

SCHEDULE A - 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 is:

- (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 such as 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 such as workshops, garages, and
- (d) for industrial uses such as 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 the context indicates otherwise, 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. For the purposes of these regulations, agriculture also includes the keeping or boarding of horses.

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.

ANTENNA means a system that involves the transmission or receiving of data through radio waves, air monitoring, weather collection devices or other sources, typically forming part of a mast or tower which may be several hundred metres tall, either guyed or freestanding. Small monitoring structures are typically located near the base.

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.

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

APPLICANT means a person who has applied to Council for approval to carry out development.

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.

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.

ASSISTED RESIDENTIAL LIVING means a residential building designed for people seeking assisted home care by the content and layout of the dwelling units (varying in size, number of bedrooms, shared kitchens), provisions for common dining facilities, recreation areas, lounges, libraries, respite units, and the accessibility of all units and facilities to the physically challenged. Personal care homes shall have the same meaning, but does not include a hospital.

ATTACHED GARAGE means a residential garage typically used for the storage of motor vehicles and shares a portion of one of its walls with the main residence or is attached to the main residence by an extension of the roof line.

AUTHORITY means a council, authorized administrator or regional authority.

BAR means a building licensed under the *Liquor Control Act* wherein meals and food may be served for consumption on the premises and in which entertainment may be provided.

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.

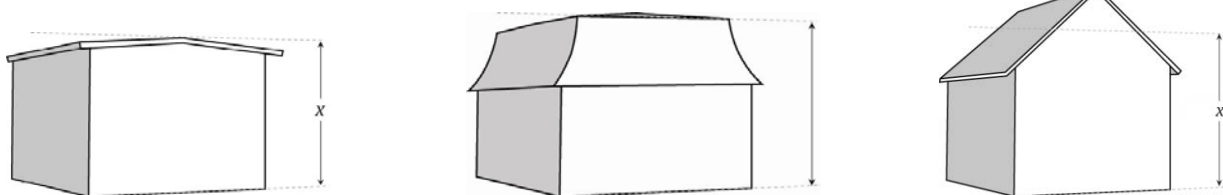
BUILDING means:

- a) A structure, erection, alteration or improvement placed on, over or under land, or attached, anchored or moored to land;
- b) Mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses;
- c) A part of and fixtures on buildings referred to in (a) and (b); and
- d) 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 (a) to (c).
(Same definition as the *Urban and Rural Planning Act, 2000* Section 2(c))

BUILDING HEIGHT means the vertical distance, 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.

In any case, 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. A corner lot is deemed to have a building line setback on both the primary and flanking streets.

BULK STORAGE FACILITY means a place for the outdoor storage or tank storage of large quantities of raw materials or industrial related goods such as liquids (fuel oil), gases, minerals, pipes, gravel, fertilizers and grain.

CHILD CARE means a building or part of a building in which services and activities are regularly provided to children of pre-school age during the full daytime period as defined under the *Day Nurseries Act*, but does not include a school as defined by the *Schools Act*.

CLINIC means a building used for medical, dental, surgical or therapeutical treatment of patients, but does not include overnight facilities and does not include a professional office of a doctor located in a residence.

CONDOMINIUM means a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

CONDOMINIUM CORPORATION means the association which administers and maintains the common property and common elements of a condominium.

CONVENIENCE STORE means a building used for the sale of goods required by area residents or employees on a day-to-day basis.

CORNER LOT means a lot deemed to have street frontages on both a primary and a flanking (secondary) street.

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 metres above grade of the streets 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.

CUL-DE-SAC means a local dead-end street or road, terminating in a turnaround, with only one entrance and exit. Generally, a cul-de-sac ends in a circle, bulb.

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.

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 **secondary suite or in-law suite**.

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DRIVEWAY means a private road for vehicles that connects a house, garage, or other building with a public road.

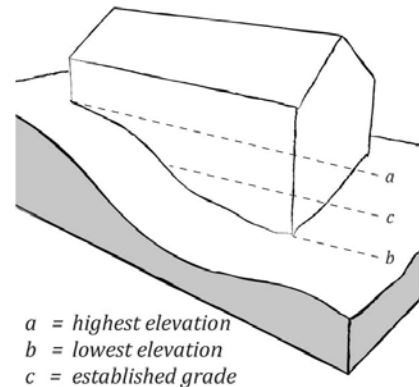
DWELLING UNIT means a self-contained unit consisting of one or more habitable rooms used or designed as the living quarters for one or more persons.

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 AND GROUP CARE CENTRE means a dwelling accommodating up to but no more than six (6) persons exclusive of staff in a home-like setting. Subject to the size limitation, this definition includes, but is not limited to, facilities referred to as "group homes", "halfway houses", and "foster homes".

FLANKING YARD means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flanking lot line and the nearest main wall of any main building or structure.

FLANKING STREET means the secondary street bordering a corner lot.

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.

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”.

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.

HERITAGE PROPERTY means any building, structure or land designated by Council as an historic heritage property under the Town’s Heritage Regulations.

HOME OCCUPATION (OFFICE) means a secondary use of a dwelling by at least one of the residents of the dwelling to conduct business activity with such occupation or business activity being restricted to office uses which may involve limited visitation by clients, customers, or the general. Also referred to as a Home Based Business 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”.

IN-LAW SUITE means a small apartment that forms part of the primary residence, with a communicating door to the primary residence, a separate entrance, and typically contains a bedroom, living space and bathroom, and shall not include a kitchen.

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INSPECTOR means a person appointed as an inspector by the Council.

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.

LAND USE IMPACT ASSESSMENT means an evaluation of a proposed development in the form of a written report identifying significant impacts, evaluation and constraints, with recommendations for measures of control or mitigation. The Land Use Impact Assessment process may provide opportunities for public review and comment of the report prior to its approval by Council.

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.

LANDSCAPE PLAN means a two dimensional scaled concept plan showing the land or lot boundaries which would include proposed development of the land by using turf, plants, shrubs, trees, retaining walls and fences for aesthetic or practical purposes. A Landscape Plan may include, but not limited to, the arrangement or modifying land features, such as tree retention or planting, garden edging or retaining, planting, screening, fencing or earthwork (alteration or drainage).

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.

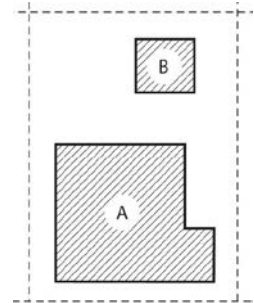
LOCAL STREET means a street designed primarily to provide access to adjoining land and which is not designated as a collector street or arterial street in the Municipal Plan, or on the Zoning Map.

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

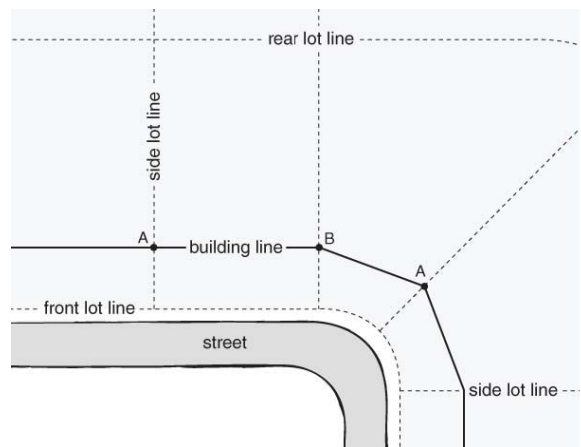
LOT AREA means the total horizontal area within the lines of a lot.

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.

$$\text{Lot coverage} = \frac{\text{Area of A} + \text{Area of B}}{\text{Lot area}}$$



LOT FRONTAGE means the horizontal distance between side lot lines measured at the building line (the distance between points A and B in illustration at right).



LOT LINE, REAR means the lot line on the opposite side of the front lot line.

LOT LINE, SIDE means the lot lines perpendicular to the front and rear lot lines.

LOT LINE, FLANKING means a lot line which abuts the street on a corner 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 form of a mobile home which has a pitched roof and traditional house-type exterior siding designed to be connected to services, electricity and telephone suitable for year round occupancy.

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

MODULAR HOME means a residential dwelling built in modules in a factory complete with kitchen, bedrooms, bath, etc, as may be pre-set in a house and transported to the building site for joining and placement on a foundation. Modular home construction shall conform to the National Building Code and the Town of Torbay Development Regulations.

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.

OUTDOOR LIVING SPACE means that part of the residential lot, usually located in the back yard that may be utilized for a patio that may be covered or enclosed, a swimming pool, or a well designed landscape and garden area to add ambiance.

OUTDOOR MARKET means a building or vending site where individual vendors operating from stalls, booths or other defined areas, offer for sale food or goods items such as fresh fruit and vegetables, meat, fish and eggs, garden plants, baked foodstuffs, handicrafts and goods. Automobile lots may also be considered as Outdoor Markets.

OUTDOOR STORAGE means the storage of merchandise, goods, inventory, materials or equipment or other items which are not intended for immediate sale, by locating them outside.

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

PARKING LOT means an open area of land other than a street or an area within a structure for the parking of vehicles.

PARKING SPACE means an area of land or building for the temporary parking or storage of vehicles.

PERMIT TO DEVELOP means the general term referring to all permits or licenses approved by Council and shall include all conditions, agreements or provisions attached thereto.

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

PLANNING AREA means a regional planning area and a municipal planning area established under section 6 and 11 of the *Urban and Rural Planning Act, 2000*. For the purpose and context of these regulations, the Planning Area shall mean the area within the municipal boundaries of the Town of Torbay.

PRIMARY STREET means the street on which a development fronts and is referenced in the civic address.

PRIVATE BOATHOUSE means a building constructed to house a boat, boats or related material, in which no business, occupation or service is conducted for profit and which excludes a private garage.

PRIVATE ROAD (SHARED DRIVEWAY) means a roadway within private property that are privately owned, maintained and used for vehicular travel by the owner and those having express or implied permission from the owner, but not other persons. Their main function is to provide access to the private land. Most private roads are not designed to the same standards as public streets. Municipal services are not available to the buildings or dwellings on private streets.

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.

PUBLIC STREET means a main road or thoroughfare owned and maintained by the Authority, such as a provincial highway or local street, available to the public for pedestrian use or vehicular transportation.

PUBLIC USE means land, structure or building constructed for use by the general public. Public Use may include parks, playgrounds, trails, paths and other recreational and open spaces, scenic and historic sites, publicly funded buildings such as schools, hospitals, libraries and other public buildings and structures.

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

RECREATIONAL USE means land used as parks, playgrounds, tennis courts, ball fields, golf courses, picnic areas, swimming pools, walking trails, and such similar uses.

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.

SALVAGE YARD means land used for the storage, handling or processing of and sale of scrap material, and may include storage of recycling uses such as waste paper, metals, vehicles, tires, or other scrap material or salvage, but shall not include a hazardous waste material storage or disposal site.

SCREENING means a fence, berm, trees, hedge, wall or building used to separate areas or functions which detract from the appearance of the streetscape and the view from the surrounding areas.

SECONDARY SUITE means a separate dwelling unit constructed within, below, above or attached to a single dwelling, and subsidiary to the main dwelling unit.

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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.

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 **secondary suite or in-law suite**.

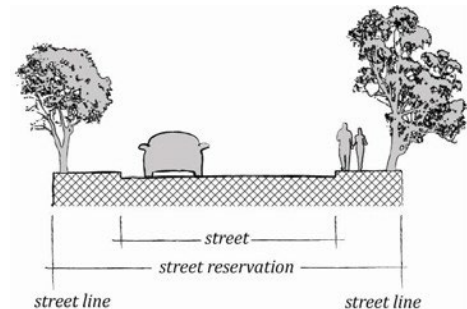
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SITE PERMIT means a permit issued by the Town of Torbay for any earth disturbance or other earthwork including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, road maintenance, and the moving, depositing, stockpiling or storing of soil, rock, or earth materials.

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.

STREET RESERVATION means an area determined by Council that is reserved for a street, a future street or future street improvements.



STRUCTURE means anything constructed or installed on the ground, consisting of parts joined together or any such erection fixed to or supported by the soil or by any other structure. A structure may include buildings, radio and TV towers, sheds and permanent signs.

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

SUBDIVISION (RESIDENTIAL) means a concept proposal to subdivide property into building lots. It generally shows topographic information, natural features, such as rivers and vegetation, and the proposed lots and streets. It typically involves the construction of new streets and infrastructure for public use and requires the execution of a development agreement.

SWIMMING POOL (Residential) means any in-ground or above-ground structure that is located in a rear yard of a residential lot capable of containing water. Includes swimming pools, non-portable wading pools, and landscape water features, but excludes hot tubs and existing natural bodies of water or streams.

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.

TEMPORARY USE means a use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

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.

UTILITY means any public or private system, works, plant, equipment or services which furnishes services at approved rates to or for the use of the general public.

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 Council's regulations.

VETERINARY CLINIC means a facility for the medical care and treatment of animals and includes provisions for their overnight accommodation but does not include any outdoor facilities such as kennels or enclosures.

WAREHOUSE means a building used primarily for the storage of goods and materials.

WATERCOURSE means any lake, pond, river, stream or other body of water.

WETLAND means the land usually occupied by water, where the water table is at or is just above the surface of the land either permanently or intermittently, depending upon the class of the wetland which includes bogs, fens, marshes, swamps and shallow water zones along shorelines of bodies of water.

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YARD means an open uncovered space on a lot appurtenant to a building and unoccupied by buildings or structures except as specifically permitted elsewhere in these Regulations.

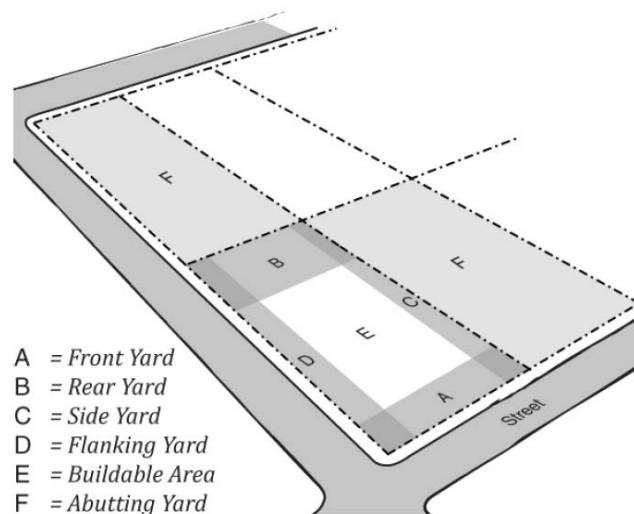
YARD, ABUTTING means the yard of an abutting lot which shares a lot line of subject property.

YARD, REAR means the distance between the rear lot line and the rear wall of the main building on a lot.

YARD, SIDE means the distance between the side lot line and the nearest side wall of a building on the lot.

YARD, FLANKING means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flanking lot line and the nearest main wall of any main building or structure

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



ZERO NET RUNOFF means a process that will evaluate and calculate the waste water generated by new construction, in addition to the water runoff produced by normal rains, and develop techniques to capture and manage water runoff where the water is retained and allowed to percolate through the soil to assist in water quality improvement and groundwater recharge.

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