



The Municipal Planning Guide to Zoning Bylaws in Manitoba

Component A: Introduction to Zoning



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INTRODUCTION TO ZONING

MUNICIPAL PLANNING GUIDE TO ZONING BYLAWS IN MANITOBA
COMPONENT A

November 2015

PREFACE

This is the first of three components of the *Municipal Planning Guide to Zoning Bylaws in Manitoba*:

- A) **The Introduction to Zoning (The Introduction)**
- B) The Reference Binder of Model Zoning Language (The Binder)
- C) The Plug-In Sections of Zoning Tools (The Plug-Ins)

The Guide is intended to meet the needs of rural areas and smaller urban municipalities in Manitoba (outside of Winnipeg and Brandon).

This document provides practical guidance on the role and function of zoning to a primary audience of officials working for municipalities and planning districts. The Guide will also be useful to the general public, the development community and others with an interest in zoning. Parts 3 and 4 of this *Introduction to Zoning* include text and flow charts that update the information found in *The Planning Act Handbook* (2008).

A note on the text of this document...

- This *Introduction to Zoning* uses square brackets for references to sections in *The Planning Act* and other legislation.

Table of Contents

PREFACE	ii
PART 1: Introduction	1
The Purpose of Zoning	1
Why Use Zoning?	1
What is a Zoning Bylaw?.....	1
Contents of a Zoning Bylaw.....	3
Roles and Responsibilities	4
PART 2: Requirements of a Zoning Bylaw	7
1. Dividing the Area into Zones.....	7
2. Prescribing Permitted and Conditional Uses.....	14
3. Establishing a System of Development Permits and Procedures for local development approval	21
PART 3: Adopting and Amending a Zoning Bylaw	24
Adopting a Zoning Bylaw	24
Amending a Zoning Bylaw.....	26
Process for Adopting or Amending a Zoning Bylaw.....	26
PART 4: Administration and Enforcement	31
Variances.....	31
Conditional Uses	38
Development Agreements	42
Enforcement	44
PART 5: Definitions.....	48
General Guidelines for Definitions.....	48
Notes for Specific Words	49

PART 1: Introduction

The Purpose of Zoning

Zoning is a tool used by municipalities and planning districts to regulate the use and development of land and buildings. Zoning primarily works by dividing land into distinct areas called zones. Each zone has its own list of the types of development and land uses that may be allowed within its boundaries.

Why Use Zoning?

Because zoning provides rules on where and how land use and development can occur, it can significantly affect what happens in a community. In this way, zoning can help:

- to reduce potential land use conflicts by ensuring separation and buffers between incompatible uses
- to optimize use of land by prescribing the types of uses that are best suited for a particular area
- to preserve or enhance the character of a neighbourhood by encouraging new buildings to fit with the character of the existing neighbourhood or by protecting heritage areas
- to conserve natural resources and sensitive lands by restricting future development near important habitats or resources (ex: sand and gravel deposits, agricultural land, potash)
- to protect public health and safety by restricting development in areas at risk of erosion, flooding, or other hazards
- to provide greater certainty, predictability and stability to an area by setting out clear development rules

Zoning rules or regulations are combined with maps into a document of local laws called a **zoning bylaw**.

What is a Zoning Bylaw?

The Planning Act states that all municipalities in Manitoba are required to adopt a **zoning bylaw** (unless the municipality is part of a [planning district](#) that has adopted a district-wide zoning bylaw) [68]. This zoning bylaw must be “generally consistent” with the **development plan** and any **secondary plan** in effect in the municipality [68].

It is important to recognize the key differences between development plans and zoning bylaws.

A **development plan** is a document that sets out a community’s vision for the future. That vision is captured in *plans and policy statements* that address physical, social, environmental and economic objectives. A development plan describes, using words and maps, how and where the community wants land to be developed, as well as measures for implementing the plan [42(1)].

A **zoning bylaw** is a tool that helps to **implement the objectives and policies** in the development plan (and any applicable **secondary plan**) by setting out specific rules for development and land use in a community.

These rules are included in enforceable *regulatory statements* governing the use of land and buildings, and the location and form of buildings.

What is Development?

The term **development** is defined in *The Planning Act*. It includes:

- The construction of a building on, over or under land;
- A change in the use or intensity of use of a building or land;
- The removal of soil or vegetation from land; and
- The deposit or stockpiling of soil or material on land and the excavation of land [1].

This broad definition means that municipalities (or planning districts) have the ability to regulate many aspects of construction and land use activity within their boundaries.



* Municipal Council if the Municipality is not in a Planning District
 ** Planning District Board if a district-wide zoning by-law
 *** As authorized by the Planning District Board / Municipal Council* and set out in the zoning by-law

Figure 1: Hierarchy of Plans, Zoning Bylaws and Permits

Before beginning construction or changing the use of a parcel of land, a person must refer to the zoning bylaw to see if a [development permit](#) is required for the particular type of development [147].

Note: A **zoning bylaw** should be updated whenever the local **development plan** is updated to ensure the zoning bylaw is generally consistent with the development plan.

Contents of a Zoning Bylaw

According to *The Planning Act*, a zoning bylaw **must** do the following three things:

1. [Divide the area into zones.](#)
2. [Prescribe permitted and conditional uses for land and buildings in each zone.](#)
3. [Establish a system of development permits and procedures](#) [71(1)].

See [Part 2](#) of *The Introduction* for more information on these three requirements of a zoning bylaw.

In addition to these requirements, a zoning bylaw must also “prescribe general development requirements for each zone” [71(2)].

The Basics: At their most basic, these general development requirements address:

- a) The use of land
- b) The construction or use of buildings
- c) The dimensions and areas of lots, parcels or other units of land
- d) The number, size and location of buildings on parcels of land [71(3)]

Other: Zoning bylaws may also include regulations for things like:

- The placement of pedestrian walkways [71(3)(j)]
- The outdoor lighting of any building or land [71(3)(r)]
- The cutting and removal of trees or vegetation [71(3)(g)]
- The manner in which any use of land or a building is undertaken, including the hours of operation and the regulation of noxious or offensive emissions such as noise or odours [71(3)(t)]

For a larger list of things that may be regulated by a zoning bylaw, see *The Planning Act* [71(3)].

Roles and Responsibilities

The process of adopting, amending, or administering a zoning bylaw involves the following primary participants:

Municipalities and Municipal Councils

The elected officials of the community are ultimately responsible for adopting or amending a zoning bylaw. A municipal council is also responsible for administering and enforcing the zoning bylaw (except where a municipality belongs to a **planning district**). This includes reviewing and approving applications for development, making decisions on applications for variances and conditional uses, and bylaw enforcement. Where a municipality belongs to a planning district, the board of the district is responsible for the administration and enforcement of the zoning bylaw (except for approval of variances or conditional uses).

A municipality can assign some of these responsibilities to a **planning district**, a **planning commission** or a **designated employee or officer** (see below).

Note: In some cases, municipalities act as developers themselves to develop property on the land they own. In this case, they must follow the same rules and procedures as other [landowners or developers](#).

Planning Districts and Planning District Boards

Normally, when a planning district is established, its board is responsible for the adoption, administration and enforcement of the **development plan bylaw** for the entire district, and the administration and enforcement of the **zoning bylaws** of its member municipalities [14].

However, a planning district may also adopt a **district-wide zoning bylaw** that applies to the entire district [69].

District-Wide Zoning Bylaws

The board of a planning district may adopt a zoning bylaw that applies to the entire district if the council of every municipality in the district passes a resolution in favour of a district-wide zoning bylaw. In this case, the zoning bylaws of the individual municipalities will no longer apply [69].

Planning Commissions

A planning commission can assist a planning district board or municipal council with some of its planning-related workload in administering the zoning bylaw.

Any municipality that has adopted a zoning bylaw or any planning district that has adopted a **district-wide zoning bylaw** may establish a planning commission [31].

A planning commission can include members of the general public that are not members of the planning district board or municipal council. Thus, planning commissions are a way to involve other people from the community with an interest in planning.

If established, a planning commission must hold hearings and make decisions respecting applications for [variances](#) and [conditional uses](#) that have been referred to them. A planning commission may also be assigned responsibility for holding a hearing on the adoption of a zoning bylaw [36].

Designated Employee (Development Officer)

A municipal council or a board of a planning district may designate an employee or officer of the municipality or district to administer the zoning bylaw [*The Municipal Act*, 85 and *The Planning Act*, 24, 184].

The person in the position of administering a zoning bylaw is usually called a *development officer* (however, this role is sometimes part of the responsibility of a chief administrative officer or a building inspector).

This role usually includes reviewing development applications and issuing [development permits](#) [102(1)]. A designated employee or officer may also be assigned responsibility to [enforce](#) the zoning bylaw and deal with infractions. For example, the officer may issue a stop work order for construction of a new development that does not conform to the conditions of a development permit [175].

A council must designate this role by bylaw [184]. *The Binder* (Component B) provides model zoning bylaw language to designate this employee in the zoning bylaw.

The General Public and Landowners

All members of the public have the opportunity to comment on a zoning bylaw that is being adopted or amended. They also have the opportunity to comment on specific development proposals that are undergoing a public hearing (such as for a conditional use or variance).

If a hearing is held to consider an amendment to a bylaw that would affect a specific property, the owner of the affected property and any owner of property within 100 metres of the site (or such further distance prescribed in a zoning bylaw) must be sent a notice of the hearing [168].

A person who wants to undertake a development must adhere to the rules and standards in the zoning bylaw that apply to the development [71(1)].

Landowners must allow the **designated employee or officer** to enter their land or building at a reasonable time (and after reasonable notice has been given) for the purpose of administering or enforcing the zoning bylaw [175 - 176].

Others to Consult

It is best practice for municipalities and planning districts (in the case of a district-wide zoning bylaw) to also consult with other groups who have an interest in the area's land use when adopting or amending a zoning bylaw, including neighbouring municipalities, planning districts, conservation districts and Indigenous communities.

This open communication will help to coordinate land use decision-making and facilitate future development or conservation discussions.

The Minister (Community and Regional Planning)

The minister does not have approving authority with respect to the adoption or amendment of a zoning bylaw [47]. However, the minister (or provincial staff in the Community and Regional Planning Branch of Manitoba Municipal Government to which the minister has designated this authority) will review zoning bylaws to ensure they generally conform to the development plan and to the Provincial Planning Regulation.

If the minister objects to a zoning bylaw or a zoning bylaw amendment, the board or council must not give the bylaw third reading [77(6)]. Instead, the bylaw must be referred to the Municipal Board (or Planning District Board, if the municipality is part of a planning district without a **district-wide zoning bylaw**), which must hold a hearing. Following the hearing, the board may make an order to change the bylaw based on the objection [78(1)].

The minister is also involved in the process to consider an application to approve a conditional use for a large-scale livestock operation. Upon receiving such an application, the board, council or planning commission must send the minister (care of the Community and Regional Planning Branch Office) a copy of the application and all supporting material [72(1-2)]. The minister will then refer the application to the Technical Review Committee [112]. For more information on the livestock operation technical review process, see *The Planning Act* [113] and the [Manitoba Municipal Government website](#).

Note: If requested, Community and Regional Planning may provide non-legal advice and general planning assistance to a planning district or municipality [189(2)].

PART 2: Requirements of a Zoning Bylaw

This section discusses the three requirements of a zoning bylaw in greater detail.

1. Dividing the Area into Zones

The zoning bylaw must divide the municipality (or a planning district with respect to a district-wide zoning bylaw) into **zones**. Each zone specifies the types of uses and development that may be allowed in that zone.

The rules for each zone may give different answers to questions like: Can a developer build a factory on this empty lot? Can my next-door neighbour construct a two-story house? If I build a garage, how close can it be to my property line?

The boundaries of each zone should be clearly distinguishable on a zoning map. Zones in a zoning bylaw should be more specific than the boundaries of policy areas in a development plan.

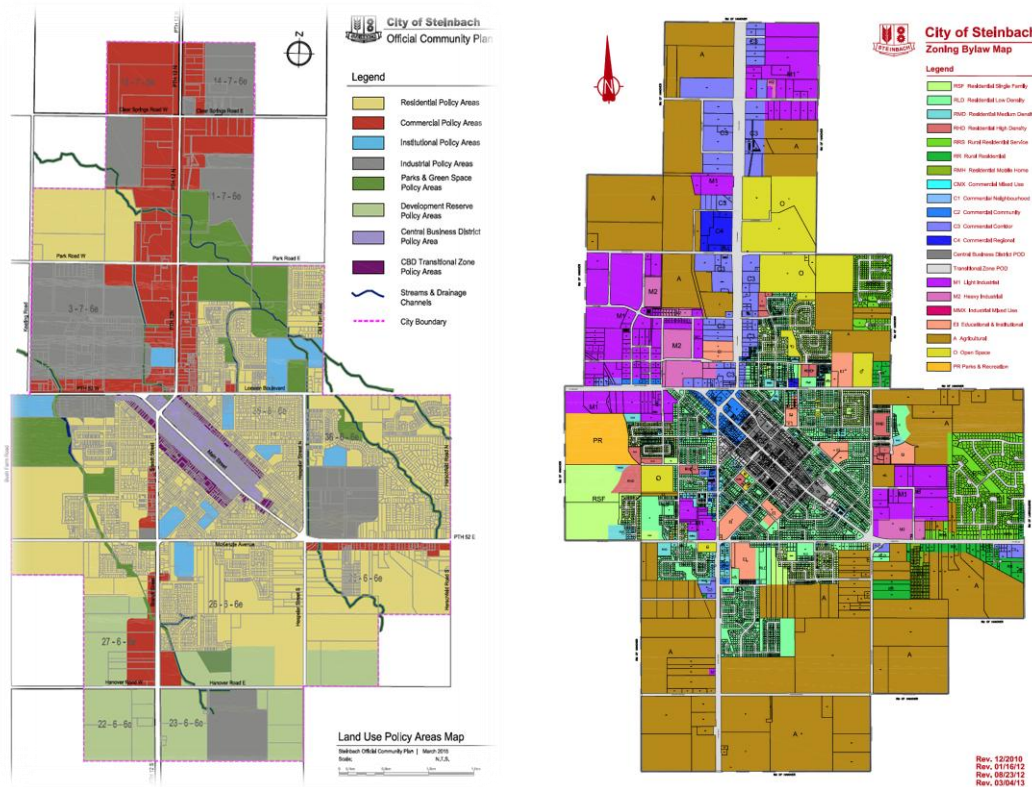














Figure 2: Development Plan Designations (Left) vs. Zoning Bylaw Zones (Right) (Steinbach, 2015)

For example: A development plan might designate a broad area as a 'residential policy area', while the zoning bylaw might have several zones in this area, providing for different types of residential use plus open space and other compatible land uses.

How Many Zones?

Zones are necessary when the rules for one area should be distinctly different from another area. *The Binder* and *The Plug-Ins* provide a set of **sample zones** that cover the common array of land uses and development types in Manitoba, including:

	PR Parks and Recreation		RM Residential Mixed
	AG Agriculture General		CN Commercial Neighbourhood
	AL Agriculture Limited		CC Commercial Central
	RR Rural Residential		HC Highway Corridor
	GD General Development		M Industrial
	RS Residential		I Institutional

Zoning bylaws may not require all of the zones found in *The Binder*. Some rural municipalities, for example, may only need two-or-three different zones (ex: an agricultural zone and a general development zone). Larger municipalities may require more zones than the number found in *The Binder* to account for a broader range of land uses and development activity.

It is important to consider the drawbacks of having either too many or too few zones. With too many zones, zoning maps and regulations become more difficult to interpret and administer. With too few zones, zoning bylaws may not do an adequate job of separating potentially incompatible uses (like heavy industry from a residential neighbourhood) or encouraging a unique character in each area.

Note: The term *designation* (ex: “commercial designation”) should only be used for policy areas in development plans, not for zones in zoning bylaws.

General Development Requirements for Each Zone

A zoning bylaw must prescribe general development requirements for each zone. These general development requirements commonly include regulations for the form and siting of buildings on a parcel (including maximum building heights and required yards).

The regulations in a zoning bylaw may, over time, have a significant effect on the look and feel of rural and urban areas. This is one reason why it can be beneficial for zoning bylaws to include illustrations of how the bulk requirements will make a building look in the context of a site.

Therefore, when considering the standards that will be applied to each zone, the board or council must consider the following four things:

- a) The objectives and policies in the development plan and any secondary plan
- b) The character of the zone
- c) The nature of the existing or proposed uses of land and buildings in the zone
- d) The suitability of the zone for particular uses [71(2)]

Planning documents (ex: development plans and secondary plans) may include policies, objectives, and guidelines concerning the desired development form or character in an area (for example, a “traditional main street” with small storefronts). Zoning bylaws have the ability to help municipalities achieve these objectives by regulating two important elements: building siting and form.

Building Siting and Form

Zoning bylaws may contain rules to prescribe building form as well as where buildings may be sited on a lot [71(3)(d)].

This section discusses six common zoning methods to regulate siting and form: 1) site area, 2) site dimensions, 3) site coverage, 4) required yards (setbacks), 5) building height and 6) design details.

Site Area

Zoning bylaws can regulate the *area* of a site [71(3)(c)]. Setting a minimum or maximum site area can encourage a particular density in a zone. There are also other reasons to regulate site area. In an agricultural zone, a minimum site area (of 80 acres or 32 hectares, for example) can help to minimize the fragmentation of prime agricultural land [Provincial Planning Regulation, 3.1.4]. As another example, a minimum site area (of 2 acres or 0.8 hectares) for a rural residential zone will allow landowners to use a septic field for on-site treatment of wastewater that meets Provincial standards [Provincial Planning Regulation, 6.2.8].

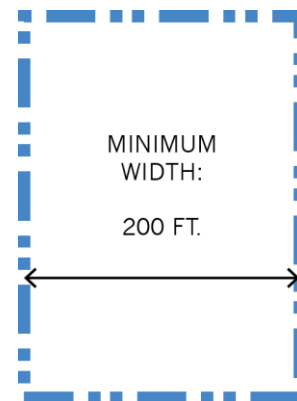


BULK TABLE (1.2)			<i>Institutional</i>		
Site Dimensions	Site Area (Min)	0.5 acres	Building Heights	Height (Min)	-
	Site Area (Max)	-		Height (Max)	42 ft.
	Site Width (Min)	200 ft.	Accessory or Secondary Buildings & Structures		
	Site Width (Max)	-			
	Site Coverage (Max)	60%			
Required Yards: Principal Building	Front Yard (Min)	25 ft.		Front Yard (Minimum)	NP
	Front Yard (Max)	-		Side Yard (Minimum)	3 ft.
	Side Yard (Min)	12 ft.	Rear Yard (Minimum)	2 ft.	
	Side Yard (Max)	-	Separation from P. B.	6 ft.	
	Rear Yard (Min)	25 ft.	Accessory Height (Max)	14 ft.	

Figure 3: Site Area, Dimensions and Coverage

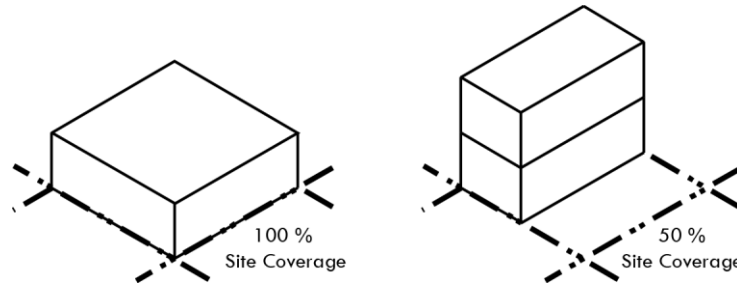
Site Dimensions

Zoning bylaws can also regulate the *dimensions* of “lots, parcels and other units of land” [71(3)(c)]. Like *site area*, site dimension regulations (like width and depth restrictions) can encourage a particular density in a zone. Regulating site dimensions can also encourage a particular character of development (for example, narrow site widths may be more suitable for streets with smaller storefronts). *The Binder* includes sample language regarding the minimum and maximum widths of zoning sites. These dimensional lot standards should be modified for local circumstances.



Site Coverage

Zoning bylaws can regulate the coverage on a site [71(3)(d)]. This is usually expressed in a *maximum* percentage of the site that can be covered by structures. Limiting maximum site coverage can allow for taller building development (for example, a one storey building with 100 per cent site coverage has the same floor area as a two storey building with 50 per cent site coverage) and leave more open space between buildings.



Required Yards

Zoning bylaws can regulate yard size and the location of buildings on parcels of land [71(3)(d)]. A standard method zoning bylaws use to regulate the location of buildings on a site is through required minimum yards. A yard is an open area between the exterior wall of a building and the boundaries of the site (site lines) on which the building is located.

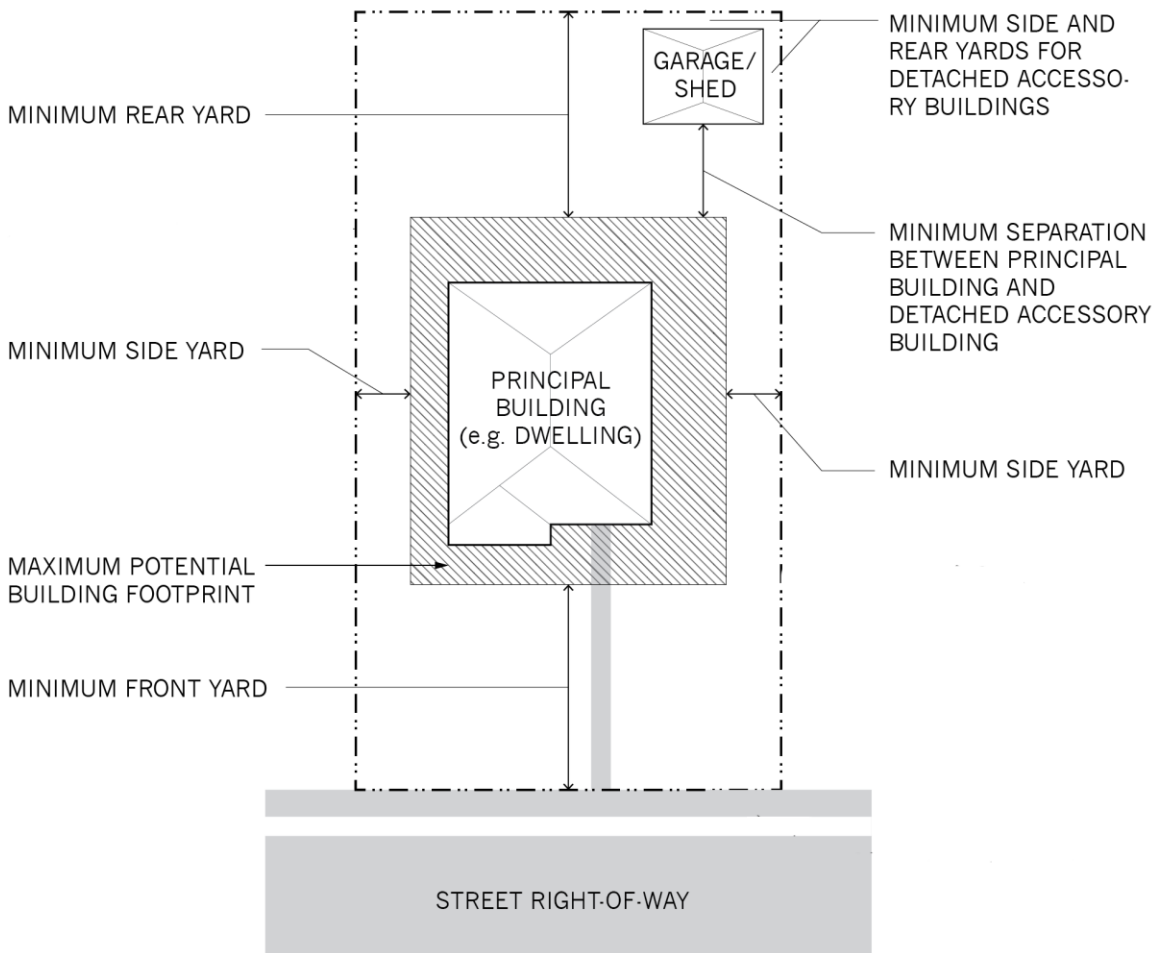
Required yard *minimums* can be used, for example, to maintain spaces between houses in a residential neighbourhood to allow access to sunlight, to provide separation for fire safety or to mitigate nuisances (like noise) that might come from adjacent buildings.

Alternately, required yard *maximums* can be used to encourage building construction in close proximity to sidewalks or other buildings. This strategy might be used in pedestrian-oriented commercial areas.

Tip: If the required yard minimum and maximum standards are set at the same distance, this distance becomes a *build-to line* that all buildings in the zone must follow.

BULK TABLE (1.2)			Institutional		1
Site Dimensions	Site Area (Min)	0.5 acres	Building Heights	Height (Min)	-
	Site Area (Max)	-		Height (Max)	42 ft.
	Site Width (Min)	200 ft.	Accessory or Secondary Buildings & Structures	Front Yard (Minimum)	NP
	Site Width (Max)	-		Side Yard (Minimum)	3 ft.
	Site Coverage (Max)	60%		Rear Yard (Minimum)	2 ft.
Required Yards: Principal Building	Front Yard (Min)	25 ft.	Separation from P. B.	6 ft.	
	Front Yard (Max)	-	Accessory Height (Max)	14 ft.	
	Side Yard (Min)	12 ft.			
	Side Yard (Max)	-			
	Rear Yard (Min)	25 ft.			

Figure 4: Required Yards for Principal Building



Determining the Front of a Site

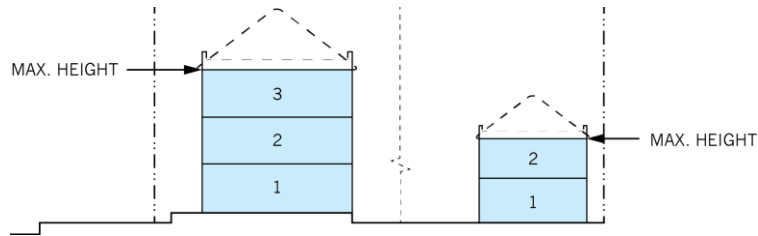
The front site line is usually defined as the boundary of a site along a street right of way. However, there may be cases where this front line is uncertain. The designated employee is often given the authority (via bylaw) to determine the location of the front yard where this is uncertain.

Building Height

Zoning bylaws can also regulate other aspects of *building dimension*, including building height [71(3)(d)].

Building height is important when considering how buildings may impact the shade and outdoor privacy on adjacent properties, or views to significant landmarks, water bodies or other natural features. When setting building height maximums, it is also important to consider the fire-fighting capabilities of the local fire department.

Building height is also an important component of the character of a zone. In suburban areas, low building height *maximums* (of one or two stories) may be appropriate, while municipalities may want to encourage more compact development in downtown urban areas by allowing higher buildings (even considering a building height *minimum*).



BULK TABLE (1.2)			Institutional		
Site Dimensions	Site Area (Min)	0.5 acres	Building Heights	Height (Min)	-
	Site Area (Max)	-		Height (Max)	42 ft.
	Site Width (Min)	200 ft.	Accessory or Secondary Buildings & Structures		
	Site Width (Max)	-			
	Site Coverage (Max)	60%			
Required Yards: Principal Building	Front Yard (Min)	25 ft.	Front Yard (Minimum)	NP	
	Front Yard (Max)	-	Side Yard (Minimum)	3 ft.	
	Side Yard (Min)	12 ft.	Rear Yard (Minimum)	2 ft.	
	Side Yard (Max)	-	Separation from P. B.	6 ft.	
	Rear Yard (Min)	25 ft.	Accessory Height (Max)	14 ft.	

Figure 5: Building Heights

Design Details

Zoning bylaws can also regulate the design details of buildings and building sites [71(3)(e)]. For example, regulations could specify the materials that may be used on building exteriors, the size and design of window openings, or the heights of fences.

Regulating design details may be useful in heritage districts where a certain architectural character is desired. It may also be useful in new subdivisions to require the use of certain types and qualities of materials. Regulating design details in a downtown area could encourage development that meets specified urban design standards (like windows and entrances on the ground floor of retail buildings that contribute to a quality pedestrian environment).

Municipalities wanting to use this tool should first consider adopting urban design guidelines in a **development plan, secondary plan** or in a standalone document. Municipalities or planning districts may want to consider establishing a design review committee that would approve designs before development permits are issued [71(3)(e)]. Design review committees can provide input with respect to such matters as building form and finishes, detailing, safety and functional design. Design review will add time to the development approval process.

2. Prescribing Permitted and Conditional Uses

Municipalities and planning districts have the authority to use zoning bylaws to prescribe permitted and conditional uses that landowners are allowed to undertake in each different zone within the area [71(1)]. Prescribing permitted and conditional uses helps a planning authority to ensure that land and buildings are used and developed according to the desires of the community expressed in the area’s planning documents.

The permitted and conditional uses in a zoning bylaw should be shown in an easy-to-interpret *Use Table*. Depending upon the complexity of the zoning bylaw, there could be one combined Use Table for all zones or individual Use Tables for each zone.

		Table I.1: Use Table										
Uses		PR	AG	RR	RS	RM	CN	CC	HC	M	I	USS
Agriculture	General Agricultural		P									
	Livestock Operation		C*									Plug-In
	Animal Keeping		<u>P*</u>	<u>C*</u>								4.1
Residential	Dwelling, Single-Unit		<u>P</u>	P	P	P						
	Dwelling, Two-Unit				<u>P*</u>	<u>P*</u>						4.4
	Dwelling, Multi-Unit					<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>C*</u>			4.5
Lodging	Bed and Breakfast		<u>P*</u>	<u>P*</u>	<u>P*</u>	<u>P*</u>						4.2
	Inn (up to 12 rooms)				C	P	P	P	P			
	Hotel (no room limit)						P	P	P			
	Dormitory or Hostel					P	P	P			P	
P = Permitted C = Conditional <u>Underline</u> = only as a secondary use * = Use-Specific Standard Applies												

Figure 6: Combined Use Table (from *The Binder*)

Permitted Uses

Permitted uses are the uses for which the particular zone is intended. Permitted uses are “as-of-right” uses; this means if a landowner applies for a development permit for a use that is a permitted use on the site (and also meets the other requirements, like maximum building height and minimum yard requirements), the permit **must** be issued—it cannot be refused.

Some uses may be permitted in the majority of zones in the municipality or planning district (parks, for example). Other uses, like heavy industrial development, may only be permitted in certain zones due to their potential adverse effects on other land uses.

Conditional Uses

Conditional uses are uses that are generally consistent with other uses in the zone and **may** be allowed at the discretion of the approving authority (ex: council) if certain conditions are met. Conditional uses require a public hearing and, therefore, should be uses that warrant public review as part of the development application process.

Conditional uses give council (or a board or planning commission) the ability to consider site-specific factors when approving a development. Approved conditional uses must, however, conform to the other applicable regulations of the zoning bylaw.

As a general rule, conditional uses should not outnumber permitted uses in most zones. Conditional uses should be reserved for development proposals that require additional public input, council debate, and conditions.

Zoning bylaws should not classify uses as conditional unless there is a reasonable chance they will receive council approval. If conditional use applications are always denied, this will waste time and money for developers, the public and the planning authority.

Best Practices for Prescribing Uses

Municipalities and planning districts should use the best practices below when prescribing permitted and conditional uses in their zoning bylaws.

Choosing Permitted and Conditional Uses to Encourage Desired Development

Whenever a use could be reasonably prescribed as either a permitted use in a zone or a conditional use, councils should make their decision based on the type of development they want to see in their community.

The most desired types of development should be included as permitted uses because approval will be guaranteed as long as it meets the other requirements in the zoning bylaw (including site requirements and [use-specific standards](#)). This development will also take less time because it does not need the public hearing process.

Choosing Permitted and Conditional Uses

The City of Dauphin went through an extensive review of their permitted and conditional uses when updating their zoning bylaw.

First, they examined each use and asked, "What is the intent of this use?" They made the use **permitted** unless it was obviously in conflict with another permitted land use in a zone.

For every use, they also asked, "If our neighbour was doing this on their property, would we want to have a say?" If so, they made it a **conditional use**.

Developments with potentially negative side effects (like noise pollution) should be prescribed as conditional uses in a zone. This will allow council to add development requirements (like fencing and buffers) to offset these negative effects. Council may only impose additional conditions or enter into development agreements if the proposed use is listed as a conditional use (instead of a permitted use).

Benefit	Permitted Use	Conditional Use
Certainty for the landowner or developer	✓	
Quicker approval	✓	
Board or council can impose additional conditions		✓
Board or council can require landowner to enter into a development agreement		✓
Public Notice / Hearing		✓

Table 1: Benefit Comparison for Permitted Uses and Conditional Uses

Discrimination and Fundamental Freedoms

Zoning bylaw cannot include regulations that discriminate against a person or limit a person's fundamental freedoms.

Fundamental Freedoms

In Canada, these fundamental freedoms include the freedom of religion, the freedom of thought, belief, opinion, and expression, the freedom of peaceful assembly and the freedom of association (see *The Canadian Charter of Rights and Freedoms*). A zoning bylaw, for example, could not outright prohibit places of worship (it may, however, prescribe the specific zones where such uses may occur and include regulations for these buildings based on land use concerns like size and location).

Discrimination

Zoning bylaws are intended to zone the use of land and buildings; they should never "zone people." For example, the Supreme Court of Canada recognized the distinction between zoning *uses* and zoning *users* in *Bell v. Her Majesty the Queen* (1979), which ruled that a municipality discriminated against people in its zoning bylaw's definition of the word "[family](#)" (see below).

The Municipal Act says a bylaw is discriminatory if it "operates unfairly and unequally between different classes of persons without reasonable justification" [*The Municipal Act*, 382(2)]. This means that municipalities should be careful, for example, to ensure that none of their zoning rules makes unfair distinctions between persons based on income, race, gender, disability, etc.

Any person who believes a bylaw is discriminatory can make an application to the Court of Queen's Bench for a declaration that the bylaw is invalid [*The Municipal Act*, 382(1)]. For an easy-to-read guide on the topic of the potential for discrimination in Canadian zoning bylaws, see [In the Zone: Housing, Human Rights and Municipal Planning](#) (Ontario Human Rights Commission, 2012).

Use-Specific Standards

A zoning bylaw will typically include a section that contains additional rules and standards that are unique to specific uses (for example, provisions for home-based businesses that set standards for outdoor storage, the number of employees, or the size of signs).

Use-specific standards should be consistent for all development of that type, with modifications as needed for particular zones (ex: different rules for home based businesses in rural vs. urban areas).

The rules for these standards should be set out in the zoning bylaw and should not be decided “at the discretion of council.” If the intent is to have standards imposed at Council’s discretion, then such uses should be listed instead as [conditional uses](#), with review and approval following proper procedure.

Rules for specific uses should be listed in a separate section of the zoning bylaw, immediately after the rules for zones.

	RM
PERMITTED PRINCIPAL USES	Use-Specific Standard
Dwelling, Single-Unit	-
Dwelling, Two-Unit*	4.4
Dwelling, Multi-Unit*	4.5
Inn (up to 12 rooms)	-
Dormitory or Hostel	-
Office or Retail Space	-
Outdoor Market	-
Restaurant	-
Funeral Home	-
Fire or Police Station	-
Library or Cultural Facility	-
Place of Worship	-
Childcare Facility	-
School	-
CONDITIONAL USES	
Recreation Centre or Facility	-
Park	-
Cemetery	-
Medical Clinic	-
College, University or Trade School	-
Liquor-Selling Establishment	-
PERMITTED ONLY AS SECONDARY USES	
Bed and Breakfast*	4.2
Home-Based Business*	4.6
* = Use-Specific Standard Applied	

Figure 7: Use-Specific Standards

Use Classes vs. Use Lists

Zoning bylaws that regulate uses by trying to list every conceivable individual use—from “wig shops” to “stores that sell knives” to “shoe stores”—will quickly become unmanageable (they may grow to incorporate hundreds of different uses).

Instead of detailed use lists, it is best practice for zoning bylaws to group similar uses in *use classes*. Use classes can provide clear guidance without being overly specific about individual uses (see *The Binder* for examples of use classes).

A municipality that wants to change from a zoning bylaw with an extensive use list system to a use class system should start by trying to simplify the current lists of service, retail and industrial uses. All of the uses with a similar scale and type of activity should be combined into one class. A flower shop, for example, will have roughly the same types of activities as a record store, a toyshop, and a tourist goods shop of a

similar size—these can all be combined into one “retail” use class. Zoning bylaws that want to make a distinction between such stores and a larger retail use (like a supermarket, which will have greater parking and loading zone requirements and will generate more vehicle traffic) could have two or more retail use classes (ex: “Retail (Small)” for shops under 5,000 square feet and “Retail (Large)” for larger buildings).

Note: Some zoning bylaws with a use-class system include a [definition](#) of the use class that tries to list all of the individual uses within that class. However, this leads to many of the same problems as seen in other extensive use lists. Use classes may include some examples of uses that fall within the class, but these should not be part of the definition section of the bylaw and should not be exhaustive.

Accessory and Secondary Structures and Uses

Permitted and conditional uses usually refer to the main or **principal use** on a zoning site. However, there may be other uses and structures allowed on a site in addition to a principal use. These uses or structures are referred to as **accessory** or **secondary** to a principal use on a site. For the reasons provided below, it is helpful for zoning bylaws to distinguish between **accessory structures and uses** and **secondary structures and uses**.

An **accessory building, structure or use** is naturally and normally incidental, subordinate in purpose or area (or both) and exclusively devoted to the use, building, or structure to which it is accessory. For example, a detached garage may be an accessory structure to the principal dwelling on a lot because it is exclusively devoted to the use of the dwelling. A garage should also have a smaller floor area (ex: “subordinate in area”) and be used less frequently (ex: “subordinate in purpose”) than the principal dwelling.

Normally, an accessory structure would be constructed at the same time or after the construction of the principal building or establishment of the principal use. In some instances, a zoning bylaw might permit an accessory structure to be constructed prior to the principal use (ex: construction of a garage required for storage of equipment and materials during construction of a principal building). In such instances, it is advisable to impose conditions on the use and a time frame on the construction of the principal building.

Listing Accessory Uses

Zoning bylaws should not attempt to define or list the accessory uses or structures that may be allowed in an area. If a principal use is allowed in an area, all appropriate accessory uses or structures must also be allowed because accessory uses or structures are, by this definition, *naturally and normally incidental* to that principal use.

For example, it would not be advisable to try to make a complete list of the accessory structures to a single-unit dwelling, which could include car garages, sheds, garden boxes, sandboxes, clothes lines, a tree house, etc.

Many current zoning bylaws in Manitoba have one section that deals with accessory buildings for all zones. However, it may be appropriate to have different rules for accessory buildings in residential areas than in rural, commercial or industrial areas. *The Binder* addresses this by including zone-specific regulations for accessory buildings and structures in the Bulk Table.

A **secondary structure or use** means a structure or use that takes place on the same zoning site as the principal use, but unlike an accessory use, is not naturally and normally carried out as part of the principal use. A daycare in an office building, which is not naturally and normally carried out as part of an office, is an example of a secondary use. A secondary suite (like a coach house) is an example of a secondary structure.

BULK TABLE (1.2)			Institutional		1
Site Dimensions	Site Area (Min)	0.5 acres	Building Heights	Height (Min)	-
	Site Area (Max)	-		Height (Max)	12.6
	Site Width (Min)	200 ft.			
	Site Width (Max)	-			
	Site Coverage (Max)	60%			
Required Yards: Principal Building	Front Yard (Min)	25 ft.	Accessory or Secondary Buildings & Structures	Front Yard (Minimum)	NP
	Front Yard (Max)	-		Side Yard (Minimum)	3 ft.
	Side Yard (Min)	12 ft.		Rear Yard (Minimum)	2 ft.
	Side Yard (Max)	-		Separation from P. B.	6 ft.
	Rear Yard (Min)	25 ft.		Accessory Height (Max)	14 ft.

Figure 8: Accessory or Secondary Buildings and Structures

Note: More than One Dwelling Unit on a Parcel of Land

The Planning Act states that no person may construct more than one dwelling unit or mobile home on a parcel of land, unless permitted to do so under the zoning bylaw [149].

Best Practice: Secondary Uses in an Agricultural Zone
 General agricultural activity should be the predominant principal land use in an agricultural zone. However, it is common for other compatible uses to be permitted as secondary uses. The RM of Grahamdale zoning bylaw, for example, allows secondary small scale industries in the agricultural zones, as long as they are secondary to the agricultural use and are conducted on the farm premises.

Mixed-Use

Zoning bylaws can encourage the mixing of compatible types of development on one zoning site (or within one building) by allowing mixed-use development to occur “as-of-right” if all of the proposed uses are already listed as permitted uses on the Use Table.

To enable this, zoning bylaws should specify that all provisions of the bylaw relating to each use must be satisfied where two or more uses are proposed for one zoning site. If one of the uses on a mixed-use site is conditional, the proponent will have to follow the conditional use procedures for review and approval for that use.

To encourage mixed-use development in an area where uses have historically been segregated, municipalities may also consider creating a mixed-use zone that specifically allows a range of uses, including residential, office and retail. *The Binder* includes several zones (including residential mixed and commercial neighbourhood) that permit different types of mixed-use development. Municipalities should not include mixed-use development as a distinct use in the Use Table; presumably, this would prohibit mixed-use development of any kind except in the specified zones.

Temporary Uses, Buildings and Structures

Zoning bylaws should include regulations for temporary uses, buildings and structures. Examples of temporary buildings are a storage shed or office space required during construction on a site.

For best practice, zoning bylaws should include a regulation that a development permit must be obtained for a temporary building or use. Such development permits should expire after a prescribed time (ex: 12 months) with a maximum number of renewals. That way, planning authorities can make sure temporary buildings or uses do not become permanent. See *The Binder* for sample zoning language for regulating temporary buildings.

Note: Landowners may also apply for a variance for a temporary change in land use. A temporary land use variance must comply with the specific rules described in the chapter on [variances](#) below and in *The Planning Act* [97(2)].

Non-Conformities

When a municipality (or planning district) [adopts](#) a new zoning bylaw or amends a zoning bylaw, the permitted uses and bulk requirements for a particular parcel of land may change. If a building, a parcel of land, the use of land, or intensity of a use of land was lawfully existing before the adoption of the new zoning bylaw and now does not conform to the regulations in the new zoning bylaw, it is called a **lawfully existing non-conformity**. As proof that they have a **lawfully existing non-conformity**, landowners may apply for a Certificate of Non-Conformity (which is usually part of a [zoning memorandum](#)) [87].

Lawfully existing non-conformities are considered legal and can continue indefinitely, provided the use is not intensified or changed to another non-conforming use [86, 90(1)]. If a landowner wants to *increase* the intensity of an existing non-conforming use or make repairs or additions on a non-conforming building, the landowner may apply for a variance (other than a variance to increase the number of animal units in a non-conforming livestock operation) [92(1)].

The same rules apply to an owner of a parcel of land that does not conform to a new zoning bylaw (for example, a 30-acre parcel of agricultural land in a zone with an 80-

acre lot size minimum). The owner may continue to use the land for any use approved under the previous zoning bylaw and construct or alter a building on the land as long as all other requirements (including height and required yards) are met [90(2)]. Additional regulations for **lawfully existing non-conformities**—including rules for buildings that were under construction when a new zoning bylaw was adopted or non-conforming buildings that get damaged—are found in *The Planning Act* [86-93].

3. Establishing a System of Development Permits and Procedures for local development approval

The Planning Act says all zoning bylaws must set out the procedure for applying for and issuing:

- [Development Permits](#);
- [Minor Developments that do not require a Development Permit](#); and
- [Zoning Memoranda](#) (including a Certificate of Non-Conformity) [71(1)].

Development Permits

The Purpose of Development Permits

Development permits give landowners permission to undertake a specific development (see the text box “What is Development?” on A-2) or use on a specific parcel of land. Municipalities (or planning districts) issue development permits to ensure that all development in their area will conform to the regulations in the zoning bylaw as well as the vision for the community set out in the **development plan** and any existing **secondary plan**. These regulations may concern things like the permitted uses on a property, the allowed building heights, required yards, and the minimum amount of parking spaces.

Development Permits vs. Building Permits

A development permit is not the same as a building permit.

Building permits are issued to ensure that buildings conform to the Manitoba Building Code. Building permits help to regulate such things as structural design, fire safety, and electrical work. Each municipality (unless exempted) must adopt and enforce a building bylaw that enforces these regulations [*The Buildings and Mobile Homes Act*, 4]. This bylaw may apply to “the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, occupancy or change in occupancy of any building or addition to a building” [*The Buildings and Mobile Homes Act*, 2(1)].

In Manitoba, building, plumbing and occupancy permits are issued by one of three approval authorities: municipalities, planning districts, or the Office of the Fire Commissioner (OFC). See the [OFC Approval Authorities](#) document for a list of the building permit authorities in all areas in the province.

Who the approval authority is also depends on the type of building proposed (even within the same area):

- Housing and small buildings (less than three storeys high and under 600 m²) are covered by Part 9 of the Building Code and are often approved locally.
- Other buildings (covered by Part 3 of the building code) are approved by the OFC in all areas except Thompson, Brandon, Winnipeg and larger planning districts.
- All building permits for farm buildings over 600m² are issued by the OFC under the [Manitoba Farm Building Code \(Office of the Fire Commissioner\)](#).
- Smaller farm buildings are exempt from requiring a building permit (however, they usually still require a development permit).

In best practice, municipalities or planning districts should issue development permits *separately* from building permits because these permits each address a distinct set of rules.

Separation for Fire Safety

The Manitoba Building Code and Fire Code has now adapted the regulations in the National Building Code of Canada (2010).

The Code includes standards for buildings based on the occupancy classification of the building, the construction methods and materials, the size of unprotected openings in the exposing building face, fire department response times, and the *limiting distance* (that is, the distance from an exposed building face to a property line, the centre line of a street, or to an imaginary line between two buildings on the **same** property).

See the *National Building Code of Canada (section A-3.2)* for more information.

Note: In order to simplify the application process for landowners, one combined application form could be used for development permits and building permits.

Development Permit Applications

No person may undertake any development or make any changes to the use of the land without a development permit (unless it is a minor development that has been exempted by a provision in the zoning bylaw) [147(1)]. All development must comply with the applicable development permit [147(1)].

To get a development permit, a [landowner or developer](#) must submit a development permit application to the municipality (or planning district) in which the proposed development will be located [147(2)]. *The Binder* provides model language for potential information that could be required in support of a development permit application.

Decision on Development Permits

The board or council (or a [designated employee](#)) may issue a development permit if it is satisfied that the proposed development generally conforms with the zoning bylaw, the development plan bylaw, and any secondary plan bylaw in effect [148(1)].

Before issuing development permits for livestock barns, lagoons, agrochemical storage facilities, bulk fuel tanks, or manure storage tanks, development officers should also be sure to check that these developments meet the required minimum separation distances to residential dwellings and settlement areas (and vice versa, when approving dwellings). These standards may be based on Provincial or Federal regulations.

The Planning Act requires boards or councils to process development applications within 60 days [148(2)]. A board or council can withhold a development permit for a further 125 days if it is currently preparing a new or amended development plan, secondary plan, or zoning bylaw [148(3)].

Other Permits and Regulations

After the development permit has been issued, a landowner is still responsible for ensuring that the development complies with other applicable provincial and federal regulations. The landowner must also be aware of other local permits that may be required at some point during the development process (including demolition permits, building permits, plumbing permits and electrical permits).

Minor Developments that Do Not Require a Development Permit

Zoning bylaws should include a provision that lists the types of development that do not require a development permit. This could include things like fences, flagpoles and patios (see an example in *The Binder* (5.4)). **Note:** A type of development that does not require a development permit must still conform to the applicable rules and standards in the zoning bylaw (for example, a zoning bylaw that does not require a development permit for fences can still include a provision that “fences must be less than two metres tall”).

Zoning Memoranda (including a Certificate of Non-Conformity)

Any person with an interest in a building, parcel of land, or operation involving the use of land can apply to a planning district or municipality for a zoning memorandum that states whether or not the building, parcel, use, or intensity of use appears to conform with the zoning bylaw [85]. For example, an owner of a livestock operation could benefit from obtaining a zoning memorandum that states in writing the maximum number of animal units that have been approved for their operation.

A *certificate of non-conformity* is a particular type of zoning memorandum that states in writing that a landowner has a building, land use, or parcel of land that was lawfully in existence before a new zoning bylaw was adopted [87].

Building Location Certificates

A *Building Location Certificate* (BLC) is based on a land survey that confirms the location of buildings and other structures on a property. Some municipalities require a BLC before they will issue a zoning memorandum stating a property conforms to the siting requirements in a zoning bylaw.

PART 3: Adopting and Amending a Zoning Bylaw

Adopting a Zoning Bylaw

The municipality (or the planning district, in case of a district-wide zoning bylaw) must follow the steps outlined in *The Planning Act* to adopt (or [amend](#)) a zoning bylaw [74-79].

Before Getting Started

Update Development Plan

A municipality (or planning district) should ensure its development plan is up-to-date before updating or writing a new zoning bylaw. The zoning bylaw must be generally consistent with the development plan and any secondary plan in effect [68]. Therefore, a municipality or planning district should revise its zoning bylaw as soon as possible after it has revised a development plan (or secondary plan) in order to make the bylaws generally consistent.

Note: Manitoba Municipal Government has a long-standing funding program to share the cost of updating zoning bylaws with municipalities and planning districts. For more information on Community Planning Assistance grants, see the [Manitoba Municipal Government website](#).

Review the Current Zoning Bylaw

When looking to adopt or amend a zoning bylaw, a municipality (or planning district) should review all of the variances and conditional use applications received in the last five years. If the number of variances and conditional uses seems high, it may be an indication that the current rules should be changed. A careful review can help to decide what changes to make in a new zoning bylaw.

Best Practice: Zoning Bylaw Review

The Red River Planning District recommends that a municipality ask the following questions when reviewing its zoning bylaw:

- Are the rules too stringent? That is, are people applying for more variances and conditional uses than desired?
- Is council accepting every variance and conditional use application? Should council be firmer in sticking to the rules?
- Do the height and setback requirements produce the built environment that the council and public want to achieve, as expressed in the development plan?

Writing the Bylaw

The zoning bylaw should be written with the help of a professional planner who has experience writing bylaws and preparing zoning maps. It is important to write clear, objective rules that are easy to understand and enforce. Wherever possible, the zoning bylaw should also be written in language that can be easily understood by the general public. Care should also be taken to use language and terminology that is consistent throughout the entire zoning bylaw.

Community Consultation

The zoning bylaw must also be written in a way that follows the community's vision and long-term goals. Some of these goals may already be expressed in the area's development plan and any secondary plans. The zoning bylaw's permitted and conditional uses, zones, general development standards and building form requirements must be "generally consistent" with these planning documents.

Best Practice: Adopting Zoning Regulations to Implement Development Plan Goals

The Thompson Planning District's development plan has policy objectives to "provide opportunities for mixed use developments at appropriate locations in order to improve walkability" (7.2.8). To realize this vision, the City of Thompson's zoning bylaw has several downtown zones (C-MU, C-DT₁, and C-DT₂) that permit multi-unit residential and a variety of retail uses. The side yard setback in the C-DT₁ zone "may be reduced to zero metres to allow continuous retail frontage."

As best practice, however, a municipality or planning district adopting a new zoning bylaw should consult with the general public before the required [public hearing](#). This consultation should seek input from all citizens. This public engagement strategy may utilize newsletters, community kiosks, surveys, open houses, workshops and websites. The information gathered would help the municipality or planning district to identify which aspects of the community should be preserved and which aspects should change to encourage different development in the future.

Testing

The potential effects of a new zoning bylaw should be tested prior to adoption by examining its application to existing and future use and development on different sites in the area.

For example, a municipality or planning district should test if the changes to the zoning bylaw would reduce the potential number of variances and conditional uses in the future. A review of the zoning bylaw should occur several months after it is adopted to see if it is working as expected.

Amending a Zoning Bylaw

The same general procedure is followed for amending an existing bylaw as is followed to adopt a completely new bylaw [80-82].

A board or council can initiate an amendment to a zoning bylaw at any time. Landowners can apply to the board or council to amend the zoning bylaw with respect to its effect on a property in which they have an interest. The board or council has, however, no obligation to amend the zoning bylaw if an application is without merit, is inconsistent with the development plan, or is substantially similar to an application that was refused within the previous year [80].

Amendments to a zoning bylaw might include changes to a zoning map, zoning categories, types of uses, regulations, or procedures. Any amendment must be consistent with policies in the development plan and be compatible with current and planned land uses.

Note: If a proposed zoning amendment is *not* generally consistent with the current development plan, it will be necessary to go through a development plan amendment process before the zoning bylaw can be amended.

Process for Adopting or Amending a Zoning Bylaw

A flow-chart illustrating the process to adopt or amend the bylaw is shown on the following page.

Process for Adopting or Amending a Zoning Bylaw

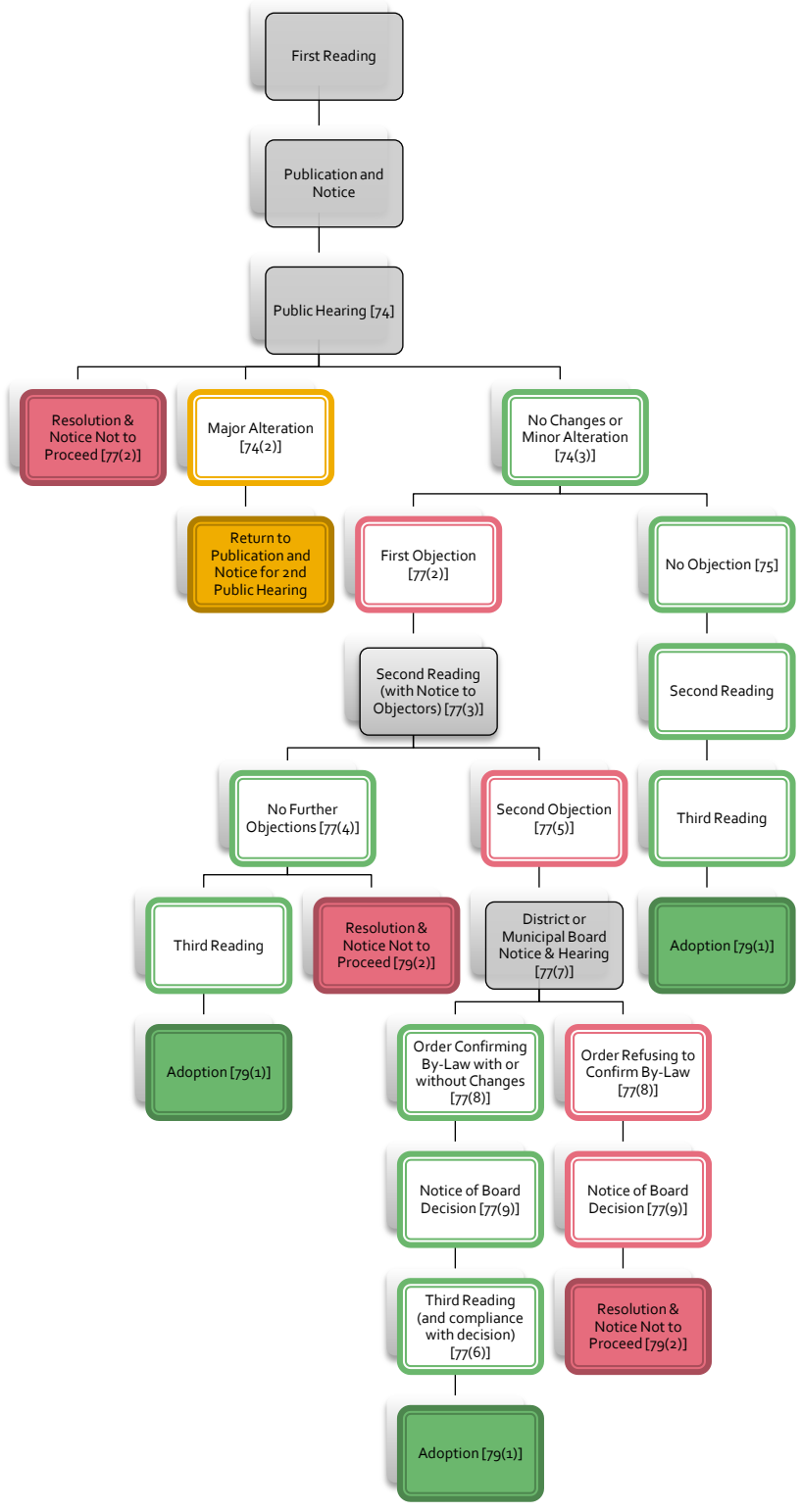


Figure 9: Process for Adopting or Amending a Zoning Bylaw

First Reading

A zoning bylaw, like all other bylaws, must be given three separate readings at meetings of the council (or the planning district, in the case of a district-wide zoning bylaw). Each reading must be put to a vote [*The Municipal Act*, 142(1)]. Every council or board member must have had the opportunity to review the text of the zoning bylaw before the first reading [*The Municipal Act*, 142(3)].

Public Hearing

After first reading, a board, council, or planning commission must hold a public hearing on the bylaw [74(1)]. This public hearing gives any person who may be affected by the zoning bylaw a right to voice their opinions on the bylaw. Special interest groups or members of the general public may also give representations at a public hearing. Notice of the hearing must be given in accordance with rules in *The Planning Act* [166-168].

After the public hearing, a board or council (or planning commission—see rules below) must consider the representations made at the public hearing. They may then decide to make changes to the zoning bylaw. If so, a second hearing must be held to receive representations regarding the alterations [74(2)]. If there are no changes, the council or board can give a second reading to the zoning bylaw or pass a resolution not to proceed with the bylaw [75].

For tips on conducting public hearings, see the [Manitoba Ombudsman's Public Hearings for Municipalities](#) fact sheet.

Second Reading

If the board or council gives the bylaw second reading, it must provide notice to any person who objected to the bylaw during the public hearing. The notice must advise objectors that they can file a second objection with the board or council. The notice will specify the deadline for filing a second objection, which must be at least 14 days after the date of the notice [77(3)].

Note on Multiple Readings at One Meeting: A council may not give a proposed bylaw more than two readings at the same council meeting [*The Municipal Act*, 142(2)].

Board Hearing

If a council receives a second objection, it must refer the objection to the board of the planning district or, if the municipality is not part of a planning district, to the Municipal Board. If a board receives a second objection in respect of a district-wide zoning bylaw the objection must also be referred to the Municipal Board [76-77].

Note: If a public authority (ex: the minister, a planning district board, a municipal council, or the Government of Canada) makes a second objection to the zoning bylaw, the objections must be referred to the Municipal Board [78(1)].

The planning district board or the Municipal Board, as the case may be, will then hold a public hearing to receive representations on the objections. The board must give notice of the hearing in accordance with *The Planning Act*. Any person may make representation to the board on the objection; however, the representation is limited to the objection or objections that have been referred to the board.

The planning district board or the Municipal Board must make a decision on the objection and issue an order within 30 days after holding the hearing. In the order, the planning district board or the Municipal Board can a) confirm or refuse to confirm any part of the bylaw that was the subject of the objection, or b) direct the board or council to alter the bylaw in the manner it specifies.

A copy of the order must be sent to the board or council that referred the objection and every person who made a representation at the hearing of the planning district board or the Municipal Board. The order of the planning district board or the Municipal Board is final and not subject to appeal [77].

Note for Planning Commissions

The council or board of a planning district with a district-wide zoning bylaw may assign a Planning Commission with the responsibility to hold a hearing on the adoption of a zoning bylaw [36(1)].

When a planning commission holds the public hearing for a zoning bylaw (after first reading), the board or council becomes, in effect, the appeal body rather than the Municipal Board [36(1)].

After holding a hearing on a zoning bylaw adoption, the planning commission must provide the board or council with a report on the hearing that includes the minutes of the hearing, the record of all representations made, and its recommendations on the matter considered at the hearing [36(2)].

Third Reading and Adoption

A board or council must not give the bylaw third reading unless:

- a) The Municipal Board or the board of the planning district makes an order confirming the parts of the bylaw that were the subject of the objection; or
- b) It complies with an order of the Municipal Board or the board of the planning district by altering the bylaw [77(6)].

The zoning bylaw is adopted once it has been signed following third reading [*The Municipal Act*, 145].

The council or board is then obligated to send a copy of the bylaw to the minister (care of the Community and Regional Planning Office) and send a notice of the bylaw's adoption to every person who made a representation at the hearing [79(1)]. The bylaw will come into force on the day after it is passed, unless a later date is specified in the bylaw [*The Municipal Act*, 146(1)].

Note: If a planning commission held the hearing on a second objection, the board of a planning district or council of a municipality may:

- a) Give the bylaw third reading if no alterations are made to the bylaw
- b) Alter the bylaw to address any representations on the objection made at the hearing and give the altered bylaw third reading without further notice or hearing
- c) Pass a resolution not to proceed with the bylaw [76(6)]

PART 4: Administration and Enforcement

Variances

A zoning bylaw applies general regulations to the entire municipality or planning district in the case of a district-wide zoning bylaw. However, as a general bylaw, it may not be able to adequately deal with unusual or unique conditions of specific properties.

There may be locations where the standard regulations in a zone impose an unreasonable limitation on the development or use of a site due to its particular characteristics, including parcels of land that:

- Are odd-shaped (narrower at one end, for example).
- Have other physical characteristics that make complying with the requirements of a zoning bylaw impractical or unreasonable (a steep slope cuts off part of the yard, for example).

Any landowner who believes that a zoning bylaw *adversely* affects his or her property rights may apply for an order *varying specific provisions* of the zoning bylaw insofar as they apply to the *affected property* [94(1)].

Example: An owner of an odd-shaped parcel of land in a residential neighbourhood might not be able to provide a required minimum 15-foot side yard in order to build a house. This person is entitled to seek a variance from the zoning bylaw regulations that result in undue hardship for this property.

Four Variance Requirements

Variance applications must only be approved if the variance meets the following four requirements:

1. **Compatibility:** The proposed variance will be compatible with the general nature of the surrounding area.
2. **No detrimental effect:** The proposed variance will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area.
3. **Minimum modification:** The proposed variance is the minimum modification required to relieve the **injurious affect** of the zoning bylaw on the applicant's property (for example, a variance cannot vary a requirement by 25 per cent if only 10 per cent is necessary).
4. **Consistency:** The proposed variance is generally consistent with the applicable provisions of the development plan bylaw, the zoning bylaw and any secondary plan bylaw [97(1)].

Note: Some zoning bylaws improperly use the term “variation” to describe a variance. In Manitoba, zoning bylaws should always use the term “variance,” which is the term used in *The Planning Act*.

What Can Be Varied?

The Planning Act does not specify the types of provisions in a zoning bylaw that may be varied; however, because these variances must apply to an “affected property,” variances cannot be made to provisions in the General Regulations or Definitions sections of a zoning bylaw, for example [94(1)].

Typically, variances are used to provide specific relief from provisions restricting building height, site width, site area, lot coverage, building floor space, minimum yards, dwelling unit density, or parking requirements (as they apply to an individual site).

Use Variances

As a general rule, a variance order cannot be made for a change in land use [97(2)]. For example, if heavy industrial use was not permitted in a zone, a landowner could not apply for a variance to allow this use (instead, the landowner would have to apply for a [zoning amendment](#) to rezone the property to another zone in which heavy industrial is a permitted or conditional use).

However, there are two exceptions to this restriction on use variances:

- a) If it is a *temporary change* of land use for a period of not more than five years; or
- b) If it is a use that is *substantially similar* to a use that is allowed under the zoning bylaw [97(2)].

Note: Use variances that satisfy one of these exceptions must also follow the other [four variance requirements](#) in *The Planning Act* described above [97(1)].

Example: An application for a use variance to operate a temporary aggregate mining operation in a rural residential zone (where such a use is not permitted or conditional) could be denied if it is determined that the proposed use is not compatible with the general nature of the surrounding area and could negatively affect other properties or potential development in the surrounding area.

The variance process is shown in the flowchart on the following page.

Process for a Variance

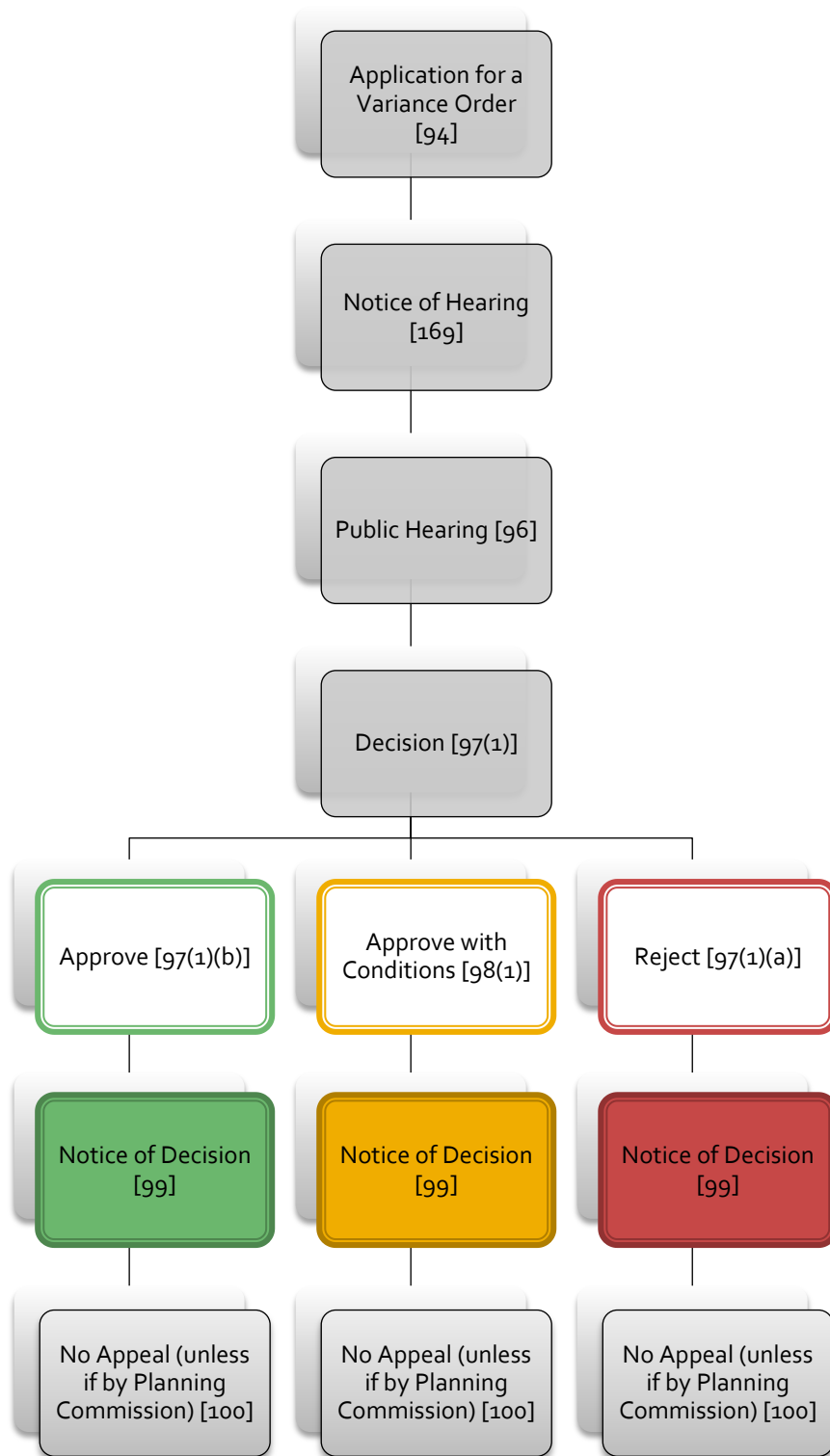


Figure 10: The Variance Process

Application for a Variance Order

Landowners who believe that a zoning bylaw adversely affects their property rights may apply to the municipality or planning district for an order to vary specific provisions of the zoning bylaw as they apply to the affected property [94(1)].

The board or council will provide a form for the applicant to fill out, which may require supporting material. The municipality or planning district board may charge a fee for this application.

Notice of Hearing

A variance on a parcel of land might adversely affect neighbouring properties. The council, board, or planning commission must therefore hold a public hearing for the variance application. Notification of the hearing must be posted in the municipality or planning district office 14 days before the hearing date and every property owner within 100 meters of the affected property (or a greater distance, if required by the zoning bylaw) must be notified [96(b), 169].

Hearing

During a public hearing on a variance, the council, board or planning commission will hear representations from those who might be affected by the variance [96]. The standard rules for public hearings must be followed in this event [172-173].

Decision

After holding the hearing, the council, board, or planning commission must make a variance order. The order will: reject the variance, approve the variance (stating which specific provisions in the zoning bylaw are being varied), or approve the variance with conditions.

The decision of a council or planning district board is final. There is no appeal.

A variance order from a planning commission may be appealed to the board or council, following the requirements in *The Planning Act* [34-35].

Conditions of a Variance Order

In making a variance order, a board, council or planning commission may impose any conditions on the applicant or the owner of the affected property that it considers necessary to meet the [four variance requirements](#) [98(1)].

For example, in order to reduce the likelihood that the variance would negatively affect other properties or potential development in the surrounding area, a board, council or planning commission might impose conditions to limit the intensity of the use, the hours of operation, or external signage or storage of materials.

Note: Variance orders should only include conditions that a municipality or planning district can feasibly administer and enforce.

As part of the conditions of a variance order, the owner of the affected property may be required to enter into a [development agreement](#) with the municipality or planning district.

Notice of Decision

The board, council or planning commission must send a copy of its order to the applicant and every person who made a representation at the hearing [99].

Expiry of a Variance Order

A variance order has a fixed maximum term and will expire if the applicant does not act upon the order within 12 months of the decision date (unless the variance order is extended) [101(1)].

If an extension to a variance order is required, applicants must apply for an extension before the initial deadline. The board, council, or planning commission may extend the deadline for an additional period not longer than 12 months [101(2)].

Revoking a Variance Order

A council or planning district board may revoke a variance order at any time if the applicant fails to comply with the variance order or any imposed conditions [98(2)].

Minor Variances

Boards or councils may authorize, by bylaw, a designated employee or officer to make minor variance orders.

The designated employee's authority is limited to making a minor variance order that varies the requirements in a zoning bylaw by:

- a) Any height, distance, area, size or intensity of use requirement in the zoning bylaw by no more than 10 per cent; or
- b) The number of parking spaces required by the zoning bylaw by no more than 10 per cent [102(1)].

Minor variance orders do not require a public hearing or public notice [102(2)]. However, in making an order on an application for a minor variance, the designated employee or officer must still follow the [four variance requirements](#) in *The Planning Act* [97(1)(b)].

The designated employee or officer may reject the requested variance or make an order varying the application of the zoning bylaw (with respect to the affected property) subject to any conditions considered necessary to meet the four variance requirements.

If the designated employee or officer wishes to make a minor variance order subject to conditions, the applicant must be given a reasonable opportunity to make representations about the proposed conditions [102(4)].

The decision of a designated employee or officer on a minor variance may be appealed to the board or council (following the steps of the general variance process [102(6)]).

The process for a minor variance is shown in the flowchart on the following page.

Process for a Minor Variance

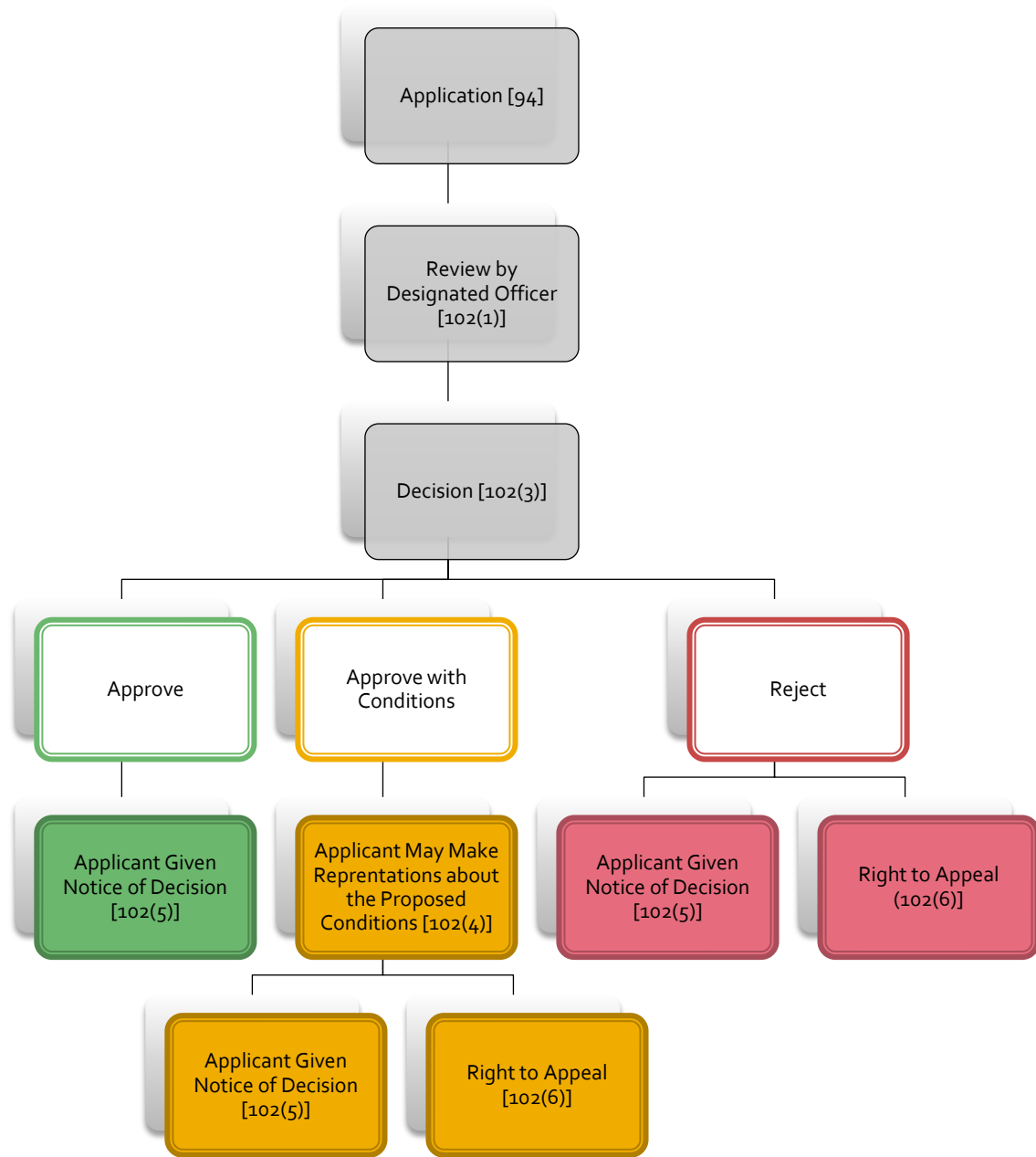


Figure 11: The Minor Variance Process

Conditional Uses

A **conditional use** is a use of land or buildings that may be allowed under a zoning bylaw. A conditional use should be a use that cannot simply be permitted without being considered on a case-by-case basis. Because of this, conditional uses are subject to a public hearing as part of the review process.

The general process for reviewing and approving conditional uses must follow the steps outlined in *The Planning Act* [103-110]. No person may undertake a conditional use without first obtaining approval following these steps (described below) [103(1)].

The Conditional Use Process for Livestock Operations

The Planning Act includes special provisions regarding conditions on livestock operations. Section 107 limits the conditions that may be imposed on small livestock operations. Large livestock operations are subject to additional steps in the review and approval process, including review by a Technical Review Committee [111-118].

For more information on these operations, see *The Plug-Ins* section on livestock operations and the [Manitoba Municipal Government](#) website.

Three Conditional Use Requirements

A council, board or planning commission (if authorized under *The Planning Act* [104]) must only approve general conditional use applications if the conditional use meets the following three requirements:

1. **Compatibility:** The use will be compatible with the general nature of the surrounding area.
2. **No detrimental effect:** The use will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area.
3. **Consistency:** The use is generally consistent with area's development plan, secondary plan and zoning bylaw [106(1)].

The general conditional use process is shown in the flowchart on the following page.

Process for General Conditional Uses

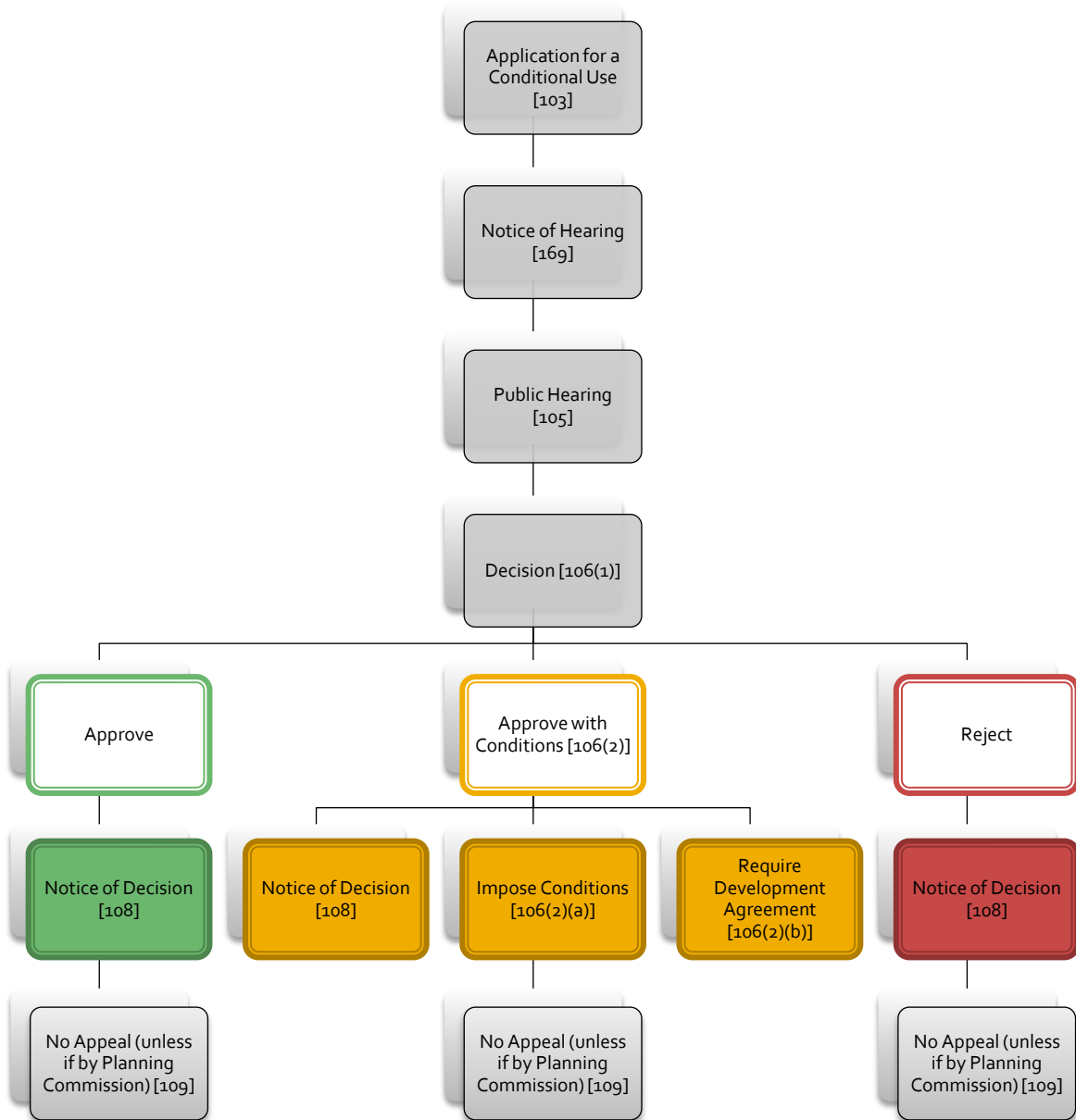


Figure 12: The Conditional Use Process

Note: These steps do not apply to large-scale conditional use livestock operations. For more information on these operations, see *The Plug-Ins* section on livestock operations and the [Manitoba Municipal Government](http://www.manitobamunicipal.ca) website.

Application for a Conditional Use

The owner of a property (or someone authorized in writing by the owner) must apply to a council or board for approval in order to develop their land for a use that is listed as a conditional use in the zoning bylaw [103].

The board or council will provide a form for the applicant to fill out, which may require supporting material. The application will also likely include a fee.

Notice of Hearing

Allowing a conditional use on a parcel of land might adversely affect neighbouring properties. Therefore, a council, board, or planning commission must give public notice of the application and hold a public hearing to receive representations on the proposed conditional use [105].

Councils, boards, and planning commissions must follow the procedures in *The Planning Act* for giving notice on conditional use hearings [105(b), 169].

Public Hearing

During a public hearing on a conditional use, the council, board, or planning commission will hear representation from those who might be affected by the conditional use, following the standard procedures for public hearings as set out in *The Planning Act* [172].

Decision

After hearing all of the representations at a public hearing, the council, board, or planning commission will make an “order” respecting its decision on the conditional use application. It can reject the requested conditional use, it can approve the conditional use (provided the conditional use meets the [three conditional use requirements](#)) or it can approve the application with [conditions](#). As one of these conditions, the board, council or planning commission may require the applicant to enter into a [development agreement](#) [106(2)].

This decision of a board or council is final and cannot be appealed. Where a planning commission makes a decision on a conditional use, the decision can be appealed to a council or planning district board [109].

Conditions of a Conditional Use Order

When approving an application for a conditional use, the board, council or planning commission may impose any conditions on the approval that it considers necessary to meet the [three conditional use requirements](#) listed above (106). Once again, conditional use orders should only include conditions that a municipality or planning district can feasibly administer and enforce.

A condition imposed on the approval of a conditional use may only be changed by restarting the process in the same way as if the applicant was applying for a new conditional use [106(4)].

Note: There are separate [conditions for livestock operations](#). Conditions for small livestock operations (fewer than 300 animal units) are found in *The Planning Act* [107]. Conditions for large-scale conditional use livestock operations are found in [116].

Best Practice: Appropriate Conditions in a Conditional Use Order

An example of an *appropriate* use of conditions when retail is a conditional use in a residential zone would be conditions related to such matters as parking, fencing, access, signage, outdoor storage or hours of operation to mitigate potential adverse effects of the proposed use on nearby residences.

An example of an *inappropriate* use of conditions would be an order that states that the conditional use approval ends if the owner of the land changes (conditional uses run with the land and cannot be based on a particular property owner).

As an alternative solution using *appropriate* conditions, a board, council, or planning commission may impose a time limit on a conditional approval so that the approval expires at a specific date. The applicant would then have to reapply for approval upon the expiry of the initial approval.

Notice of Decision

The board, council or planning commission must send a copy of its conditional use order to the applicant and every person who made a representation at the hearing, following the requirements in *The Planning Act* [108].

The order of a board or council on an application for approval of a conditional use is final and not subject to appeal. The order of a planning commission on an application for approval of a conditional use may be appealed [34-35].

Expiry of a Conditional Use Order

A conditional use order will expire if the applicant does not act upon the order within 12 months of the decision date (unless this conditional use order is extended) [110(1)].

If an extension to a conditional use order is required, applicants must apply for an extension before the initial deadline. The board, council, or planning commission may extend the deadline for an additional period not longer than 12 months [110(2)].

Revoking a Conditional Use Order

A council or planning district board can revoke a conditional use order at any time if the applicant fails to comply with the order or any conditions imposed by the order [106(3)].

Development Agreements

The Planning Act allows a board, council or planning commission to enter into a development agreement with an owner of an affected property as a condition of amending a zoning bylaw, making a variance order or approving a conditional use (or subdivision) [150].

A development agreement between the owner of the affected property and the planning district or municipality can be in respect of the affected property and any contiguous land owned or leased by the owner [150].

Matters that Can Be Covered in a Development Agreement

A development agreement may deal with one or more of the following matters:

- (a) The use of the land and any existing or proposed building;
- (b) The timing of construction of any proposed building;
- (c) The siting and design, including exterior materials, of any proposed building;
 - (c.1) The provision of affordable housing (for more information, see *The Plug-ins*, page C-58), if the application is for an amendment to a zoning bylaw to permit a new residential development that is required to provide a certain percentage of affordable housing;
- (d) The provision of parking;
- (e) Landscaping, the provision of open space or the grading of land and fencing;
- (f) The construction or maintenance—of works, including but not limited to, sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access and connections to existing services;
- (g) The payment of a sum of money to the planning district or municipality in lieu of the requirement under clause (f) to be used for any of the purposes referred to in that clause;
- (h) The dedication of land or payment of money in lieu of land, where the application is for an amendment to a zoning bylaw to permit a residential use, use for a mobile home park or an increase in residential density [150].

A board, council or planning commission cannot require the owner of an affected property to enter into a development agreement for any item that is not included in the above list. **For example:** A development agreement cannot require a developer proposing to build an office building to contribute funds towards a new recreation centre.

Long-term development agreements require an effective administrative system to monitor. Individual development agreements can increase administration and enforcement obligations and may become difficult to administer over time.

However, some of these challenges can be addressed by having development agreements “run with the land” [151]. When a caveat with a copy of the agreement is filed in the appropriate land titles office, the agreement binds the owner of the land affected by it, and the owner’s heirs, executors, administrators, successors and assigns [151(1)].

When Do Development Agreements Come into Effect?

A development agreement can be entered into before an order, approval or amendment to a bylaw is made, but the agreement is not binding until the amendment has passed or the order or approval has been made [151(2)].

Variance or Conditional Use Orders versus Development Agreements

Instead of relying on development agreements, it is better to put conditions directly into a variance order [98(1)] or a conditional use order [106(2)]. Variance orders or conditional use orders are easier to enforce than development agreements because municipalities or planning districts can revoke permits if the owner does not comply.

Enforcement

This section discusses the statutory authority for the enforcement of zoning bylaws. It also explains the tools municipalities and planning districts can use to enforce the bylaws.

Note: *The rules for enforcement described below are outlined in Part 12 of The Planning Act. Zoning bylaws do not need to include provisions repeating that information.*

Development Inspections

A [designated employee or officer](#) of a planning district or municipality may enter land or a building to conduct an inspection to determine if a person is complying with a zoning bylaw or with the terms or conditions of a permit, approval or order made or issued under *The Planning Act* [175(1)].

The designated employee or officer may take any action authorized under *The Planning Act* or a bylaw to enforce or remedy a contravention of the zoning bylaw or the terms or conditions of a permit, approval or order [175(1)(b)].

When conducting an inspection, the designated employee or officer can request that documents and records be produced to assist in the inspection. The designated employee or officer can make copies of or (on providing a receipt) remove a record, document or other item related to the inspection [175(2)].

No person may interfere with a designated employee or officer who is conducting an inspection or enforcement action [175(3)].

Requirements for an Inspection

There are several requirements that must be met before a designated officer can inspect a property to determine if a person is complying with the zoning bylaw or terms and conditions of a permit, approval or order:

1. **Reasonableness:** An inspection or enforcement action must normally take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building (except in an emergency) [176(3)].
2. **Consent or Warrant:** The designated employee or officer may only enter the land or building in question with the consent of the occupier or under authority of a warrant issued by a justice. If the designated employee or officer is refused entry, or has reason to anticipate that entry will be refused, the designated employee or officer can apply to a justice to obtain a warrant to enter the land or building and conduct an inspection or enforcement action [176(1)].
3. **Identification:** The designated employee or officer must, upon request, produce identification showing that the planning district or municipality has authorized the inspection or enforcement action [176(2)].

Note on Warrants: In some situations it may be prudent to have another person, in addition to the designated employee or officer, to assist in an inspection. The warrant can authorize the designated employee and any other person named in the warrant to enter the land or building and conduct an inspection or enforcement action [177].

Orders

Order to remedy contravention

If the designated employee or officer finds that a person is contravening a zoning bylaw, or the terms or conditions of a permit, approval or order* made or issued under authority of *The Planning Act*, the designated employee or officer may issue a written order which may:

- Direct the person to stop doing something, or to change the way in which the person is doing it.
- Direct the person to take any action or measure necessary to remedy the contravention and, if necessary, to prevent a recurrence of the contravention.
- State a time within which the person must comply with the order.
- State that if the person does not comply with the order within the specified time, the district or municipality may take any action required to remedy the contravention, at the expense of the person [178].

***Note:** If a person is not complying with a [variance order](#) or [conditional use order](#) (or with any [conditions](#) imposed in these orders), a council or planning district may, after the owner is given reasonable notice, revoke the variance order [98(2)] or conditional use order [106(3)]. The threat of having a variance or conditional use order revoked might encourage a landowner to comply with a board or council before they need to take additional measures to remedy the contravention.

Review by Board or Council

If a person against whom an order is made disagrees with the order, the person can require the board or council to review the order by submitting a written request. The request must be sent to the board or council no later than 14 days after the order was made [178(3)].

If a board or council receives a written request it must review the order. After the review the board or council may confirm, vary, or rescind the order [178(4)].

Remedying Contraventions

A planning district or municipality may take any action or measure that is **reasonable to remedy the contravention** if:

- The designated employee or officer has given a [written order](#)
- The order has the necessary content (listed above)

- The person to whom the order was directed has not complied with the order within the time period specified in the order
- The deadline for requesting a [review](#) has passed or, if a review of the order has been requested, and the decision of the board or council was to allow the district or the municipality to take the action or measure [179(1)]

Example of Reasonable Action: A municipality can, for example, issue a notice requiring an individual to demolish a non-conforming building. If the individual does not demolish the building within the specified time period, it is within the municipality's legal authority to remedy the contravention by demolishing the building.

The costs of an action or measure to remedy a contravention of the zoning bylaw taken by a planning district or municipality are a debt owing to the district or municipality by the person who contravened the bylaw [179(2)].

Injunctions

A planning district or municipality may also apply to the Court of Queen's Bench for an injunction or other order to enforce a bylaw made under *The Planning Act*, or to restrain a contravention of the bylaw without initiating prosecution.

The court may grant or refuse to grant the injunction or other order, or may make any other order that it considers fair and just [180].

Offences

A person is guilty of an offence if they contravene the act or a bylaw adopted under the act or the terms or conditions of a permit, approval or order made or issued under the act.

When a contravention continues for more than one day, the person is guilty of a separate offence for each day the offence continues [181(2)].

If a corporation commits the offence, a director or officer of the corporation who authorized, permitted or acquiesced in the commission of the offence is also guilty of an offence. The director or officer of the corporation is liable on summary conviction to the penalties under the act, whether or not the corporation has been prosecuted or convicted [181(3)].

Every person who is guilty of an offence under *The Planning Act* is liable on summary conviction to:

- a) In the case of an individual, a fine of not more than \$5,000, or imprisonment for a term of not more than six months, or both; and
- b) In the case of a corporation, a fine of not more than \$20,000 [182(1)].

When a person is convicted of an offence, a justice may, in addition to imposing a penalty, order the person to comply with the provision of the act or the bylaw that the person contravened. The justice can also order the person to pay to the planning district or municipality the amount of the costs incurred by the district or municipality as a result of the contravention [182(2)].

A prosecution under *The Planning Act* must be initiated no later than two years after the day the alleged offence was committed [183].

The Municipal Bylaw Enforcement Act

Under the enforcement regulations in the current *Planning Act*, to enforce a violation of a zoning or building bylaw through an offence, people have to be charged with an offence and prosecuted through the Provincial Court system. The person charged is entitled to a trial before a judge if they dispute an offence. Municipalities and planning districts rarely proceed with such action because of the large amount of time and legal costs they typically incur.

To deal with the challenges with bylaw enforcement through an offence, the province passed *The Municipal Bylaw Enforcement Act*. Under this act, municipalities and planning districts may adopt a system that will process and resolve bylaw violations using an administrative penalty scheme that does not involve court proceedings.

In an administrative penalty scheme, a bylaw enforcement officer would first issue a penalty notice to an offender. The offender can either pay the penalty or request that a screening officer review the penalty notice. A screening officer is a person appointed by the municipality or planning district to review penalty notices. The screening officer may confirm, cancel or in some cases reduce the amount of the penalty notice. If not satisfied with the screening officer's decision, the offender may refer the decision to a provincially-appointed adjudicator for review. The adjudicator has the final decision on the penalty notice.

Municipalities and planning districts may join together to share the administrative costs and duties under *The Municipal Bylaw Enforcement Act*.

Note: While *The Municipal Bylaw Enforcement Act* has been passed, it is not yet in force. Please note that once it and the supporting regulations are in force, a penalty notice scheme will also be put in place.

PART 5: Definitions

The following section provides municipalities and planning districts with guidance on the definitions section of zoning bylaws.

General Guidelines for Definitions

What Should Be Defined?

There are three reasons to define a term in the definitions section of the zoning bylaw:

1. **To remove ambiguity** (for example, **corner parcel** means a zoning site situated at the intersection of two streets)
2. **To standardize a form of shorthand** (for example, **the Act** refers to *The Planning Act*)
3. Where a term has a **specific meaning** in the zoning bylaw (for example, **dwelling** means one or more rooms used or intended to be used as a single housekeeping unit with cooking, sleeping and sanitary facilities)

Do Not Define Common Terms

Do not define common terms in a zoning bylaw. There is usually no need to define, for example, a playground or a cemetery. Defining common terms could actually increase ambiguity in the bylaw because the definition takes precedence over the common understanding of the term.

Do Not Define Terms That Do Not Appear in the Bylaw

The definition section should only include definitions of terms that are found in the text of the zoning bylaw. Municipalities (or planning districts, in the case of a district-wide zoning bylaw) should review the list of definitions to make sure that all terms are necessary to include.

Plain Language

Definitions should be written using plain language (to the greatest possible extent). Use simple words and short sentences. As a general rule, definitions should not contain the word or term that they are trying to define.

Consistent with Legislation

Generally, definitions should be consistent with *The Planning Act* and other legislation that has already defined a term (see an exception with the word **building**, below).

Example: *Livestock operation* is defined in *The Planning Act*. Do not include a custom definition for livestock operation in the zoning bylaw.

Improper Terminology

It is important to avoid including definitions of planning terms from other jurisdictions that are different from how such terms are commonly used in Manitoba.

Rules of Measurement

Zoning bylaws need specific rules for how to measure lot sizes and yards for irregular lots, corner lots, reverse key lots, flag-shaped lots, etc. The zoning bylaw should include rules about how to define front, side and rear yards for irregular lots or those that front onto waterways instead of streets.

Notes for Specific Words

Building is defined in *The Planning Act* [1(1)]. However, the definition of building in the act is quite broad and includes things that, in common language, are not normally considered to be a building. In the act, the word **building** “includes a well, pipe line, conduit, cut, excavation, fill, transmission line and any structure or erection, and any part of any of those things, and also includes an addition to or extension of any building or any of those things and a chattel that is attached to, or installed in or on, any building or any of those things.” *The Binder* includes a definition of the word with a specific meaning that excludes the items above that are not normally considered to be part of a building.

Church—Not all religions worship in churches (some religions worship in mosques or synagogues, for example). To regulate these buildings in land use bylaws, municipalities should be careful not to [discriminate](#) based on religion. Therefore, zoning bylaws should refer to all such buildings as *Places of Worship*.

Communal Farm Settlements—Some zoning bylaws define and regulate communal farm settlements like Hutterite Colonies. A better approach is to treat these operations consistently with other operations in agricultural zones, where secondary uses (like machine shops and schools) are acceptable provided agriculture remains the principal land use.

Condominium refers to a form of ownership where units are owned by individuals but where expenses common to all parties are shared. Condominiums are not a particular type of housing and therefore should never be included on a Use Table.

Construction is defined in *The Planning Act* [1(1)].

Development is defined in *The Planning Act* [1(1)].

Duplex means a building with one unit built above another, with neither unit being considered individually as the primary use. [**Side-by-side** means a **building** where the units are arranged next to each other and share a **party wall**].

Dwelling—Zoning bylaws should not define dwellings according to construction type (ex: stick-built, modular, RTM, “used”). This distinction is hard to define (many “stick-built” homes now include “modular” parts). Concerns about different types of housing construction for safety reasons should be addressed through building bylaws and the building permit process, **not** zoning bylaws.

Family—The term *family* (including the terms “single-family,” “two-family,” and “multi-family”) could be defined in ways that are [discriminatory](#). In 1979, the Supreme Court of Canada ruled that the municipality’s zoning bylaw (in the case of *Bell v. Her Majesty the Queen*) used a discriminatory definition of the term *family*, which was based on marriage, blood relationships, and adoption.

Instead, zoning bylaws should use neutral terms such as *single-unit dwelling*, *two-unit dwelling*, and *multi-unit dwelling*. If a council thinks it is necessary to define “family”, it should use the following definition, which is based on the “housekeeping unit” and has been successfully defended in court (*Smith v. Township of Tiny*): “**Family** means one person or two or more persons voluntarily associated, plus any dependents, living together as an independent, self-governing single-housekeeping unit.”

Land is defined in *The Planning Act* [1(1)].

Livestock Operation is defined in *The Planning Act* [1(1)].

Livestock Production Operation—this is an example of [improper terminology](#), which is out-of-date. According to *The Planning Act*, it should be called a *Livestock Operation*.

Secondary Suite—Zoning bylaws should be careful not to [discriminate](#) by “zoning people” when defining secondary suites. Zoning bylaws cannot regulate the class of people who can live in a secondary suite (ex: It is discriminatory to say, “Only blood relatives may live in a secondary suite”).

Townhouse [or Rowhouse] means three or more dwelling units which are attached together in whole or in part above and/or below grade and divided from each other by a vertical party wall and in which each dwelling unit has a private independent entrance directly from a yard.