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## DEFINITIONS

**ACCESS** means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street.

**ACCESSORY BUILDING** includes:

- (a) a detached subordinate building not used as a dwelling, located on the same lot as the main building or use to which it is accessory, and which has a use which is customarily incidental or complimentary to the main use of the building or land:
- (b) for residential uses: domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetable storage cellars, shelters for domestic pets, or radio and television antennae,
- (c) for commercial uses: workshops, garages, and
- (d) for industrial uses: garages, offices, raised ramps and docks.

**ACCESSORY DWELLING UNIT** means a separate dwelling unit constructed within and subsidiary to the main use. The main use shall not be a single dwelling, double dwelling, row dwelling, and apartment building.

**ACCESSORY USE** means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use.

**ACT** unless otherwise, stated, means the Urban and Rural Planning Act, 2000.

**AGRICULTURE** means horticulture, fruit growing, grain growing, crop growing, seed growing, dairy farming, bee keeping, the breeding or keeping of animals for food, skins, or fur, the use of land, meadow land, market gardens and nursery grounds and the use of land for woodlands where that use is ancillary to the farming of the land. Agriculture includes primary processing of onsite products.

**AMUSEMENT USE** means the use of land or buildings equipped for the playing of electronic, mechanical, or other games and amusements including electronic games, pinball games and slot machine arcades and billiard and pool halls.

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**ANIMAL UNIT** means one of the following animals or groups:

1 Dairy Cow (or calve)	2 Sows
1 Beef Cow (or calve)	1 Hog (operation based on 15-90 kg.)
1 Bull	1 Boars
1 Horse (or foal)	30 Broiler Chickens (less than 1.5 kg)
4 Ewe sheep or lambs	20 Layer Hens (less than 2.3 kg)
10 Foxes (inc.breed females, male & litter)	10 Turkeys
10 Mink (inc. breed females, males & litter)	20 Rabbits (doe includes litter)
1 Sow (farrow to finish)	or as defined by the Council

**APARTMENT BUILDING** means a building containing three or more dwelling units, but does not include a row dwelling or a single dwelling with a subsidiary apartment.

**APPLICANT** means a person who has applied to the authority for an approval to carry out a development.

**APEAL BOARD** means the appropriate Appeal Board established under the Act.

**ARTERIAL STREET** means the streets in the Planning Area constituting the main traffic arteries of the area and defined as arterial streets or highways in the Municipal Plan or on the Zoning Map.

**APPROVAL IN PRINCIPLE** means that Council when considering a development application shall evaluate the application to the development requirements within the Town. If the proposed development meets the development requirements of the Town an approval in principle maybe given to the application. Final approval and issuance of a permit to commence development are subject to the agreement by the applicant to meet specified conditions as outlined by Council.

**AUTHORITY** means a council, authorized administrator or regional authority.

**BACKLOT** means a lot characterized by the location of the residential lot generally at the rear of another residential lot, or otherwise separated from the public street which provides access, and by a narrower area extending from the rear residential lot to the public street.

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**BED AND BREAKFAST** means a detached dwelling occupied by the property owner or the bed and breakfast host as a primary residence in which overnight accommodation and a breakfast meal are offered to registered guests for a fee.

**BOARDING HOUSE** means a dwelling in which at least 2 rooms are regularly rented to persons other than the immediate family of the owner or tenant.

**BUFFER** means a berm, row of trees or shrubs, hedge, fence, or distance separation that provides a barrier between incompatible sites, uses or districts.

**BUILDING** means:

- (a) a structure, erection, excavation, alteration or improvement placed on, over or under land, or attached, anchored or moored to land; mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses;
- (b) a part of and fixtures on buildings referred to in (a) and (b), and
- (c) an excavation of land whether or not that excavation is associated with the intended or actual construction of a building or thing referred to in subparagraphs (a) to (c).

**BUILDING HEIGHT** means the vertical distance, measured in metres, from established grade to the:

- a) highest point of the roof surface of a flat roof;
- b) deck line of a mansard roof; and
- c) mean height level between the eave and ridge of a gable, hip or gambrel roof.

A Building Height shall not include mechanical structures, smokestacks, steeples, and purely ornamental structures above a roof.

**BUILDING LINE** means a line established by the Council that runs parallel to the street line and is set at the closest point to a street that a building may be placed.

**CHILD CARE FACILITY** means a building or part of a building in which services and care are regularly provided to children or adults, but does not include a school as defined by the Schools Act.

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**CORNER LOT SIGHT TRIANGLE** means a corner lot, a fence, sign, hedge, shrub, bush or tree or any other structure or vegetation shall not be erected or permitted to grow to a height greater than .1 metre above grade of the street that abut the lot within the triangular area included within the street lines for a distance of 6 metres from the point of intersection.

**COUNCIL** means the Municipal Council of the Town of Torbay.

**DEVELOPMENT** means the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of a material change in the use, or the intensity of use of land, buildings, or premises and the:

- (a) making of an access onto a highway, road or way,
- (b) erection of an advertisement or sign,
- (c) construction of a building,
- (d) the parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation, and excludes,
- (e) the carrying out of works for the maintenance, improvement or other alteration of a building, being works which affect only the interior of the building or which do not materially affect the external appearance or use of the building,
- (f) the carrying out by a highway authority of works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road reservation,
- (g) the carrying out by a local authority or statutory undertaker of works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of streets or other land for that purpose,
- (h) the use of a building or land within the courtyard of a dwelling house for a purpose incidental to the enjoyment of a dwelling house as a dwelling.

**DEVELOPMENT AGREEMENT** means a written agreement between the municipality and a developer which establishes particular circumstances and conditions under which a development may be carried out.

**DISCRETIONARY USE** means a use that is listed within the discretionary use classes established in the use zone tables of the Council's Development Regulations.

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**DOUBLE DWELLING** means one building containing two dwelling units, placed one above the other, side by side, or joined by a carport with separate lot areas dedicated to each unit, but does not include a single dwelling containing a subsidiary apartment.

**DWELLING UNIT** means a self-contained unit consisting of one or more habitable rooms used or designed as the living quarters for one or more persons.

**ENGINEER** means an engineer who is a member of the Association of Professional Engineers and Geoscientists of Newfoundland, employed or retained by the Council.

**ESTABLISHED BUILDING LINE** means the average distance from the street line of existing buildings in any block where more than half the frontage has been built upon in the past.

**ESTABLISHED GRADE** means

- a) where used in reference to a building, the average elevation of the finished surface of the ground where it meets the exterior of the front of that building exclusive of any artificial embankment or entrenchment;
- b) where used in reference to a structure that is not a building, the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment.

**FAMILY CHILD CARE USE** means a building or part of a building in which services and activities are regularly provided for up to six (6) children as defined in the Child Care Services Act, but do not include a school as defined by the Schools Act.

**FLOODWAY** means the inner portion of a flood risk area where the risk of flood is greatest, on average once in twenty years and where the flood depths and water velocities are greatest.

**FLOODWAY FRINGE** means the outer portion of a flood risk area, between the floodway and the outer boundary of the flood risk area, where the risk of flooding is lower, on average once in one hundred years, and flood waters are shallower and slower.

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**FLOOD PROOFING** means structural and/or non-structural measures incorporated in the design of a building or structure which reduce or eliminate the risk of flood damage by ensuring that the ground floor elevation is higher than the projected flood level and that the building can be exited without hindrance in the event of a flood.

**FLOOR AREA** means the total area of all floors of a building measured to the outside face of exterior walls.

**FORESTRY** means the use of land for the purpose of forest and woodland management including the felling, cutting, trimming and thinning of forest or woodland for the extraction of timber, and includes reforestation and silviculture.

**FRONTAGE** means the horizontal distance between side lot lines measured at the building line.

**FRONT YARD DEPTH** means the distance between the front lot line of a lot and the front wall of the main building on the lot.

**GENERAL GARAGE** means land or buildings used for the repair, maintenance and storage of motor vehicles and may include the sale of petroleum products.

**GENERAL INDUSTRY** means the use of land or buildings for the purpose of storing, assembling, altering, repairing, manufacturing, fabricating, preparing, processing, testing, salvaging, breaking up, demolishing, or treating any article, commodity or substance, and "Industry" shall be construed accordingly.

**GROUP CHILD CARE USE** means a building or part of a building in which services and activities are regularly provided for seven (7) or more children as defined in the Child Care Services Act, but do not include a school as defined by the Schools Act. .

**GROUP HOME** means a dwelling unit accommodating not more than 6 persons, exclusive of staff, in a home-like setting where staff provide care and supervision. This definition includes, but is not limited to, the facilities called "Transition House" and "Foster Home".

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**HAZARDOUS INDUSTRY** means the use of land or buildings for industrial purposes involving the use of materials or processes, which because of their inherent characteristics constitute a special fire, explosion, radiation or other hazard.

**HOME OCCUPATION** means a secondary use of a dwelling unit or its accessory building by at least one of the residents of such dwelling unit to conduct a gainful occupation or business activity, and subsidiary to a residential use. Also referred to as a “Home based Business”, and classified as an “Office” use.

**HOME OFFICE/BUSINESS** means a secondary use of a dwelling unit by at least one of the residents of such dwelling unit to conduct a gainful occupation or business activity with such occupation or business activity being restricted to office uses which do not involve visitation by clients, customers, or the general public to the site, nor the employment of non-residents, and subsidiary to a residential use. Also referred to as a “Home Based Business”, and classified as an “Office” use.

**HOSPITALITY HOME** means a dwelling unit in which at least 1 room is regularly rented, and includes the uses commonly referred to as “Bed and Breakfast”, and “Boarding House”.

**INSPECTOR** means a person appointed as an inspector by the Town Council of Torbay.

**LAND** includes land covered by water, and buildings and structures on, over, or under the soil and fixtures that form part of those buildings and structures.

**LANDSCAPING** means the development of land by altering the topography and ground cover and may include the use of turf, plants, shrubs, trees, retaining walls and fences.

**LIGHT INDUSTRY** means the use of land or buildings for industrial use that can be carried out without hazard or intrusion and without detriment to the amenity of the surrounding area by reason of noise, vibration, smell, fumes, smoke, grit, soot, ash, dust, glare or appearance.

**LIVESTOCK OPERATION** means a livestock operation of agricultural animals confined in one location which consists of 5 or more animal units at a given point in time.

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**LOCAL STREET** means a street designed primarily to provide access to adjoining land and which is not designated as a collector street or arterial street in the Municipal Plan, or on the Zoning Map.

**LOT** means a plot, tract or parcel of land that can be considered as a unit of land for a particular use or building.

**LOT AREA** means the total horizontal area within the lines of a lot.

**LOT COVERAGE** means the combined area of all buildings on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot.

**MINERAL WORKING** means land or buildings used for the working, stockpiling or extraction of rock, mineral, peat or aggregate material, and will include a “quarry”.

**MINI HOME** means a factory produced single dwelling complying with the National Building Code and having the appearance of a mobile home.

**MINISTER** shall mean the Minister of Municipal Affairs, unless otherwise specified.

**MOBILE HOME** means

- a) a transportable factory-built single family dwelling unit, which complies with space standards substantially equal to those laid down in Part IX of the National Building Code of Canada and is in accordance with the construction standards laid down by the Canadian Standards Association and all other applicable provincial and municipal regulations, and
  - b) which is designed to be transported on its own wheels and chassis to a lot, and subsequently supported on its own wheels, jacks, or posts or a permanent foundation; and
  - c) connected to exterior public utilities approved by the Authority, namely, piped water, piped sewer, electricity and telephone, in order for such mobile home unit to be suitable for year round term occupancy.
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**MUNICIPAL PLAN** means a plan adopted by the Council as a Municipal Plan pursuant to the Urban and Rural Planning Act, 2000.

**NON-CONFORMING USE** means a legally existing use that is not listed as a permitted use or discretionary use for the use zone in which it is located or which does not meet the development standards for that use zone.

**OWNER** means a person or an organization or persons owning or having legal right to use the land under consideration.

**PERMITTED USE** means a use that is listed within the permitted use classes set out in the use zone tables of the Torbay Development Regulations.

**PLANNING AREA** means a regional planning area and a municipal planning area established under section 6 and 11 of the Act. For the purpose and context of these regulations, the Planning Area shall mean the area within the municipal boundaries of the Town of Torbay.

**PROHIBITED USE** means a use that is not listed in a use zone within the permitted use classes or discretionary use classes or a use that Council specifies as not permitted within a use zone.

**REAR YARD DEPTH** means the mean distance between the rear lot line and the rear of the main building on the lot.

**RESTAURANT** means a building or part of a building, licensed for the purpose of serving meals and includes a "Snack Bar".

**ROW DWELLING** means three or more dwelling units at ground level in one building, each unit separated vertically from the others;

**SERVICE STATION** means a building, including gas pumps, used for the sale of petroleum products, and may include general merchandise, minor automotive repairs, and washing of vehicles.

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**SERVICE STREET** means a street constructed parallel to or close to another street for the purpose of limiting direct access to that street.

**SHOP** means a building or part thereof used for retail trade wherein the primary purpose is the selling or offering for sale of goods, wares or merchandise by retail or the selling or offering for sale of retail services but does not include an establishment wherein the primary purpose is the serving of meals or refreshments, an amusement use, a general garage, or a service station.

**SHOPPING CENTRE** means a group of retail stores with integrated parking which is planned, developed and designed as a unit containing a minimum of 5 retail establishments.

**SHOWROOM** means a building or part of a building in which samples or patterns are displayed and in which orders may be taken for goods, wares or merchandise, including vehicles and equipment, for later delivery.

**SIDEYARD WIDTH** means the distance between a side lot line and the nearest side wall of a building on the lot.

**SIGN** means a word, letter, model, placard, board, device or representation, whether illuminated or not, in the nature of or employed wholly or in part for the purpose of advertisement, announcement, or direction and excludes those things employed wholly as a memorial, advertisements or local government, utilities and boarding or similar structures used for the display of advertisements.

**SINGLE DWELLING** means one building containing a single dwelling unit for the use of one family, placed on its own lot, and can include a subsidiary apartment.

**STREET** means a street, road, highway or other way designed for the passage of vehicles and pedestrians, and which is accessible by fire department and other emergency vehicles.

**STREET LINE** means the edge of the right of way of a street reservation as defined by the authority having jurisdiction.

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**SUBDIVISION** means the dividing of land, whether in single or joint ownership, into 2 or more pieces (including lots), for the purpose of development.

**SUBSIDIARY APARTMENT** means a separate dwelling unit constructed within and subsidiary to a single dwelling.

**TAKE-OUT FOOD** means a building in which the primary purpose is the preparation and sale of meals and refreshments for consumption off the premises.

**USE** means a building or activity situated on a lot or a development permitted on a lot.

**USE ZONE or ZONE** means an area of land including buildings and water designated on the zoning map to which the uses, standards and conditions of a particular use zone table apply.

**VARIANCE** means a departure, to a maximum of 10% from the yard, area, lot coverage, setback, size, height, frontage, or any other numeric requirement of the applicable use zone table of the Torbay Development Regulations.

**ZONING MAP** means the map or maps attached to and forming part of the Torbay Development Regulations.

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