m.	d) minimum circle diameter to be contained within the boundaries of the lot feet / metres
on-site water and on-site sewerage disposal system	I	25,000 sq. ft. / 2,322.5 sq. m. (1)	150 ft. / 45.7 m.
on-site water and on-site sewerage disposal system	II	35,000 sq. ft. / 3,251.5 sq. m. (1)	175 ft. / 53.3 m.
on-site water and on-site sewerage disposal system	III	51,000 sq. ft. / 4,738 sq. m.	225 ft. / 68.6 m.
central water supply and on-site sewerage disposal system	I	20,000 sq. ft. / 1,858 sq. m. (1)	125 ft. / 38.1 m.
central water supply and on-site sewerage disposal system	II	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
central water supply and on-site sewerage disposal system	III	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and central waste treatment system	I, II or III	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
central water supply and waste treatment systems	I, II or III	as determined by the authority having jurisdiction	as determined by the authority having jurisdiction

- 1) Notwithstanding the minimum lot areas set out in this column, the development of a non-residential lot which is serviced by an on-site sewerage system shall be subject to the minimum requirements of the *Environment Protection Act Sewage Disposal Regulations*.
- 2) With respect to the minimum circle diameter requirement set out in column (e) of Table 1 and column (d) of Table 2, where applicable, the space encompassed by the circle shall be in a location on the lot which will accommodate on-site sewerage system.
- 3) Lots shall be categorized according to the following:

- (i) Category I, where the lot has a dept of permeable natural soil of 2 ft. / 0.61 m. or more, and where the depth of bedrock and the depth to the maximum water table elevation is greater than 4 ft. / 1.22 m.;
 - (ii) Category II, where the lot has a depth of permeable natural soil of 1 ft. / 0.3 m. or more, but less than 2 ft. / 0.61 m., and where the depth to bedrock and the depth to the maximum water table elevation is 4 ft. / 1.22 m or greater;
 - (iii) Category III, where the lot has a depth of permeable natural soil less than 1 ft. / 0.3 m., and where the depth to bedrock and the depth to the maximum water table elevation is less than 4 ft. / 1.22 m.
- 4) Except where such a lot is serviced by a central sewerage system, development of a Category III lot shall not be permitted unless it is upgraded to the satisfaction of the Minister of Environmental Resources to conform with Category II as described in clause 3 (iii).