

*Draft 1 first reading*

**Toquaht Nation GOVERNMENT**

**MACOAH ZONING AND STRUCTURES  
ACT**

**◆S ◆/2017**

This law enacted on \_\_\_\_\_, 2017

Signed \_\_\_\_\_  
◆, ◆ of the  
Toquaht Nation

DEPOSITED IN THE  
REGISTRY OF LAWS  
AND OFFICIAL RECORDS

ON \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
*Signature of Law Clerk*

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## **PREAMBLE**

The Toquaht Nation asserts that we have occupied, benefited from and governed our traditional territory, lands, waters and resources since time immemorial. The traditional territory of the Toquaht Nation has in the past provided the resources necessary to sustain the Toquaht Nation and we honour our connection to the lands, waters and resources of our traditional territory which provide for our physical and spiritual needs.

Through our inherent right to self-government, the Toquaht Nation has in the past worked to preserve and protect our traditional territory and today we accept the obligations and responsibilities inherent in governing Toquaht lands and pledge to protect Toquaht lands for future generations of our citizens. Our primary goal in governing Toquaht lands is to create a healthy and prosperous future that ensures the continued existence of the Toquaht Nation as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant people. It is the desire of the Toquaht Nation that our Toquaht lands continue to provide the resources necessary to sustain us, preserve our traditional ways and culture, encourage self-sufficiency and security through development and growth and to provide a home for the Toquaht people forever.

We want development and growth on our Toquaht lands to be conducted in a way that is transparent and accountable. It is also our desire that development and growth on Toquaht lands be socially, economically and environmentally sustainable in order to foster a safer, stronger, healthier, more financially secure and more sustainable community. To this end, the Toquaht Nation will use its law making authorities recognized in the Maa-nulth Treaty and the Foreshore Agreement to manage development and growth on Toquaht lands and Toquaht foreshore to create the type of community we want to live in, and be a part of, in a way that achieves these goals.

The Toquaht Nation adopts this Act based on these values.



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MACOAH ZONING AND STRUCTURES ACT ♦ ♦/2017  
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## **PART 1 - INTRODUCTORY PROVISIONS**

### **Short title**

**1.1** This Act may be cited as the Zoning and Structures Act.

### **Executive oversight**

**1.2** The member of the Executive holding the Lands, Public Works, Environmental Protection and Resources Harvesting portfolio is responsible for the executive oversight of this Act.

### **Authority and application**

- 1.3** (a) This Act is enacted under
- (i) 13.14.1a. of Chapter 13 Governance of the Maa-nulth Treaty,
  - (ii) sections 3.2(c) and (x) of the Constitution,
  - (iii) section 3.1(a) of the Foreshore Agreement, and
  - (iv) Part 4 of the Planning and Land Use Management Act.
- (b) This Act applies to
- (i) Macoah, and
  - (ii) Macoah foreshore.

### **Definitions and interpretation**

- 1.4** (a) In this Act,
- “agricultural use” means a use that is rural in nature involving cultivating the land, growing crops or raising livestock, or other domesticated animals, and includes farming, husbandry, agronomy, gardening and operating a greenhouse, nursery or a stable;
- “apartment” means a dwelling unit in an apartment building;
- “apartment building” means a building that is a dwelling containing three or more dwelling units with a common entrance and exit and other essential facilities and services, excluding a hotel;

“art gallery or studio” means the production of dance, live music, creative writing, painting, drawings, pottery or sculpture, video, moving or still photography;

“attic” means any room or space under a roof that is not habitable, has no more than 2.1 metres head clearance and is used only for storage;

“authorization” has the meaning given to it in the Building and Development Authorization Act;

“back building line” means a line extending across a lot along the exterior wall of the primary building on the lot that faces the back lot line and continuing in a straight line across the yard on either side of that building to each side lot line;

“back lot line” means, for a lot, the lot line furthest from and opposite to that lot’s front lot line and a lot may only have one back lot line;

“back yard” means that portion of a yard extending across the full width of a lot between the back building line and the back lot line;

“bar, lounge or pub” means a business licensed primarily to sell alcohol for immediate consumption on the premises;

“barber shop, beauty or wellness centre” means a business for styling, cutting or chemically treating hair or to improve beauty and wellness through skin and body treatments, including pedicures, manicures, facials, microdermabrasion, electrolysis, waxing, laser, hydrotherapy, anti-aging, skin rejuvenation therapy and aromatherapy, excluding a fitness centre;

“basement” means a space between two floors, with the lower floor located at least 1.5 metres below the finished grade and the floor surface of the floor above located no more than two metres above the finished grade;

“bed and breakfast” means a business operated in a single family dwelling, with more than two, but no more than four, sleeping units and no more than two bed spaces in each sleeping unit, that provides temporary accommodation and breakfast to a paying guest;

“bed space” means a bed or portion of a bed on which one person sleeps;

“building” has the meaning given to it in the Building and Development Authorization Act;

“building footprint” means the total horizontal area of all buildings and structures on a lot, and any projecting portion of a building or structure, excluding the area of a balcony,

canopy, marquee, sun shade, eave, gutter, fire escape, step or similar projection and covered parking area not in or beneath any part of a primary building, measured to the exterior walls of the building or structure at the height of the top of the foundation of the building or structure above the finished grade;

“building height” means the vertical distance from the curb, finished grade or natural grade immediately adjacent to a building to the highest point of that building’s;

- (i) flat gable roof, hip roof or gambrel roof surface, or
- (ii) mansard roof deck line;

“building official” has the meaning given to it in the Building and Development Authorization Act;

“business” has the meaning given to it in the Business Licensing Act;

“business licence” has the meaning given to it in the Business Licensing Act;

“café” means a business with a seating capacity of no more than 12 seats that primarily provides food prepared, cooked and served to a paying customer;

“campground” means a business that provides temporary accommodation to a paying guest with a tent, travel trailer or recreational vehicle and includes a secondary use, such as a convenience store or laundry, recreational, bathing or restroom facilities, for the sole use of the guests, excluding a mobile home park or hotel;

“caretaker dwelling” means a secondary dwelling unit located on the same lot as a primary use or building for the accommodation of a caretaker, owner, proprietor, manager or employee of the permitted use on that lot;

“carport” means a roofed structure no more than 5.5 metres high, open on at least three sides, other than necessary supporting posts or columns, attached to a primary building and used as covered parking for one vehicle;

“charter tour business” means a business that provides tour and guiding services to a paying guest, such as sea kayaking, whale watching, hunting, fishing and float plane charter operations;

“child day care” means a business licensed under the Community Care Facility Act (British Columbia) to provide care, supervision, social or educational training to a child, including group child care, preschool, special needs child care, out of school child care, emergency child care, child minding or overnight care;

“club” means a building used by an association or organization for fraternal, social or recreational purposes;

“clustered dwellings” means two or more small single family dwellings on one lot with shared services and a shared driveway;

“commercial use” means a use that is mercantile in nature involving the purchase and sale of goods or services, but is not an agricultural use, an industrial use, an institutional use or a residential use;

“commercial vessel” means a vessel that is used primarily for commercial purposes;

“community care” means a business licensed under the Community Care and Assisted Living Act (British Columbia) to provide residential care to individuals not related by blood or marriage to the licensee or, if the licensee is a corporation, to any director, officer or member of the corporation;

“conforming” means, in relation to a building, structure or use, any building, structure or use which meets all the requirements of the zoning district in which that building, structure or use is located;

“construct” has the meaning given to it in the Building and Development Authorization Act;

“convenience store” means a retail business with a floor area no more than 200 square metres located in a single building which provides items for sale regularly used by a household, including groceries, books, magazines, household accessories and food or beverage takeout service;

“corner lot” means a lot adjacent to an intersection of two or more streets where two of the lot lines for that lot intersect immediately adjacent to where two of those streets intersect;

“delivery operation” means a business operating a local trucking, delivery or similar service, excluding a truck terminal;

“development” means a change in the use of land, a building or a structure for any purpose and includes carrying out any building, engineering, construction, excavation or other operation in, on, over or under the land or the construction, addition, alteration or demolition of any building or structure and, for certainty, includes a “project” under the Building and Development Authorization Act;

“display area” means

- (i) an open area used to display new or used vehicles, trailers, equipment, machinery or vessels that are in operable condition and available for sale or rent, excluding any repair work, other than of a minor or incidental nature, or
- (ii) an open area where samples of finished goods can be assembled or constructed from new materials available for sale on the lot;

“director” means the director of lands, public works and resources;

“dormitory accommodation” means a habitable room with five or more bed spaces in that room;

“dwelling” means a building consisting exclusively of one or more dwelling units and ordinarily intended for residential use and includes a secondary use permitted on the lot where that building is located;

“dwelling unit” means one or more rooms in a building which together constitute a self-contained habitable space, each with a separate entrance and cooking, restroom, bathing, living and sleeping facilities, and is ordinarily intended to be occupied by no more than one family;

“equipment sales, service or rentals” means a business that provides the sale, service, rental or leasing of new or used tools, appliances, recreation craft, office machines, furniture, light equipment or similar items, excluding the sale, service, rental or leasing of heavy equipment or vehicle sales and service;

“family” means either

- (i) one or more individuals related to one another by blood, marriage, including a common law marriage, or adoption, or
- (ii) a maximum of four unrelated individuals living together as a household,

and, for the purposes of this definition, each of the blood relatives of the two individuals in a common-law relationship are considered to be related to those two individuals and to each of his or her blood relatives;

“farming” means growing vegetables, field crops, berry or bush crops or orchard crops;

“fence” means a structure used as an enclosure or screening around all or part of a lot;

“finished grade” means the elevation of the surface of the ground at the applicable point on a lot after development is completed, established by survey where required;

“fitness centre” means a business for developing, on a one-to-one basis or in a group session, physical fitness, including health centres, gymnasias, racket and ball courts, reducing salons, yoga, pilates, weight loss, dance, self-defence and sports;

“flanking street “ means, for a corner lot, the street that is parallel to the side lot line of that lot and intersects with the street that is parallel to the front lot line of that lot;

“floor” means that portion of a building located between the lower surface of any level and the surface of the level next above it, excluding a basement or an attic;

“floor area” means the total horizontal area of every floor of a building, including every dwelling unit and basement, measured to the exterior walls and all areas giving access to the building, each enclosed balcony, each enclosed porch, each elevator shaft and each secondary building, excluding any parking area;

“front building line” means a line extending across a lot along the exterior wall of the primary building on the lot that faces the front lot line and continuing in a straight line across the yard on either side of that building to each side lot line;

“front lot line” means, for a lot, the lot line immediately adjacent to, and running parallel with, a street and

- (i) in the case of a corner lot, either lot line immediately adjacent to, and running parallel with, a street may be designated by the [director] as the front lot line, however, a corner lot may only have one front lot line, or
- (ii) where a lot is not immediately adjacent to a street, the front lot line of the lot must be designated by the [director];

“front yard” means that portion of a yard extending across the full width of a lot between the front building line and the front lot line;

“general office” means an office, other than a savings institution, health care office or health enhancement business;

“grade” means the elevation of the surface of the ground at any point on a lot;

“government use” means a use providing for a public function and includes

- (i) an office of the Toquaht government, a Toquaht public institution or a Toquaht public corporation,
- (ii) an ambulance station,

- (iii) a general office for public services,
- (iv) a public works building or public works yard,
- (v) an archive,
- (vi) an elementary school or secondary school,
- (vii) a public college or a public university,
- (viii) a public community centre,
- (ix) a court of law,
- (x) a public hospital,
- (xi) a library,
- (xii) a museum,
- (xiii) a park or a public playground,
- (xiv) recreational trails or community harvest access,
- (i) a public swimming pool,
- (ii) government owned rental housing,
- (iii) community harvest processing facilities,
- (iv) a community kitchen,
- (v) a fire hall, and

“government use” also includes any secondary use that is a public function of government;

“ground floor” means the lowest floor of a building, other than a basement;

“guest house” means a business operated in a single family dwelling, with more than two, but no more than six, sleeping units and no more than two bed spaces in each sleeping unit, that provides accommodation to no more than ten paying guests at a time who are not members of the owner’s family, excluding a bed and breakfast;



“habitable” means,

- (vi) for a room, a room that has connected electrical and heating services and is designed for human living and sleeping;
- (vii) for a dwelling unit, a dwelling unit that has connected electrical, heating and plumbing services and is designed for human living, sleeping, bathing, eating and food preparation;

“health care office” means an office used by a profession in which a person exercises skill or judgement or provides services related to preserving or improving the physical, mental or emotional health of an individual, or the treatment or care of an individual who is injured, sick, disabled or infirm, including a chiropractor, dentist, optometrist, physician, surgeon, dental hygienist, dental technician, denturist, dietitian, licensed practical nurse, registered massage therapist, midwife, naturopathic physician, registered nurse, nurse practitioner, occupational therapist, optician, physical therapist, psychologist, registered psychiatric nurse, traditional Chinese medicine practitioner and acupuncturist and other health care and social service practitioners, including a counsellor and herbalist, excluding a barber shop, beauty or wellness centre, detoxification centre, health enhancement business, hospital, laboratory, social service centre or community care facility;

“health enhancement business” means a business to enhance health through therapeutic touch techniques including stone therapy massage and relaxation massage, shiatsu, reflexology, bio-kinesiology, hellework, polarity, reiki, rolfing and trager, excluding a fitness centre or a barber shop, beauty or wellness centre;

“heavy manufacturing” means the following, but no others:

- (i) processing inedible animal parts, including processing hides, skins, tankage, feathers, bristles, human hair or other crude, inedible animal parts, or tanning, curing or dressing furs, hides or skins;
- (ii) brewing and distilling alcoholic beverages, or beverage goods with alcoholic content exceeding one percent by volume, that requires milling grain, rice or malt;
- (iii) producing food and beverage goods, including animal feed, that involves milling grain, rice or malt, refining sugar, canning meat, fish or poultry, pickling fruits or vegetables, refining vegetable oil and processing fats, bones, hides, skins, offal or similar animal goods or processing fish, live animals or live poultry;
- (iv) producing or processing chemicals, plastics, paints, fertilizers, synthetic rubber, synthetic resins, or related chemical goods, cosmetics, toilet preparations,

- pharmaceuticals, medicines, disinfectants, soaps, cleaning compounds, polishes, inks, adhesives, household tints or dyes or similar goods;
- (v) producing electrical goods, or their components or parts, including electrical appliances, electrical fixtures, lamps, radios, televisions and computers;
  - (vi) producing paper;
  - (vii) producing linoleum or coated fabrics, such as oil cloth, artificial leather, asphalt-felt-base floor covering, pyroxylin or vinyl-coated fabrics or other similar coated fabrics;
  - (viii) producing or processing food and beverage goods, including animal feed and canning food for human consumption;
  - (ix) machinery or equipment manufacturing primarily intended for industrial use or commercial use, including business or office equipment, or only intended for use in a dwelling as a secondary use;
  - (x) producing metal goods, including metal ingots, shapes, pigs or powders from ore or scrap, for the alloying, extruding, casting or rolling of metals, or for manufacturing metal structural shapes or metal castings or manufacturing boilers, metal tanks, fabricated structural metal goods, non-electrical wire or wire goods, hardware, tools, cutlery, heating equipment or other fabricated metal goods, or machining, stamping, pressing, coating, welding or smithing metal or metal goods;
  - (xi) producing cement, clay, concrete, gypsum, glass, stone goods, clay or concrete bricks, tiles or blocks or other non-metallic mineral goods;
  - (xii) producing petroleum goods, coal goods, tar goods or derivatives, tarpaper or asphalt roofing or siding material and recycling or re-refining oil;
  - (xiii) producing plastic goods, including plastic clothing and footwear;
  - (xiv) producing pulp, wood fibre, fibreboard or paperboard;
  - (xv) producing rubber or rubber goods from raw material or for manufacturing tires, including rubber clothing and footwear, or for the retreading of tires;
  - (xvi) producing shoes or boots, including leather footwear;

(xvii) producing transportation equipment, including aircraft, railroad rolling stock, ships, vessels, truck or bus bodies, truck trailers, snowmobiles or motor vehicles; and

(xviii) producing wood products involving milling logs, including operating a sawmill, planing mill, shingle mill, veneer mill or plywood mill, excluding producing paper or pulp goods;

“hedge” means any tangible vegetation barrier planted with the intent of preventing passage to or from one area to another;

“home occupation” means a business referred to in section 2.13(a) operated in a dwelling unit by the owner;

“hospital” means a non-profit institution operated for the treatment of individuals suffering from illness or disability which has been designated as a hospital under the Hospital Act (British Columbia), excluding a private hospital, nursing home or community care facility;

“hostel” means a business that provides temporary dormitory accommodation to a paying guest and common cooking, dining, socializing, bathing and restroom facilities, and may provide recreation facilities, for the sole use of the guests;

“hotel” means a business, with more than six sleeping units and no more than four bed spaces in each sleeping unit, each with separate entrances from a common hallway or walkway and common or private bathing and restroom facilities, that provides temporary accommodation to a paying guest;

“houseboat” means a house-like structure built on a floatation system intended primarily for residential use and not for, or used primarily in, navigation;

“industrial use” means processing, light manufacturing, heavy manufacturing, fabricating, assembling, storing, transporting, distributing, testing, servicing, repairing, offering for wholesale, wrecking or salvaging goods or materials and offering for sale or rent heavy equipment and “industrial use” includes, as a permitted secondary use, a commercial use that is secondary to the industrial use, such as operating a truck terminal, excluding burning salvaged goods or materials;

“institutional use” means the following, and no others:

- (i) a church or other place of spiritual worship;
- (i) a community care facility;

- (ii) a private college or private university authorized to grant diplomas, certificates or degrees under federal law or provincial law;
- (iii) a private elementary school or private secondary school operated in accordance with Toquaht law;
- (iv) a private museum;
- (v) a playground;
- (vi) a stadium or arena; and
- (vii) a zoo or botanical garden;

“institutional zone” means zoning district G1;

“junk yard” or “junk shop” means a business that offers to sell scrap or waste materials such as rubber, tires, metal, paper, sacks, wire, ropes, rags, machinery or motor vehicle parts, including associated wrecking, dismantling, recycling or processing of those materials;

“land”, other than a reference to “Toquaht lands”, excludes the surface of a body of water;

“landscape screening” means natural vegetation retained, or coniferous or deciduous shrubs or trees predominantly planted, to provide screening to an area on a lot;

“landscaping” means an area of cultivated vegetation, including any combination of trees, bushes, shrubs, plants, flowers, grass, lawns or natural vegetation, planted in a manner to enhance the appearance of a lot, building or structure and any bark mulch or other ground cover, decorative boulders, decorative paving, planters, foundations, sculpture and decorative fences necessary for screening a property, excluding a paved parking area, sidewalk or natural bush or shrub, undergrowth or natural weed growth;

“light manufacturing” means the following uses, but no others:

- (i) producing bakery goods;
- (ii) producing clothing, including leather clothing, garments and personal accessories, including handbags, wallets and luggage, excluding clothing or garments made from plastic or rubber and producing shoes or boots;
- (iii) producing dairy goods;

- (iv) producing food and beverage goods, including animal feed, that does not involve milling grain, rice or malt, refining sugar, canning meat, fish or poultry, pickling fruits or vegetables, refining vegetable oil, processing fats, bones, hides, skins, offal or similar animal goods, or processing fish, live animals or live poultry;
- (v) producing furniture or mattresses or related non-electrical fixtures such as mirrors, curtain rods, cabinets, counters or lampshades, but not stone, concrete or marble furniture;
- (vi) ice production;
- (vii) producing jewellery, including metal badges, silverware, cutting or polishing diamonds, plating with precious metals, lapidary work or engraving on metals, other than for printing purposes;
- (viii) producing miscellaneous goods, including toys, games, bicycles, novelties, ornaments, decorations, brooms, brushes, scientific or professional equipment, dentures and dental supplies, eye glasses, contact lenses, orthopaedic and other health care devices, clocks, signs, displays, sporting goods, recreational equipment, musical instruments, office or artists' supplies, other than paper goods, marking devices, awnings, window shades, blinds, umbrellas, notions and wax goods not involving the manufacturing of wax;
- (ix) producing china, crockery, porcelain goods, stone or concrete furniture or monuments, statuary, glass or glass goods, other than within glassworks, or abrasives, other than those goods included in heavy manufacturing;
- (x) producing paper goods, but not producing paper;
- (xi) printing, publishing, lithographing, silkscreen printing, platemaking or engraving as allied to the printing or publishing industries, publishing and printing newspapers, magazines, periodicals, books, almanacs, maps, guidelines, pamphlets, flyers or similar goods, book binding and associated binding operations as allied to the printing or publishing use, excluding a print shop;
- (xii) producing computer software in bulk, including copying, packaging, storing and shipping;
- (xiii) producing textiles or knit goods, including carpets, mats, rugs, canvas goods, cotton bags, jute bags, automobile fabrics, draperies, silk fabrics, linen fabrics, thread, cordage, twine or similar goods, other than those goods included in heavy manufacturing; and

(xiv) producing wood products, other than those goods included in heavy manufacturing, excluding producing furniture or fixtures;

“loading facility” means a building or structure, or a portion of a building or structure, containing a loading space;

“loading space” means a space for loading or unloading a vehicle either outside or inside a building or structure, excluding a maneuvering aisle and other area providing access to that space;

“lodge” means a business, with more than four, but no more than six, sleeping units and no more than four bed spaces in each sleeping unit, each with separate entrances from a common hallway or walkway and common or private bathing and restroom facilities, that provides temporary accommodation to a paying guest;

“log handling and storage area” has the meaning given to it in the Foreshore Agreement;

“lot” means, in relation to Toquaht lands, the smallest unit into which the land is subdivided as shown on the records of the lands registry office, land title office or provincial Crown land registry, as applicable;

“lot area” means the total horizontal area of land within the lot lines of a lot;

“lot coverage” means a ratio, expressed as a percentage, of the total building footprint divided by the lot area;

“lot depth” means the average horizontal distance between the front lot line and the back lot line of a lot;

“lot width” means the average horizontal distance between each side lot line of a lot;

“Macoah” means those Toquaht lands within District Lot 2197, Clayoquot District;

“Macoah foreshore” means that portion of Toquaht foreshore immediately adjacent to Macoah;

“manufacturing” means either light manufacturing or heavy manufacturing;

“marina” means a business that primarily rents berthing spaces and floats for commercial vessels or recreational vessels and may include, as a secondary use, the sale or rental of recreational vessels, marine equipment or supplies, marine fuel, fishing supplies or equipment or vessel repair facilities;

“mobile home” means a mobile single family dwelling, and its permitted additions, registered under the Manufactured Home Act (British Columbia), excluding, for this Act, a mobile home whose undercarriage has been removed and is mounted on a foundation of continuous concrete or masonry;

“mobile home pad” means the area of a lot designated and prepared for a mobile home to be located on;

“mobile home park” means a business that provides more than two mobile home pads for rent;

“mobile home yard” means the area of a lot on which a mobile home park is operated designated for one mobile home and includes the mobile home pad, yard area and parking area designated for that mobile home;

“multiple family dwelling” means a building that is a dwelling consisting of three or more dwelling units and includes an apartment building and townhouse and is deemed to include each building in a clustered dwellings;

“natural grade” means the elevation of the surface of the existing, undisturbed, natural ground at any point on a lot, established by survey where required;

“non-conforming” means, in a relation to a use, building or structure, any use, building or structure which does not conform with all the requirements of this Act for the zoning district in which that use, building or structure is located;

“nursery” means a business growing plants, shrubs and trees;

“occupier” means a person who

- (i) is in physical possession of a lot, building, portion of a building or dwelling unit, or
- (ii) has responsibility for, and control over, the condition of a lot, building, portion of a building or dwelling unit, the activities conducted on the lot or in the building, portion of a building or dwelling unit and the persons allowed to enter the lot, building, portion of a building or dwelling unit,

and, for this Act, there may be more than one occupier of the same lot, building, portion of a building or dwelling unit;

“owner” means the registered owner, lessee, tenant or occupier of a lot, building, portion of a building or dwelling unit;

“parallel parking space” means a parking space designed to allow a vehicle to park in a line with other parked vehicles and not beside another parked vehicle;

“parking area” means a portion of a lot or building designated as an area to park a vehicle and includes a driveway, ramp, column, office or work area that is a secondary use, building or structure for that parking area;

“parking space” means a space in a parking area intended for one vehicle to park, excluding a driveway, ramp, column, office or work area for that parking area;

“personal service business” means a business that provides the following professional or personal services, and the sale of goods secondary to providing that service, and no others:

- (i) a barber shop, beauty or wellness centre;
- (ii) a dry cleaner or laundromat;
- (iii) a health care office;
- (iv) a health enhancement business;
- (v) a photo studio;
- (vi) a print shop;
- (vii) a repair shop;
- (viii) a savings institution; and
- (ix) a tailor or dress maker;

“photo studio” means a business that provides photofinishing or photography services, including portrait photography;

“primary” means the principal use or principal building permitted on a lot under this Act;

“print shop” means a business for printing or lithographing;

“private garage” means a secondary building, or a portion of a primary building, used solely for parking a vehicle without any repair or service facility;



“professional office” means the office of an accountant, architect, member of the clergy, engineer, lawyer, real estate agent or other licensed professional, excluding a health care office;

“provincial Crown land registry” has the meaning given to it in the Land Act;

“recreational vessel” means a vessel that is primarily used for non-commercial and personal recreational or pleasure use but, for certainty, does not include a houseboat;

“recycling depot” means a business that collects and sorts garbage, paper packaging, newspapers, clothing, cans or bottles and similar domestic or commercial garbage, excluding animal products processing, a junk shop or a junk yard, second hand shop or waste disposal facility;

“registered professional” has the meaning given to it in the Building and Development Authorization Act;

“repair shop” means a business repairing household goods, including jewellery, leather goods, sporting goods, clothing, shoes, toys, bicycles or other household items capable of being carried to the business by the customer, or sharpening blades, cutting keys or re-upholstering or mending household furniture;

“residential floor area” means the total horizontal floor area of each room in a dwelling unit, including the basement, measured to the internal walls or partitions, excluding a balcony, common stairwell, corridor, recreational area, cellar, parking area or service facility in the building where that dwelling unit is located;

“residential use” means a use that is domestic in nature involving a dwelling unit which serves as a place where an owner and his or her family are ordinarily resident and from which they are absent only as a part of their daily living routine, including the time they are at work, school or on vacation;

“residential zone” means zoning district R1 or R2 and “residential zones” means every zoning district that is a residential zone;

“resort” means a business, with more than six sleeping units and no more than six bed spaces in each sleeping unit, each with separate entrances from a common hallway or walkway and common or private bathing and restroom facilities, that provides seasonal accommodation to a paying guest that visits for vacation or recreation;

“restaurant” means a business with a seating capacity of at least 12 seats that primarily provides food prepared, cooked and served to a paying customer;

“retail” means a business that offers to sell or rent goods directly to a consumer of those goods and not for resale or sub-rent, excluding the sale of aircrafts, mobile homes, vehicles, vessels, heavy equipment, alcohol or wine,

“rural zone” means zoning district W1, W2 or F3 and “rural zones” means every zoning district that is a rural zone;

“savings institution” includes a trust company;

“screening” means to visually seclude an area on a lot from its surroundings by a continuous tight board fence, uniformly painted wall or compact vegetation, such as an evergreen hedge, or combination of these screening methods and other landscaping, broken only by a driveway or walkway providing access to that area;

“seasonal” means a total of less than four consecutive months in a calendar year;

“secondary” means, in relation to a use, building or structure, a use, building or structure that is incidental and subordinate to the primary use, building or structure which is located on the same lot as the secondary use, building or structure;

“secondary suite” means a conforming secondary dwelling unit located in a single family dwelling;

“service station” means a business that sells fuel, lubricant or accessories for a vehicle and may include towing, maintenance and repair services for a vehicle;

“setback” means the required minimum distance between a building or structure and a lot line, another building or structure or natural feature, measured from the exterior wall of that building or structure closest to the lot line, other building, structure or natural feature;

“side lot line” means, for a lot, a lot line that intersects with both the front lot line and the back lot line of that lot and marks the boundary between that lot and

- (i) an adjacent lot,
- (ii) a flanking street, or
- (iii) an adjacent lane;

“side yard” means that portion of a yard on either side of the primary building on a lot between the front building line, the back building line, the side lot line and the exterior wall of that building facing the side lot line;

“single family dwelling” means a building that is a dwelling containing only one dwelling unit;

“sleeping unit” means a habitable room, equipped and intended for sleeping, with more than one and no more than six bed spaces and no kitchen or other cooking facility;

“small single family dwelling” means a single family dwelling with a residential floor area less than 80 square metres;

“stable” means keeping, breeding, raising, training or boarding a horse;

“staff accommodation” means a sleeping unit in a building used by an employee of a business operated on the same lot as that building and any cooking, dining, socializing, bathing, restroom or recreation facilities in that building for the sole use of those employees;

“storage yard” means a business in a partially enclosed building, or portion of a partially enclosed building, or an open area of a lot for storing goods, material, machinery or equipment, but not storage that is secondary to the primary use of a building or lot;

“street” means a road, bridge, viaduct, thoroughfare, right-of-way or any other way open to the use of the public which provides the primary means of access to adjacent lots or an intersecting street and, for certainty, includes a highway, excluding a private right of way on private property;

“structure” means any construction of any kind, whether fixed to, supported by or sunk into land or water, but excludes a retaining structure less than 1.5 metres in height, landscaping, poles, fences, paving and underground utility facilities;

“studio apartment” means a dwelling unit consisting of a kitchen, restroom and one room used as a living room and bedroom;

“taxicab station” means a building used as a base of operations for a taxicab, limousine, charter bus or other land-vehicle passenger transport service or pilot car service;

“temporary” means a total of less than four consecutive weeks in a calendar year;

“theatre” means a building or structure designed to stage live or recorded public performances;

“townhouse” means a building that is a dwelling containing more than three, and no more than eight, dwelling units arranged side-by-side, with each dwelling unit sharing a

common wall with the dwelling unit immediately adjacent to it, and having its own designated front yard and back yard;

“travel trailer” means a recreational vehicle designed to be self-propelled or towed behind a vehicle and equipped to provide living or sleeping accommodation while travelling or vacationing;

“truck terminal” means a business that provides parking and other services to semi-trucks with trailers and container trucks, delivery trucks and other motor vehicles involved in commercial transport, cartage, moving, delivery or related goods transportation;

“two family dwelling” means a building that is a dwelling containing two dwelling units sharing a common wall or one dwelling unit is located above the other dwelling unit, excluding a dwelling with a secondary suite;

“use” means the purpose for which a lot, building or structure is permitted to be occupied;

“vehicle” means a device in, on or by which a person or thing may be transported or drawn, except a device designed to be moved by human power or used exclusively on stationary rails or tracks;

“vehicle sales and service” means offering to sell, lease or rent or servicing vehicles, including cars, trucks, trailers, mobile homes, recreational vehicles, vessels, farm equipment or machinery or industrial equipment or machinery;

“vessel” includes a boat, whether motorized or un-motorized, ship or houseboat, excluding a rowboat, canoe or kayak;

“veterinary clinic” means a business that cares for birds, fish or other animals, including veterinary treatment, grooming, training, breeding or boarding, excluding a stable;

“waste disposal facility” means a building or structure for treating, reducing, recycling, incinerating or disposing refuse, garbage, sewage or other waste material, excluding animal products processing, a junk yard, a junk shop, a second hand shop or recycling depot;

“watercourse” means a natural drainage course or source of water, whether ordinarily containing water or not, and includes a lake, river, creek, spring, ravine, swamp, gulch or source of ground water, whether enclosed or in a conduit or not;

“wholesale” means to offer to sell or rent, or to sell or rent, goods other than at retail;

“yard” means any part of a lot unoccupied or unobstructed by a primary building, except as provided for in this Act;

“zoning district” means a division of Toquaht lands established under section 2.2 and  
“zoning districts” means every zoning district;

“zoning map” means a map set out in Schedule 2.

- (b) In this Act, a reference to
  - (i) “Toquaht lands” includes a reference to Toquaht foreshore, unless otherwise indicated or required by the context, and
  - (ii) a reference to the abbreviation of a zoning district set out in Column 2 of Schedule 1 is a reference to the applicable zoning district set out in Column 1 of that Schedule.
- (c) Subject to subsection (d), if a lot has irregular lot lines, the director may designate which of the irregular lot lines forms part of a side lot line, front lot line or back lot line, as the case may be, for that lot, provided that designation does not conflict, or appear to conflict, with the purpose of the applicable zoning district referred to in the first section of the Part applicable to the zoning district that lot is located in.
- (d) Every lot must have one front lot line, one back lot line and two side lot lines, unless a lot is triangular in shape, in which case that lot may have only one side lot line.

## **PART 2 - GENERAL REQUIREMENTS**

### **Application of Part**

**2.1** For certainty, this Part applies to all zoning districts.

### **Zoning districts**

- 2.2**
- (a) The zoning districts set out in Schedule 1 are established.
  - (b) Macoah is divided into each zoning district as set out on the applicable zoning map.
  - (c) Where the boundary of a zoning district is shown along a surveyed lot line, the zoning district boundary is that lot line.
  - (d) Where the boundary of a zoning district is shown following a street, lane or water body, the zoning district boundary is the centre line of that street, lane or water body.
  - (e) Where the boundary of a zoning district does not follow a legally defined line and where distances are not specifically indicated, the location of the zoning district boundary is determined by the scaling of the zoning map.

### **Compliance with Toquaht law and other legislation**

- 2.3**
- (a) A person must only use or occupy Toquaht lands, or a building or structure on Toquaht lands, in accordance with this Act.
  - (b) A person must only build, construct, move or alter a building or structure, or a part of a building or structure, in accordance with this Act and, for certainty, the Building and Development Authorization Act.
  - (c) Nothing in this Act relieves a person from complying with the applicable provisions of any other Toquaht enactment or applicable federal law or provincial law.

### **Utilities required before commencement**

**2.4** Despite any other provision in this Act, the director may, by directive delivered in accordance with Toquaht law, prohibit a person from constructing a building or structure until the director determines, acting reasonably, that adequate arrangements have been made by that person to supply that building or structure with adequate electrical, water and sewer services, street access or other necessary public utilities.

### **One primary building per lot**

- 2.5** (a) A building must not be located on the same lot as another building, except as provided for in this Act.
- (b) A permitted use must be carried out completely in an enclosed building, except for a permitted use in an open storage yard, parking area or loading facility.

### **Location and siting of buildings**

- 2.6** (a) A primary building must not be located in any required front yard, side yard or back yard.
- (b) A secondary building must not be located in any required front yard or side yard, except as provided for in this Act.
- (c) Despite anything else contained in this Act but subject to subsections (d) and (e), a building or structure must not be constructed within
- (i) 1.5 metres above the natural boundary of the ocean,
  - (ii) 15 metres of the natural boundary of the ocean, or
  - (iii) eight metres of the natural boundary of a lake or any other natural fish bearing watercourse.
- (d) The director may, by directive, reduce the distance set out in subsection (c)(ii) to nine metres, provided the shore line of the ocean is protected from erosion by a natural bedrock formation or by works certified by a registered professional as adequate.
- (e) The requirements of subsection (c) do not apply
- (i) to an industrial or commercial building where the use of the waterfront is necessary to the permitted use of the building,
  - (ii) to a structure used primarily to store a vessel and its equipment, or
  - (iii) where a specific zoning district requires a greater distance as the setback for the building.

### **Height of buildings and structures**

- 2.7** The following types of structures or structural parts are not subject to the building height requirements of this Act:

- (a) church spires, belfries and domes;
  - (b) monuments and flag poles;
  - (c) fire and hose towers; and
  - (d) transmission towers, radio towers, masts, aerials, water tanks, silos and chimneys;
- provided the structure covers no more than
- (i) 20% of the lot it is located on, or
  - (ii) if located on a building, 10% of the roof area of the primary building it is located on.

### **Secondary buildings and uses - general**

- 2.8**
- (a) For certainty, this section applies to all zoning districts.
  - (b) A secondary building or structure must not be constructed on any lot prior to a primary building or structure.
  - (c) A secondary building or structure must not be used as a dwelling except in accordance with this Act.
  - (d) Subject to section 2.19, a secondary building must be located at least one metre from the lot line of any adjacent lot.
  - (e) The setback of a secondary building from the street is the same as the primary building on the same lot.

### **Secondary buildings and uses - residential zoning districts**

- 2.9**
- (a) This section applies to all residential zones including R1 and R2.
  - (b) A secondary building must not be located in any front yard and must not be closer than
    - (i) 1.8 metres from the primary building,
    - (ii) three metres from any street,
    - (iii) 1.5 metres from a lane, and
    - (iv) subject to subsection (e), one metre from any other back lot line or side lot line.



- (c) A secondary building must be less than 5.5 metres in height.
- (d) The building height of a secondary building may be increased by 0.304 metres vertical distance for every 0.609 metres horizontal distance between that secondary building and the applicable lot line, other building, structure or natural feature in excess of the applicable minimum side yard or back yard setback requirements up to a maximum of 10.6 metres.
- (e) Where a secondary building is located to the rear of a primary building, the secondary building must be located no closer than one metre from a side lot line or back lot line.
- (f) A secondary building located on a corner lot must be located no closer to the side lot line adjacent to the flanking street than the primary building on the same lot or closer than the required setback from that flanking street of a primary building on an adjoining lot, whether or not there is a lane between the two lots.
- (g) In zoning districts R1, R2 and W1, the total floor area of all permitted secondary buildings must be less than 5% of the lot area or 62 square metres, whichever is greater.
- (h) No more than two-thirds of the width of the back yard or a maximum of 5% of any lot in zoning districts R1 and R2 may be occupied by secondary buildings.
- (i) If, for topographical reasons, a private garage or carport cannot be constructed other than in the required front yard, that garage or carport may be constructed in a front yard, provided that no part of that structure, apart from the roof, extends more than 5.5 metres above the surface of the finished grade at any point, other than the driveway, or be less than three metres from the front lot line.
- (j) Despite section 2.8(d), where a private garage or carport is attached to the primary building, the required side yard or back yard adjoining that private garage or carport must be at least one metre in depth.
- (k) Despite subsection (b), a structure for sheltering a vessel may be located between the primary building and a watercourse giving vessel access, regardless of its location in a required front yard or side yard.

### **Secondary buildings and uses - non-residential zoning districts**

- 2.10**
- (a) This section applies to all institutional zones, industrial zones, and zoning districts W1 and W2.
  - (b) A secondary building must not be located closer than three metres to the back lot line of an adjacent lot in zoning district R1 or R2.

- (c) A secondary building must be less than 5.5 metres in height if it is located in a required back yard.
- (d) A secondary building located on a corner lot must be located no closer to the side lot line of the flanking street than the primary building on the same lot or closer than the required setback from that flanking street of the primary building on an adjoining lot, whether or not there is a lane between the two lots.
- (e) A secondary building may include staff accommodation if that use is permitted by this Act for that zoning district.
- (f) A secondary building that is a dwelling unit associated with a commercial building must
  - (i) have a completely separate main entrance directly to a street, and
  - (ii) be necessarily incidental to the primary building.

### **Uses permitted in all zoning districts**

**2.11** The following uses are permitted in all zoning districts and are not subject to the minimum lot area of any zoning district:

- (a) public utility structures, including pump stations, water reservoirs and electrical, gas, telephone and similar distribution and communication facilities;
- (b) subject to section 2.20, piers, floats and wharves.

### **Bed and breakfast operations**

**2.12** (a) If a bed and breakfast is listed as a permitted secondary use in a zoning district, a bed and breakfast is permitted on a lot in that zoning district in a single family dwelling in the following circumstances and is subject to the following conditions:

- (i) no more than six guests may be accommodated at one time;
- (ii) no more than three sleeping units may be used to accommodate guests at one time;
- (iii) no separate or additional cooking facilities or other facilities for keeping and preparing food may be provided in a sleeping unit;
- (iv) a bed and breakfast must be clearly incidental to the residential use of the lot; and

- (v) no more than one sleeping unit may be used in a single family dwelling for a bed and breakfast where there is a secondary suite.
- (b) For certainty, a bed and breakfast is not permitted
  - (i) in any single family dwelling used as staff accommodation in conjunction with a commercial operation,
  - (ii) in any two family dwelling or in any building that is a multiple family dwelling,
  - (iii) in a caretaker dwelling, or
  - (iv) in a secondary building, guest house, caretaker dwelling or a single family dwelling containing a guest house.

### **Home occupations**

- 2.13** (a) A home occupation is any of the following businesses or a similar business:
- (i) a barber shop, beauty or wellness centre;
  - (ii) a photo studio;
  - (iii) a professional office;
  - (iv) a health care office;
  - (v) a health enhancement business;
  - (vi) an artist, draftsman, picture framer, dressmaker, music or dance teacher, writer or an individual engaged in home crafts or hobbies; and
  - (vii) woodworker, furniture repairer and locksmith.
- (b) A home occupation
- (i) must only be conducted on a lot by the owner,
  - (ii) must be carried out in an area less than 40% of the floor area of the primary building that is a dwelling unit on the applicable lot, and
  - (iii) is only permitted in a primary building that is a dwelling or a permitted secondary building that is a dwelling.

- (c) No more than two members of a family occupying a dwelling and one assistant who is not a member of that family may be employed in a home occupation.
- (d) No alterations may be made to the primary building in which a home occupation is carried out which changes its character as a dwelling.
- (e) No home occupation may be conducted in a manner that creates noise, dust, vibration, smell, smoke, glare, electrical interference or fire hazard, other than what is normally associated with a dwelling.
- (f) No other goods or services may be sold or offered for sale which are not produced or provided on the lot where the home occupation is carried out.

### **Caretaker dwelling**

- 2.14** (a) If a caretaker dwelling is listed as a permitted secondary use in a zoning district, one caretaker dwelling is permitted on a lot in that zoning district for the accommodation of a caretaker of the primary dwelling unit on that lot, or the owner, proprietor, manager or employee of a business operated on that lot, and that dwelling is subject to all the applicable requirements of this Act relating to residential use.

### **Secondary suites**

- 2.15** (a) If a secondary suite is listed as a permitted secondary use in a zoning district, one secondary suite is permitted in a single family dwelling in that zoning district in the following circumstances and subject to the following conditions:
- (i) the residential floor area of the secondary suite must be at least 35 square metres and no more than 40% of the total residential floor area of the single family dwelling or 90 square metres, whichever is less;
  - (ii) the secondary suite must have no more than three bedrooms; and
  - (iii) the secondary suite must comply with the British Columbia Building Code.
- (b) A secondary suite is not permitted in a basement unless at least 30% of the perimeter of the single family dwelling is an external wall above the finished grade.

### **Access to dwelling units in multiple family dwellings**

- 2.16** (a) Access to every dwelling unit in a multiple family dwelling must be provided from a common hallway or common walkway and must be located and arranged to avoid the necessity of a person passing with 3.65 metres of a window of a habitable room of any

other dwelling unit in the multiple family dwelling unless effective screening protects the privacy of that room.

- (b) A balcony is deemed to not provide access to a dwelling unit for purposes of complying with this section.

### **Dwelling unit residential floor area**

- 2.17**
- (a) A single family dwelling must contain at least 70 square metres of residential floor area on the main floor.
  - (b) A multiple family dwelling, other than an apartment building, must contain at least an average of 70 square metres of residential floor area for each dwelling unit and, where that dwelling has more than one floor, the minimum residential floor area on the ground floor must be at least 51 square metres.
  - (c) In an apartment building,
    - (i) a studio apartment must contain at least 32.5 square metres of residential floor area,
    - (ii) a one bedroom apartment must contain at least 51 square metres of residential floor area,
    - (iii) a two bedroom apartment must contain at least 70 square metres of residential floor area, and
    - (iv) any other dwelling unit must contain at least an additional 13.9 square metres of residential floor area for each additional bedroom.
  - (d) A dwelling unit must be at least 4.9 metres wide and at least 4.9 metres deep, measured from the outside surface of an exterior wall or the centre line of a party wall.
  - (e) A mobile home not located in an authorized mobile home park must meet the requirements of subsections (a) and (d).

### **Minimum floor area for hotels**

- 2.18**
- (a) A sleeping unit in a hotel must have at least 18.6 square metres of floor area.
  - (b) The floor area required by subsection (a) may be reduced up to 20% in no more than 40% of the sleeping units where at least an equal floor area is provided for recreation purposes or cooking facilities.

## Projections

- 2.19** The following features of a building may project into a required front yard, side yard or back yard:
- (a) steps;
  - (b) eaves and gutters, cornices, sills, bay windows, chimneys or other similar features, provided the projection is less than one metre or, in the case of a side yard that is less than 1.5 metres in width, 0.6 metres;
  - (c) open porches, marquees and canopies, provided the projection is less than 1.8 metres or 50% of the width of the side yard;
  - (d) balconies and sun shades, provided the projection is less than 1.2 metres and is not supported by columns;
  - (e) subject to section 2.21, an uncovered patio or terrace, either open or enclosed, in any yard in a residential zone or zone with residential uses;
  - (f) arbours and trellises, fish ponds, ornaments, flag poles or similar landscape features;
  - (g) an uncovered swimming pool, provided the swimming pool is not constructed in the front yard or within three metres of any lot line and is located in a separate fenced enclosure fitted with a safety gate;
  - (h) subject to section 2.8, a covered or roofed swimming pool, provided the swimming pool is not constructed in the front yard or within three metres of any lot line and is located in a separate fenced enclosure fitted with a safety gate; and
  - (i) a gasoline service pump or a pump island in a front yard or side yard, provided the pump or pump island is not located within 4.6 metres of any lot line and, despite subsection (c), a canopy constructed above that pump or pump island may project more than 1.8 metres into a front yard, provided the canopy is not located within 4.3 metres of any lot line.

## Vision clearance at an intersection

- 2.20** (a) In this section, “clearance area” means
- (i) for a corner lot, the area within the front lot line and the intersecting side lot line immediately adjacent to the flanking street and a line adjoining points along those intersecting lot lines nine metres from their point of intersection, and

- (ii) for a lot immediately adjacent to the intersection of a street and a lane or of two lanes, the area within the intersecting lot lines of that lot at the corner closest to the intersection of the street and lane or the two lanes and a line adjoining points along those intersecting lot lines six metres from their point of intersection.
- (b) A fence, wall or other structure, other than a permitted primary building, must not be constructed to a height more than 1.2 metres in a clearance area.
- (c) A hedge, bush, shrub, tree or other growth in a clearance area must be maintained and not allowed to grow so as to obstruct an individual's view across the clearance area from either side of the clearance area directly facing the street or lane.

## **Fences**

- 2.21** (a) A fence or wall must not be constructed, or a hedge maintained, at a height more than
- (i) one metre, if it is located in a front yard, or
  - (ii) 1.8 metres, if it is located along a side lot line or back lot line.
- (b) Despite subsections (a), a fence constructed at a cemetery, public playground, park, playing-field, elementary school or high school may be constructed at a height up to 3.7 metres.
- (c) The height of a fence, wall or hedge is determined by measuring from the ground level at the average finished grade within one metre of both sides of the fence, wall or hedge.
- (d) That portion of a retaining wall which projects above the surface of the ground it supports is considered a part of a fence and is included in a measurement under subsection (c).
- (e) Despite subsection (c), where a retaining wall has been constructed along a lot line, the height of a fence or wall is determined by measuring from the ground level of the ground the retaining wall supports at the average finished grade within one metre of the retaining wall.

## **Strata buildings**

- 2.22** Despite the definition of "lot", where a building is subdivided by a strata plan, the lot from which the strata plan is derived is deemed to be the lot which is subject to the requirements of this Act.

## **Storage**

- 2.23** (a) Storage is not permitted in the front yard of a lot that is in an institutional zone.

- (b) Subject to section 2.21, any part of a lot used or intended to be used as a storage yard must be enclosed by a screening fence or screening hedge at least two metres high on any side that does not face the primary building on the lot and nothing may be piled in that storage area to extend above that screening.



### **PART 3 - INSTITUTIONAL (G1)**

#### **Purpose of zoning district**

- 3.1** (a) Zoning district G1 is established to assist the Toquaht government to achieve certain goals and objectives identified for home lands under section 6 of Schedule 1 to the Official Community Plan Act.
- (b) Council's intent in establishing zoning district G1 is to provide a zoning district for government use and institutional use.
- (c) A lot in zoning district G1 may be occupied for a primary use referred to in section 3.2 and a permitted secondary use referred to in section 3.3 in accordance with the requirements of this Part.

#### **Primary use**

- 3.2** (a) The primary use of a lot in zoning district G1 is a government use or an institutional use listed in subsection (b).
- (b) The following uses are permitted in zoning district G1:
- (i) a government use; and
  - (ii) an institutional use.

#### **Secondary uses**

- 3.3** (a) The following uses are permitted as a secondary use on a lot in zoning district G1:
- (i) a secondary building and its related use which, for certainty, includes a dock, wharf or berth facility on a lot fronting the ocean, in accordance with sections 2.8 and 2.10; and
  - (ii) one caretaker dwelling in accordance with section 2.14, if it is located
    - (A) on the second floor of a primary building, or
    - (B) on the side of the primary building facing the back yard or a side yard.
- (b) Subject to subsection (a)(ii), a person must not use a building or a structure located on a lot in zoning district G1 as a dwelling.

### **Minimum lot area**

**3.4** Each lot in zoning district G1 must have a lot area of at least 668 square metres.

### **Minimum lot width and lot depth**

**3.5** Each lot in zoning district G1 must have a lot width of at least 18.3 metres and a lot depth of at least 30 metres.

### **Maximum lot coverage**

**3.6** The maximum lot coverage in zoning district G1 is 40% of the lot area.

### **Maximum building height**

**3.7** The building height of a primary building in zoning district G1 must be no more than 10.4 metres or two floors, whichever is less.

### **Minimum yard requirements**

**3.8** A lot in zoning district G1 must have

- (a) a front yard of at least 7.5 metres in depth,
- (b) a side yard of at least 1.5 metres in width on each side of the lot, and
- (c) a back yard of at least nine metres in depth.

### **Landscaping, off-street parking and loading space**

**3.9** A lot in zoning district G1 must have

- (a) landscaping in accordance with Part 9, and
  - (b) off-street parking and a loading facility in accordance with Part 10, and
- must comply with the applicable requirements of Part 2 and Part 11.

## **PART 4 - SINGLE FAMILY RESIDENTIAL (R1)**

### **Purpose of zoning district**

- 4.1** (a) Zoning district R1 is established to assist the Toquaht government to achieve certain goals and objectives identified for home lands under section 6 of Schedule 1 to the Official Community Plan Act.
- (a) Council's intent in establishing zoning district R1 is to provide a zoning district for low density residential use for single family homes.
- (b) A lot in zoning district R1 may be occupied for a primary use referred to in section 4.2 and a permitted secondary use referred to in section 4.3 in accordance with the requirements of this Part.

### **Primary use**

- 4.2** (a) The primary use of a lot in zoning district R1 is residential use.
- (b) A lot in zoning district R1 may have only one single family dwelling.

### **Secondary uses**

- 4.3** The following uses are permitted as a secondary use on a lot in zoning district R1:
- (a) a secondary building and its related use which, for certainty, includes a dock, wharf or berth facility on a lot fronting the ocean, in accordance with sections 2.8 and 2.9;
- (b) a bed and breakfast operation in accordance with section 2.12; and
- (c) a child day care;
- (d) a guest house;
- (e) a home occupation in accordance with section 2.13;
- (f) a secondary suite in accordance with section 2.15.

### **Minimum lot area**

- 4.4** Each lot in zoning district R1 must have a lot area of at least 668 square metres.

### **Minimum lot width and lot depth**

**4.5** Each lot in zoning district R1 must have a lot width of at least 18.3 metres and a lot depth of at least 30 metres.

### **Maximum lot coverage**

**4.6** The maximum lot coverage in zoning district R1 is 25% of the lot area.

### **Maximum building height**

**4.7** The building height of a primary building in zoning district R1 must be no more than 10.4 metres or two floors, whichever is less.

### **Minimum yard requirements**

**4.8** A lot in zoning district R1 must have

- (a) a front yard of at least 7.5 metres in depth,
- (b) a side yard of at least 1.5 metres in width on each side of the lot and, in the case of a corner lot, the side yard adjoining the flanking street must be at least 3.7 metres in width, and
- (c) a back yard of at least nine metres in depth.

### **Landscaping and off-street parking**

**4.9** A lot in zoning district R1 must have

- (a) landscaping in accordance with Part 25, and
- (b) off-street parking in accordance with Part 26, and

must comply with the applicable requirements of Part 2 and Part 27.

## **PART 5 - TWO FAMILY RESIDENTIAL (LOW DENSITY) (R2)**

### **Purpose of zoning district**

- 5.1** (a) Zoning district R2 is established to assist the Toquaht government to achieve certain goals and objectives identified for home lands under section 6 of Schedule 1 to the Official Community Plan Act.
- (b) Council's intent in establishing zoning district R2 is to provide a zoning district for low density residential use for two family homes.
- (c) A lot in zoning district R2 may be occupied for a primary use referred to in section 5.2 and a permitted secondary use referred to in section 5.3 in accordance with the requirements of this Part.

### **Primary use**

- 5.2** (a) The primary use of a lot in zoning district R2 is residential use.
- (b) A lot in zoning district R2 may have one, but not more than one, of the following primary buildings:
- (i) a single family dwelling; or
- (ii) a two family dwelling.

### **Secondary uses**

- 5.3** The following uses are permitted as a secondary use on a lot in zoning district R2:
- (a) a secondary building and its related use which, for certainty, includes a dock, wharf or berth facility on a lot fronting the ocean, in accordance with sections 2.8 and 2.9;
- (b) a child day care;
- (c) a home occupation in accordance with section 2.13; or
- (d) a secondary suite in accordance with section 2.15.

### **Minimum lot area**

- 5.4** Each lot in zoning district R2 must have a lot area of at least 668 square metres.

### **Minimum lot width and lot depth**

**5.5** Each lot in zoning district R2 must have a lot width of at least 18.3 metres and a lot depth of at least 30 metres.

### **Maximum lot coverage**

**5.6** The maximum lot coverage in zoning district R2 is 30% of the lot area.

### **Maximum building height**

**5.7** The building height of a primary building in zoning district R2 must be no more than 10.4 metres or two floors, whichever is less.

### **Minimum yard requirements**

**5.8** A lot in zoning district R2 must have

- (a) a front yard of at least 7.5 metres in depth,
- (b) a side yard of at least 1.5 metres in width on each side of the lot and, in the case of a corner lot, the side yard adjoining the flanking street must be at least 3.5 metres in width, and
- (c) a back yard of at least nine metres in depth.

### **Landscaping and off-street parking**

**5.9** A lot in zoning district R2 must have

- (a) landscaping in accordance with Part 9, and
- (b) off-street parking in accordance with Part 10, and

must comply with the applicable requirements of Part 2 and Part 11.

## **PART 6 - LIMITED DEVELOPMENT (W1)**

### **Purpose of zoning district**

- 6.1** (a) Zoning district W1 is established to assist the Toquaht government to achieve certain goals and objectives identified for
- (i) resource and open space lands under section 6 of Schedule 1 to the Official Community Plan Act, and
  - (ii) home lands under section 6 of Schedule 1 to the Official Community Plan Act.
- (b) Council's intent in establishing zoning district W1 is to provide a zoning district where limited development is allowed but is restricted to low impact development requiring minimal disruption of the natural environment and is a low intensity use.
- (c) A lot in zoning district W1 may be occupied for a primary use referred to in section 6.2 and a permitted secondary use referred to in section 6.3 in accordance with the requirements of this Part.

### **Primary use**

- 6.2** (a) The primary use of a lot in zoning district W1 must be a use listed in subsection (b).
- (b) The following uses are permitted in zoning district W1:
- (i) small, low impact selective tree cutting forestry operations, excluding primary processing of timber, in accordance with all applicable laws;
  - (ii) land based aquaculture;
  - (iii) low impact energy production, including micro hydro power and wind power, in accordance with all applicable laws;
  - (iv) low impact subsurface resources extraction, including aggregate but excluding processing the subsurface resource, in accordance with all applicable laws;
  - (v) a business providing commercial recreation, such as a charter tour business, that does not require any development on a lot, other than a seasonal structure that does not require any permanent footings or foundation; and
  - (vi) commercial guiding and personal hunting, fishing and recreation, in accordance with all applicable laws.

### **Secondary uses**

- 6.3** (a) A secondary building, and its related use which, for certainty, includes a dock, wharf or berth facility on a lot fronting the ocean in accordance with sections 2.8 and 2.10, is permitted as a secondary use on a lot in zoning district W1.
- (b) A person must not use a building or a structure located on a lot in zoning district W1 as a dwelling.

### **Minimum lot area**

- 6.4** Each lot in zoning district W1 must have a lot area of at least four hectares.

### **Minimum lot width and lot depth**

- 6.5** Each lot in zoning district W1 must have a lot width of at least 100 metres and a lot depth of at least 100 metres.

### **Maximum lot coverage**

- 6.6** The maximum lot coverage in zoning district W1 is 15% of the lot area.

### **Maximum building height**

- 6.7** The building height of a primary building in zoning district W1 must be no more than 10.4 metres or two floors, whichever is less.

### **Minimum yard requirements**

- 6.8** A lot in zoning district W1 must have
- (a) a front yard of at least 15.2 metres in depth from a building on the lot,
  - (b) a side yard of at least 4.5 metres in width on each side of a building on the lot, and
  - (c) a back yard of at least nine metres in depth from a building on the lot.

### **Landscaping, off-street parking and loading space**

- 6.9** A lot in zoning district W1 must have
- (a) landscaping in accordance with Part 9, and
  - (b) off-street parking in accordance with Part 10, and



must comply with the applicable requirements of Part 2 and Part 11.

## **PART 7 - PROHIBITED DEVELOPMENT (W2)**

### **Purpose of zoning district**

- 7.1** (a) Zoning district W2 is established to assist the Toquaht government to achieve certain goals and objectives identified for traditional use lands under section 6 of Schedule 1 to the Official Community Plan Act.
- (b) Council's intent in establishing zoning district W2 is to provide a zoning district where development is prohibited and permitted uses have no disruption of the natural environment and are minimal intensity uses.
- (c) A lot in zoning district W2 may be occupied for a primary use referred to in section 7.2 and a permitted secondary use referred to in section 7.3 in accordance with the requirements of this Part.

### **Primary use**

- 7.2** (a) The only permitted use on a lot in zoning district W2 is a use listed in subsection (b).
- (b) The following uses are permitted in zoning district W2:
- (i) commercial recreation, such as a charter tour business, that does not require any development on a lot, other than a seasonal structure that does not require any permanent footings or foundations; and
- (ii) commercial guiding and personal hunting, fishing and recreation, in accordance with all applicable laws.

### **Secondary uses**

- 7.3** (a) A seasonal structure that does not require any permanent footings or foundation, and its related use, is a permitted secondary use in zoning district W2.
- (b) A person must not use a structure located on a lot in zoning district W2 as a dwelling.
- (c) An outhouse appropriately located away from water sources and waterways is permitted under a licence of occupation on Toquaht lands.

### **Minimum lot area**

- 7.4** Each lot in zoning district W2 must have a lot area of at least four hectares.

**Minimum lot width and lot depth**

**7.5** Each lot in zoning district W2 must have a lot width of at least 100 metres and a lot depth of at least 100 metres.

**Maximum lot coverage**

**7.6** The maximum lot coverage in zoning district W2 is 1% of the lot area.

## **PART 8 - FORESHORE PROHIBITED DEVELOPMENT (F3)**

### **Purpose of zoning district**

- 8.1** (a) Zoning district F3 is established to assist the Toquaht government to achieve certain goals and objectives identified for traditional use lands under section 6 of Schedule 1 to the Official Community Plan Act.
- (b) Council's intent in establishing zoning district F3 is to provide a zoning district where development is prohibited and permitted uses have no disruption of the natural environment and are minimal intensity uses.
- (c) A lot in zoning district F3 may be occupied for a primary use referred to in section 8.2 and a permitted secondary use referred to in section 8.3 in accordance with the requirements of this Part.

### **Primary use**

- 8.2** (a) The only permitted use on a lot in zoning district F3 is a use listed in subsection (b).
- (b) The following uses are permitted in zoning district F3:
- (i) commercial guiding and personal hunting, fishing and recreation, in accordance with all applicable laws; and
- (ii) commercial recreation, such as a charter tour business, that does not require any development on a lot, other than a seasonal structure that does not require any permanent footings or foundations.

### **Secondary uses**

- 8.3** (a) A temporary secondary structure, and its related use, is permitted in zoning district F3.
- (b) A person must not use a structure located on a lot in zoning district F3 as a dwelling.

### **Maximum lot coverage**

- 8.4** The maximum lot coverage in zoning district W1 is 1% of the lot area.

## **PART 9 - LANDSCAPING REQUIREMENTS**

### **Application of Part**

**9.1** For certainty, this Part applies to all zoning districts.

### **General requirements**

- 9.2**
- (a) The portion of a front yard not used for permitted parking, a permitted driveway or a permitted display area must have landscaping.
  - (b) Invasive species shall not be used in landscaping.
  - (c) A lot in one zoning district that is immediately adjacent to a lot in another zoning district must have landscape screening along the lot line shared with that other lot.

## **PART 10 - PARKING AND LOADING REQUIREMENTS**

### **Application of Part**

**10.1** For certainty, this Part applies to all zoning districts.

### **Existing buildings, structures and uses**

- 10.2** (a) The requirements of this Part do not apply to a building, structure or use existing on the effective date of this Act, other than as follows:
- (i) off-street parking and loading facilities must be provided and maintained in accordance with this Part for any addition or renovation to a building or structure referred to in this subsection or any change or addition to its existing use; and
  - (ii) off-street parking and loading facilities existing on the effective date of this Act must not be reduced below the applicable requirements of this Part.
- (b) Up to 10% of the off-street parking required by this Part may be located on a different lot than the building containing the dwelling, provided that parking facility is located no more than 90 metres from that building.

### **Unit of measurement**

- 10.3** (a) For certainty, where floor area is used as the unit of measurement to calculate parking or loading facility requirements, the floor area includes the floor area of each secondary building and basement, except where the secondary building or basement is used strictly for parking or for electrical, heating, ventilation, air conditioning or other utilities.
- (b) Where the number of employees is used as a unit of measurement to calculate parking or loading facility requirements, the number of employees equals the greatest number of individuals at work, at any time of the day or night, in a particular building or for a particular use during any season of the year.
- (c) Where seating is used as a unit of measurement to calculate parking or loading facility requirements and that seating consists of benches, pews, booths or similar seating, each half metre of length of that seating must be counted as one seat.
- (d) When the calculation of parking or loading facility requirements results in a fractional parking or loading facility requirement of 0.8 or more, one full parking or loading space must be provided to meet that fractional requirement.

**Required off-street parking spaces**

**10.4** For each authorised use identified in Column 1 of the table in this section, the number of parking spaces set out in Column 2 for that authorized use must be provided and maintained as off-street parking spaces on each lot where that authorized use is either occupied or carried out.

1.AUTHORIZED USE	2.PARKING REQUIREMENT
<b>COMMERCIAL USE</b>	
(a) Art gallery, library, museum or similar use	One space for every 50 square metres of floor area
(b) Billiard or bingo hall, bowling alley or a curling, ice or roller rink	One space for every alley, one space for every table, One space for every 50 square meters of rink floor area and one space for every four employees
(c) Cabaret or nightclub	One space for every 50 square metres of floor area and one space for every four employees
(d) Café, restaurant, bar, lounge or pub	One space for every four seats and one space for every four employees
(e) Campground	One space for every 15 camping spaces
(f) Car wash, vehicle sales and service and a service station	One space for every 50 square meters of floor area, one space for every 400 square metres of outdoor display area or storage yard and one space for every four employees
(g) Charter tour business	One space for every four employees, one space for every vehicle used in the operation and one space for every six charter seats available
(h) Child day care	One space for every four employees and one space for every seven children
(i) General office and club	One space for every 50 square meters of floor area and one space for every four employees
(j) Golf course and driving range	One space per tee and one space for two employees
(k) Health care office	Five spaces for each licensed health care professional and one space for every four employees
(l) Hostel or guest house	One space for every three bed spaces and one space for every four employees
(m) Hotel, lodge or resort	1.1 spaces for every sleeping unit, one space for every four employees and, where applicable, one space for every four seats in a café, restaurant or bar, lounge or pub
(n) Live performance theatre, movie theatre or other similar use (other than an institutional use)	One space for every four seats and one space for every four employees

1.AUTHORIZED USE	2.PARKING REQUIREMENT
(o) Marina	One space for every three berths or 20 metre of dock length and one space for every four employees
(p) Retail business with a retail floor area more than 200 square metres	One space for every 50 square metres of floor area and one space for every four employees
(q) Retail business with a storage yard	One space for every four employees, one space for every 50 square metres of covered floor area and one space for every 400 square metres of storage yard
(r) Retail business, including a convenience store, equipment sales, service or rental or personal service business	One space for every 50 square metres of floor area and one space for every four employees
(s) Savings institution	One space for every 50 square meters of floor area and one space for every four employees
(t) Taxicab station	One space for each taxi and one space for every four employees
INDUSTRIAL USE	
(u) Manufacturing and industrial uses	One space for every four employees
GOVERNMENT USE AND INSTITUTIONAL USE	
(v) Archive, community centre, museum, library, public swimming pool	One space for every 50 square metres of floor area and one space for every four employees
(w) Church	One space for every six seats
(x) College or university	One space for every four employees and one space for every 10 students
(y) Elementary school or secondary school	One space for every four employees and one space for every 20 students
(z) Hospital or community care facility	One space for every five beds and one space for every four employees
(aa) Dwellings	Two spaces for every dwelling unit
RESIDENTIAL USE	
(bb) Single family dwelling or two family dwelling	Two spaces for every dwelling unit
(cc) Apartment building, clustered dwellings, townhouse or dwelling unit in a commercial use building	1.5 spaces for every dwelling unit and one additional space for every eight dwelling units
(dd) Bed and breakfast	One space for every three bed spaces
(ee) Caretaker dwelling	One space for every dwelling unit
(ff) Secondary suite	One space for every secondary suite



1.AUTHORIZED USE	2.PARKING REQUIREMENT
(gg) Staff accommodation	1.5 spaces for every two bed spaces
UNSPECIFIED USE	
(hh) All other uses	One space for every customary employee, visitor and vehicle used in the operation or as required by the director

**Required loading facility**

- 10.5** (a) A building with a commercial use, an industrial use, an institutional use or other similar use requiring the movement of goods or materials by truck must provide and maintain on the same lot as that building at least one loading space, and one additional loading space, for every 1850 square metres or more of floor area.
- (b) A loading facility must not be located in the front yard.
- (c) Any part of a lot used as a loading facility must be enclosed by screening at least two metres high on every side of the loading facility not directly facing the primary building on the lot and goods and other material in the loading facility must not be piled higher than that screening.

**Parking spaces for disabled**

- 10.6** (a) Where ten or more parking spaces are required under section 11.4, at least one space or 1%, whichever is more, of the required parking spaces in any parking area must have a minimum width of 3.66 metres to allow sufficient access to vehicles by individuals confined to wheelchairs.
- (b) The parking spaces referred to in subsection (a) must be
- (i) located as close as reasonably possible to the entrance of the building or use, and
  - (ii) reserved and clearly marked for the sole use of a disabled person.

**Parking and loading for mixed uses**

- 10.7** Where a building contains more than one authorized use, the parking and loading facility requirements are the sum of the spaces required for each use.

### **Use of parking spaces**

- 10.8** (a) An off-street parking space may only be used for parking a vehicle of a client, customer, employee, member, resident or tenant who makes use of the primary building or who carries out the use for which the off-street parking space is provided.
- (b) An off-street parking area must not be used for off-street loading, as a driveway, access or egress, commercial repair work or displaying or storing goods of any kind.
- (c) An off-street parking space must not be leased or rented.

### **Location of parking areas**

- 10.9** (a) In a residential zone, a parking space must not be located in the front yard.
- (b) Parking spaces required for a multiple family dwelling may only be located in the back yard.
- (c) A parking space must be located at least three metres from a dwelling located on an adjacent lot.
- (d) Despite subsection (c), the distance referred to in that subsection may be reduced to 1.5 metres if a fence or landscape screening at least 1.5 metres high but no more than two metres high is provided and maintained between that dwelling and the parking space.
- (e) In an institutional zone,
- (i) a parking space in a front yard must be located at least two metres from the applicable front lot line, and
  - (ii) the area between that front lot line and the parking space must be covered with landscaping and surrounded by a curb, except where that area is crossed by a permitted driveway or contains a permitted display area.

### **Design criteria for parking spaces**

- 10.10** (a) Subject to subsections (b) and (c), each off-street parking space must contain an area at least six metres long by 2.5 metres wide and, where applicable, by 2.2 metres high.
- (b) A parallel parking space must be at least seven metres long.
- (c) No more than 20% of required parking spaces may be designated for compact vehicles and a parking space for a compact vehicle must be at least 4.6 metres long by 2.5 metres wide and clearly marked for use by compact vehicles.

- (d) Where a parking space is adjacent to a wall or structure over 0.3 metres high, the width of the parking space must be increased by 0.3 metres on that side.
- (e) Every parking space in a parking area must have vehicular access to a street and be in a location convenient to its related use.
- (f) An unobstructed manoeuvring aisle for vehicle access must be provided in a parking area at the applicable width as follows:
  - (i) where the parking space angle is at 90 degrees, 7.5 metres;
  - (ii) where the parking space angle is at 60 degrees, 5.5 metres;
  - (iii) where the parking space angle is at 45 degrees, 4.5 metres;
  - (iv) where the parking space angle is at 30 degrees, four metres; or
  - (v) where the parking space is a parallel parking space, 3.6 metres;
- (g) A manoeuvring aisle less than six metres wide must be designated a one-way manoeuvring aisle.
- (h) Except for a parking area with only parallel parking spaces, a parking area must have an adequate curb or tire stop at least one metre in from the end of each parking stall where the parking area is immediately adjacent to a building, fence, wall, hedge or landscaped area.
- (i) A parking area that is surfaced with asphalt, concrete or a similar finish must
  - (i) be properly maintained so the surface remains durable and dust-free,
  - (ii) be constructed at a grade with adequate drainage to properly dispose of all surface water, and
  - (iii) have the parking spaces clearly delineated.
- (j) Any lighting provided for a parking area must be shielded to divert the light from adjacent buildings.

### **Design criteria for loading space**

- 10.11** (a) Each off-street loading space must contain an area at least 9.25 metres long by three metres wide and, where applicable, by 4.25 metres high.

- (b) A loading space must have vehicular access to a street.
- (c) A loading space that is surfaced with asphalt, concrete or a similar finish must
  - (i) be properly maintained so the surface remains durable and dust-free,
  - (ii) be constructed at a grade with adequate drainage to properly dispose of all surface water, and
  - (iii) have the loading space clearly delineated.
- (d) Any lighting provided for a loading space must be shielded to divert the light from adjacent buildings.



## **PART 11 - SIGN REQUIREMENTS**

### **Application of Part**

**11.1** For certainty, this Part applies to all zoning districts.

### **Definitions and interpretation**

**11.2 (a)** In this Part,

“advertising sign” means a sign used for advertising or identifying a business, profession or event or for advertising or identifying goods or services offered for sale or otherwise obtainable;

“backlit transparent sign” means any sign comprised of a transparent face with lettering, a logo or both that is illuminated by enclosed backlighting;

“banner sign” means any sign comprised of a light weight, non-ridged material which can be hung from a building or structure , excluding any other sign defined in this section;

“billboard sign” means a panel, large sheet board or other free-standing structure used or intended to be used to post or display a notice or advertise materials pasted, glued, fastened or otherwise attached to it;

“building face” means a fascia, canopy, mansard, roof eave, parapet or exterior wall of a building or penthouse;

“bulletin board sign” means a bulletin board, noticeboard, panel, board or other fascia sign used or intended to be used to post or display a notice;

“canopy” means a cloth, canvas, vinyl or other similar covering suspended by, hung on or held up by a structure, including a marquee or awning, attached to and projecting from a building face;

“canopy sign” means a fascia sign displayed on a canopy, excluding a free-standing sign or projecting sign;

“combination sign” means a sign containing the primary features of at least one type of sign defined in this subsection;

“community activity sign” means a sign or banner sign identifying a community activity or event, including a fair, rodeo or fund drive, that is about to be, is or has been carried on;

“copy area” means the area of one or more rectangles which enclose the extreme limits of the advertising message or announcement on a sign;

“directional sign” means a sign indicating the name and direction only of a business or other location;

“directory sign” means a fascia sign attached to a building that lists the businesses or Toquaht government services located in that building;

“electronic sign” means an electronically powered sign displaying a moving or changing message, price or logo;

“fascia sign” means a single faced sign displayed on a building face or canopy with its display surface in a plane parallel to the building face or canopy, including a sign displayed on the interior surface of a window visible from a street, excluding a billboard sign;

“free-standing sign” means any sign wholly or partially supported from the ground by a structure independent of any building or other structure located on the same lot on which the sign is located, excluding a billboard sign, banner sign or sandwich board sign;

“home identification sign” means a sign which identifies a residence;

“home occupation sign” means a sign indicating that a home occupation is carried out in a building on the lot;

“illuminated sign” means any sign illuminated by a spotlight from the front, side or rear of the sign;

“interior sign” means any sign displayed from the interior of a building, including a sign painted, pasted, marked or inscribed on, attached to, erected on or placed against the interior surface of any window of the building;

“mural sign” means any figure, picture, illustration, advertisement logo, visual representation or other attention drawing devise painted or drawn on the interior surface of a window or on the exterior surface of a building;

“non-confirming sign” means a sign located on Toquaht lands the date this Act comes into force that does not comply with the applicable requirements of this Part, unless that sign is altered, rebuilt, enlarged, extended or relocated after this Act comes into force;

“off-site sign” means an advertising sign not located on the lot where the advertised goods or services are located, sold or otherwise attainable, assembled, processed or manufactured;

“out of sight sign” means any sign which cannot be seen from any street or other public place;

“political sign” means a sign to promote voting in an election, the election of a particular candidate or voting for, or support of, a particular issue in an election or a referendum;

“portable sign” means an advertising sign placed on, but not attached to, the ground, a building or structure on a temporary basis, including an advertising sign set on or supported by a vehicle, excluding a sandwich board sign;

“prohibition sign” means a fascia sign or free-standing sign indicating a prohibition or penalty respecting the lot on which it is located;

“projecting sign” means a sign attached to a building with its display surface at right angles to a building face of that building;

“public building sign” means a free-standing sign or fascia sign located on a lot where a public building or other public facility is located, including a church, library, school or park, indicating the name of the public building or other public facility and the activities associated with the public building or other public facility;

“real estate or construction sign” means a free-standing sign or fascia sign indicating that the lot on which it is located, or a building or structure on the lot, is for sale, rent or lease or that construction on the lot is about to commence or is currently in progress;

“roof line” means the line created by the intersection of the plane of a building face and the roof of a building;

“roof sign” means a sign erected on or above a roof line or parapet of a building or a sign attached to a building and extending above the roof line of that building, excluding a projecting sign;

“sandwich board sign” means a two faced portable sign;

“sign” includes any symbol, letter, numeral, word, figure, picture, illustration, advertisement, announcement, direction, logo, visual representation or other attention drawing device used to advertise, identify or communicate information or attract the attention of the public, for any purpose, displayed outside in a manner that is visible from a street or public place, including a sign displayed on the interior surface of a window,



excluding a traffic control device or a symbol or graphic that is an integral part of the architectural design of a building;

“sign area” means the area of the rectangle within the outer limits of the face of a sign can be completely contained, excluding any supporting structure, unless

- (i) where a sign has more than one face or the face of the sign is not flat, the sign area of that sign is the rectangle, circle or triangle within the outer limits of the largest area of the face of the sign, in profile, can be completely contained, excluding any supporting structure, or
- (ii) where a sign is made of individual letters or figures, the sign area of the sign is the combined areas of the smallest rectangles, circles or triangles that will enclose the outer limits of the individual letters or figures of the sign;

“temporary sign” means a sign placed on, or attached to, the ground, a building or structure on a temporary basis, including a sign set on or supported by a vehicle;

“third party advertising” means content on a sign that directs attention to goods or services offered for sale or otherwise obtainable which are not the primary goods or services offered for sale or otherwise obtainable on the lot where the third party advertising is located.

“under canopy sign” means a sign attached to or suspended under a canopy with its display surface located at right angles to the face of the building to which the canopy is attached, excluding a projecting sign or a banner sign;

“welcome or tourist information sign” means a sign designed to orient a visitor and assist him or her in the location of a public facility or service or indicating general tourist information relating to Toquaht lands.

- (b) In this Part, “less than” means “less than or equal to”.

### **Sign permit required**

- 11.3** (a) An owner must not, or permit another person on his or her property to,
- (i) construct, display, alter, rebuild, enlarge, extend or relocate a sign on, or
  - (ii) attach to, suspend from or support on or against another sign on, a building or structure on Toquaht lands except
  - (iii) in accordance with this Part, and

- (iv) subject to subsection (b), without first obtaining a permit from the director in accordance with subsection (d).
- (b) A permit referred to in subsection (a) is not required for a
  - (i) sign required by the Toquaht government,
  - (ii) sign required by Canada or British Columbia,
  - (iii) sign installed by the Toquaht government demarcating Toquaht land boundaries or features,
  - (iv) directional sign,
  - (v) directory sign,
  - (vi) house identification sign,
  - (vii) interior sign,
  - (viii) memorial plaque, cornerstone or historical tablet,
  - (ix) out of sight sign,
  - (x) political sign,
  - (xi) prohibition sign,
  - (xii) public building sign,
  - (xiii) real estate or construction sign,
  - (xiv) sign indicating a hazard,
  - (xv) public works activities sign,
  - (xvi) traffic control device, or
  - (xvii) welcome or tourist information sign.
- (c) A person wishing to apply for a permit referred to in subsection (a) must provide the director with

- (i) a completed application in the prescribed form, including any additional supporting information required on that form or by the director, acting reasonably, and
  - (ii) the prescribed application fee.
- (d) As soon as practicable upon receipt of a completed application in the prescribed form, any required supporting information and the prescribed application fee in accordance with subsection (c) and upon the director being satisfied, acting reasonably, that all requirements of this Part applicable to that application have been, or will be, met by the person who is applying for a permit referred to in subsection (a), the director must issue a permit in the prescribed form for the sign contemplated in that application.
- (e) A sign permit is valid for five years or until the permitted sign is altered or relocated, whichever is sooner.
- (f) If a person alters or relocates a sign that is the subject of a sign permit issued in accordance with this section, that sign permit is deemed to be immediately canceled.

### **Sign design and materials**

- 11.4**
- (a) It is the intent of the Toquaht Nation to preserve and enhance a consistent Toquaht theme throughout Toquaht lands that is in harmony with the “west coast” environment.
  - (b) Materials used to construct a sign placed on Toquaht lands must be predominantly natural materials, such as wood or metal, traditionally tooled and finished, with a preference for carved wooden signs with logos and lettering recessed or raised against the background and a background area finished in natural wood tones.
  - (c) A sign on Toquaht lands must be legible and not employ colour combinations which inhibit legibility because of a lack of contrast.
  - (d) Day glow, phosphorescent or fluorescent colours must not be used on any sign on Toquaht lands.
  - (e) The design of every sign must be aesthetically pleasing, compatible with the quality and image of the surrounding area and not detract from the architectural integrity of any building or structure the sign is attached to or located beside.
  - (f) The arrangement and grouping of signs on a building must be integrated with the architecture of the building and dimensioned to conform to the vertical and horizontal edges, breaks, trimlines or openings of a building face.

- (g) Structural supports, bracings and ties for a sign must be kept to a minimum, consistent with structural adequacy and, to the extent reasonably possible, concealed within the body of the sign itself.
- (h) An illuminated sign must be designed to be aesthetically pleasing day and night.
- (i) A sign attached to a building must be securely attached by using metal anchors, bolts, expansion screws, chains or cables and must not be attached by nails, staples or screws to a wooden block, plug or nailing strip built into masonry or concrete.
- (j) Where a sign is attached to a building, that building must be structurally sound and be structurally adequate to support the additional load imposed by the sign and that load must be distributed to the structural members of the building in a way that the structural member is not over stressed or causes structural damage.
- (k) An owner must keep a sign, together with its supporting structure and any related electrical equipment, fully operable, in good repair and maintain that sign in a safe, neat, clean and attractive condition.

### **General requirements**

- 11.5**
- (a) A sign must not be erected or illuminated in a manner that interferes with the visibility of a traffic control device or faces the access to, or egress from, a street.
  - (b) A sign must not be equipped with flashing, oscillating or moving lights.
  - (c) A sign must not be placed on Toquaht lands within 150 metres of a Crown corridor unless the sign is located on the lot on which the goods or services advertised on the sign are located, sold, assembled or manufactured, however
    - (i) one off site sign is permitted on Toquaht lands immediately adjacent to the intersection of a Crown corridor and the closest access street for a business on Toquaht lands with a business licence, and
    - (ii) that sign is placed on the side of the Crown corridor that business is located on.
  - (d) The copy area of a sign must cover less than 75% of the sign area.
  - (e) Third party advertising on a sign must cover less than 20% of the copy area.
  - (f) A sign for a seasonal business must be taken down or have the words “Closed for the Season” added when the business is closed for the season.

- (g) A combination sign is subject to the requirements of each type of sign that forms part of the combination sign.
- (h) If a sign or any part of it is suspended or projects over a street or a public place, the owner, the person for whose benefit the sign is placed or the manufacturer of the sign must, before a permit is issued by the director] for that sign in accordance with section 11.3(d), deposit with the Toquaht Nation, and maintain as long as the sign remains, a copy of an insurance policy in the prescribed amount indemnifying the Toquaht Nation against all loss, cost, damage or expense the Toquaht Nation may incur related to the sign and that insurance policy must name the Toquaht Nation as an additional named insured and require that 30 days' notice in writing be given to the Toquaht Nation before that insurance policy is cancelled.

### **Specific use signs**

**11.6** The following signs are permitted in all zoning districts if the sign meets the applicable requirements:

- (a) a bulletin board sign if it
  - (i) has a sign area less than three square metres, and
  - (ii) is attached to a building as a fascia sign;
- (b) a community activity sign if it
  - (i) is in place less than 30 days, and
  - (ii) has a sign area less than three square metres;
- (c) a directional sign if it
  - (i) is located in a parking area and is necessary to direct traffic,
  - (ii) is a free-standing sign,
  - (iii) is less than 3.5 metres high, and
  - (iv) has a sign area less than 0.6 square metres;
- (d) a directory sign if it
  - (i) has a sign area less than three square metres, and

- (ii) has an area less than 0.6 square metres identifying any one building, business or activity;
- (e) a home identification sign if it
  - (i) is located on the same lot as the residence that home identification sign identifies,
  - (ii) is carved or cast with raised or recessed lettering, numbering or a logo,
  - (iii) is, where practical, attached to the building, or a fence in the front yard of the lot that building is located on, or side yard if that side yard is immediately adjacent to a flanking street, which that home identification sign identifies,
  - (iv) is the only home identification sign on the lot where that residence is located, and
  - (v) has a sign area less than 0.6 square metres;
- (f) a home occupation sign if it
  - (i) is located on a lot in a zoning district that permits a home occupation,
  - (ii) is attached to the building, or a fence in the front yard of the lot that building is located on, or side yard if that side yard is immediately adjacent to a flanking street, where the home occupation is located,
  - (iii) is the only home occupation sign on the lot where that home occupation is located,
  - (iv) has a sign area less than 0.6 square metres;
- (g) a non-conforming sign identifying a non-conforming building or advertising a non-conforming use if it
  - (i) is located on a lot in a residential zone and has a sign area less than 1.3 square metres,
  - (ii) is on the same lot as the non-conforming building or use, and
  - (iii) is the only non-conforming sign on the lot where the non-conforming building or use is located;
- (h) a political sign if it
  - (i) is in place less than 30 days before the applicable election or referendum, and

- (ii) is removed within three days after that election or referendum;
- (i) a prohibition sign if it has a sign area less than 1.2 square metres;
- (j) a real estate or construction sign if it
  - (i) has a sign area less than three square metres,
  - (ii) is the only real estate or construction sign on the lot that is the subject of the applicable real estate transaction or where the construction takes place,
  - (iii) is placed on the side of the lot facing a street, and
  - (iv) is removed within 14 days after the applicable real estate transaction closes or a final report authorizing occupancy is issued by the director for that construction in accordance with section 5.6 of the Building and Development Authorization Act; and
- (k) a welcome or tourist information sign if it, and its location, is approved by the director, by directive.

### **Advertising signs**

**11.7** Subject to section 11.8, the following advertising signs are permitted in an institutional zone if the sign is located on a lot on which the advertised goods or services are located, sold or otherwise attainable, assembled, processed or manufactured and the sign meets the applicable requirements:

- (a) a banner sign if
  - (i) a temporary sign permit has been issued by the director for that banner sign in accordance with section 11.10,
  - (ii) it is rectangular in shape,
  - (iii) it has a sign area less than four metres, and
  - (iv) it is securely fastened on all four corners;
- (b) a canopy sign, subject to subsection (c), if
  - (i) there is only one canopy sign placed on a building face,

- (ii) it does not extend above or below the canopy the canopy sign is attached to, unless the canopy is less than 0.3 metres deep measured from the building face and, in those circumstances, a canopy sign may extend above or below the canopy if the canopy sign
  - (A) has a sign area less than the sign area determined in accordance with paragraph (iii), and
  - (B) extends continuously across the length of the canopy,
- (iii) it has a sign area less than the total of 0.25 square metres for each horizontal lineal metre of canopy measured on the side of the canopy the canopy sign is attached to,
- (iv) the copy area of the canopy sign does not cover more than 50% of the canopy, and
- (v) the canopy the canopy sign is attached to is attached to the building where the goods or services advertised on the canopy sign are located, sold or otherwise attainable, assembled, processed or manufactured;
- (c) a canopy sign, if the canopy the canopy sign is attached to
  - (i) is mounted at an angle to the exterior wall of a building, that canopy must not project further in front of the exterior wall of the building than is permitted for a projecting sign in the same location, or
  - (ii) has more than one face, the canopy sign may continue around the perimeter of the canopy and, in those circumstances, that canopy sign is considered a single canopy sign, andthat canopy sign complies with the requirements of subsection (b);
- (d) an electronic sign if
  - (i) the lot on which it is located is a service station,
  - (ii) it only displays the current price of motor fuel, including gasoline, diesel, propane and marine fuel,
  - (iii) its design allows the price of each grade or type of fuel to be visible on all sides,
  - (iv) it has a sign area less than 0.6 metres for each type or grade of fuel,



- (v) it only displays its message in one color, and
  - (vi) its content remains the same for more than one hour and it does not scroll, move, fade, flash, change or act in a way designed to draw attention to the electric or electronic sign or a building or structure on the lot where the electric or electronic sign is located;
- (e) a fascia sign if
- (i) there is only one fascia sign placed on a lot for each street immediately adjacent to the lot,
  - (ii) it has a sign area less than the total of 0.25 square metres for each horizontal linear metre of building face measured on the building face the fascia sign is attached to,
  - (iii) it does not
    - (A) project more than 45 centimetres from,
    - (B) extend above the roof line of, or
    - (C) exceed 30% of the total area of,the building face the fascia sign is attached to;
- (f) a free-standing sign, subject to subsection (g), if
- (i) there is only one free-standing sign located on a lot for
    - (A) each street immediately adjacent to the lot, or
    - (B) every four businesses located on the lotprovided there are less than three free-standing signs on that lot,
  - (ii) each free-standing sign on a lot is placed more than 60 metres from the nearest other free-standing sign,
  - (iii) every building on the lot where the free-standing sign is located is more than 7.5 metres from the closest lot line if that lot line is immediately adjacent to a street and every free-standing sign on that lot is more than three metres from a common lot line when a building on an immediately adjacent lot is located closer to that street than a building on the lot where that free-standing sign is located,

- (iv) it has a sign area less than the total of 1.5 square metres plus
  - (A) one-half square metre for every 18 metres of lot line immediately adjacent to a street if that lot line is the closest lot line,
  - (B) one square metre for every 1,000 square metres of lot area for the lot where the free-standing sign is located, and
  - (C) one square metre for every 30 metres the free-standing sign is set back from the lot line immediately adjacent to the closest street,

provided the maximum sign area of the free-standing sign is less than six square metres and the combined sign area of all free-standing signs on the lot is less than nine square metres, and

- (v) the height of the free-standing sign is less than 3.5 metres plus one-half metre for every five metres the sign is set back from the lot line immediately adjacent to the closest street, provided that height is less than six metres, measured from the elevation of the point on the centre line closest to the sign on the closest street;

- (g) a free-standing sign

- (i) located in a walkway or a driveway, if that free-standing sign is located in a raised landscaping planter more than 0.2 metres high above the average finished grade of the walkway or driveway and has an area more than equal to the sign area of that free-standing sign, or
- (ii) placed on a lot with existing landscaping, if that free-standing sign is located in that landscaping area, and

that free standing sign complies with the requirements of subsection (f);

- (h) a sandwich board sign if

- (i) a temporary sign permit has been issued by the [director] for that sandwich board sign in accordance with section 12.10,
- (ii) it has a sign area less than 0.8 square metres on each side, and
- (iii) it is only placed outdoors while the applicable business is open to the public; and

- (i) an under canopy sign if

- (i) there is only one under canopy sign attached to a canopy, and

- (ii) the lowest part of the under canopy sign or its supporting structure is more than 2.5 metres above the finished grade of the sidewalk or ground level underneath the canopy sign.

### **Advertising sign restrictions**

**11.8** A lot must not have more than three advertising signs located on that lot plus two additional advertising signs for each additional street immediately adjacent to that lot.

### **Prohibited Signs**

**11.9** The following signs are not permitted anywhere on Toquaht lands:

- (a) a billboard;
- (b) a plywood cut-out or mannequin-type representation as free-standing sign;
- (c) a roof sign;
- (d) a backlit transparent sign except
  - (i) on a hospital, or
  - (ii) to identify a detachment of the Royal Canadian Mounted Police;
- (e) a temporary sign except in accordance with section 11.10;
- (f) a temporary sign using a wind, air or fan activated attention drawing device or balloons or ribbons to attract attention, except for community activity signs or signs placed by the Toquaht government for beautification purposes or special events;
- (g) an off-site sign, except for one free-standing sign or one fascia sign placed in accordance with this Part on Toquaht lands immediately adjacent to the intersection of a Crown corridor and the closest access street for a lot with no direct access to a Crown corridor if that sign is a directional sign;
- (h) an off-site sign, poster, notice, placard or advertisement attached to a telephone pole, electric power pole, post, prohibition sign, tree or traffic control device;
- (i) an off-site sign on any street or other public place except in accordance with this Part;
- (j) an off-site sign attached to a fire escape, fire exit window or door or other device or passage used in the event of fire; and

- (k) a mural sign extending or projecting over a public sidewalk.

### **Temporary sign permits**

- 11.10** (a) A person may apply to the director for a temporary sign permit for a
- (i) banner sign, or
  - (ii) sandwich board sign.
- (b) A person wishing to apply for a temporary sign permit referred to in subsection (a) must provide the director with
- (i) a completed application in the prescribed form, including any additional supporting information required on that form or by the director, acting reasonably, and
  - (ii) the prescribed application fee.
- (c) As soon as practicable upon receipt of a completed application in the prescribed form, any required supporting information and the prescribed application fee in accordance with subsection (b) and upon the director being satisfied, acting reasonably, that all requirements of this section applicable to that application have been, or will be, met by the person applying for a temporary sign permit referred to in subsection (a), the [director] must issue a temporary sign permit in the prescribed form for the temporary sign contemplated in that application.
- (d) The director must not issue a temporary sign permit for a sign that
- (i) contains third party advertising,
  - (ii) creates a safety hazard,
  - (iii) interferes with the movement of individuals or vehicles,
  - (iv) is not located on the lot where the business advertised by the sign is located, or
  - (v) does not meet the applicable requirements of this Part.
- (e) A temporary sign permit must only be issued by the director for one of the following purposes:
- (i) to advertise the opening or closing of a business;

- (ii) to advertise a new business until a permanent sign can be placed on the lot where the business is located;
  - (iii) where a condition, such as construction or renovation, interfere with or prevent the use of a permanent sign;
  - (iv) to advertise up to 12 special events each year for the applicable business; or
  - (v) if approved by the Executive, by resolution.
- (f) A temporary sign permit is valid
- (i) for up to seven days, if subsection (e)(i) or (e)(iv) apply,
  - (ii) until the installation of a permanent sign or four months, whichever is less, if subsection (e)(ii) or (e)(iii) apply, or
  - (iii) for the period specified in the Executive resolution, if subsection (e)(v) applies.
- (g) If a person alters or relocates a sign that is the subject of a temporary sign permit, that temporary sign permit is deemed to be immediately canceled.
- (h) A sign that is the subject of a temporary sign permit must be removed before the temporary sign permit expires, unless the director has approved the extension of that temporary sign permit in the prescribed form before that date.

TOQUAHT NATION GOVERNMENT  
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*Draft 1 First reading*

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## **PART 12 - VARIANCE REQUIREMENTS**

### **Definitions**

**12.1** (a) In this Part and for purposes of interpreting the requirements of the Administrative Decisions Review Act applicable to a review request made in accordance with section 12.4(b),

“Board member” means a member of the Review Board;

“record” means a record, regardless of physical form or characteristics, recorded or stored graphically, mechanically, electronically, digitally or otherwise;

“Review Board” means the Administrative Decisions Review Board;

“review request” means a request for a review of a matter made in accordance with section 12.4(b).

(b) Words or expressions defined in the Administrative Decisions Review Act that are also used in this Part will, except where the context requires otherwise or it is otherwise indicated, have the same meaning as those words or expressions defined in the Administrative Decisions Review Act, with the necessary changes and so far as applicable.

### **Review Board established as the board of variance**

**12.2** (a) The Review Board is established as the board of variance under this Act.

(b) At least one Board member on a panel hearing a review request made under this Part must be experienced and skilled in land use management with unique qualities or specialized knowledge that will assist the Review Board in making a decision on that review request.

### **Administration**

**12.3** (a) The review officer must perform the following duties for the Review Board in carrying out its duties under this Part:

(i) assist the chairperson in the performance of his or her duties and the exercise of his or her powers;

(ii) prepare a record of each decision of the Review Board under this Part;

- (iii) prepare a record of each Board member's reasons for his or her decision on a review request;
  - (iv) prepare minutes of each meeting of the Review Board involving the disposition of a review request under this Part;
  - (v) arrange to have notice of each meeting of the Review Board under this Part
    - (A) published in accordance with Toquaht law,
    - (B) posted in accordance with Toquaht law, or
    - (C) delivered in accordance with Toquaht law,as directed by the chairperson;
  - (vi) give written notice of each decision of the Review Board to the applicant, any party to the review and the [director];
  - (vii) maintain custody of all records, materials and minutes of the Review Board made under this Part; and
  - (viii) perform other duties customary to the office of a secretary.
- (b) If the review officer is absent from a meeting of the Review Board held under this Part, the chairperson must appoint another individual to perform the duties of the [review officer] at that meeting.
  - (c) The Executive may, by directive, provide for the payment of a fee to a Board member for hearing a review request under this Act in the amount the Executive decides, subject to availability of adequate resources in the annual budget approved by Council in accordance with section 4.3 or 11.2 of the Financial Administration Act.
  - (d) If reimbursement is approved by the chief financial officer, a Board member must be reimbursed by the Toquaht government for expenses necessarily and reasonably incurred by him or her while performing the duties or exercising the powers of the Review Board under this Part.

### **Matters reviewable by Review Board**

- 12.4** (a) The Review Board must hear and make a decision on a review request filed by a person who alleges that
- (i) a decision by



- (A) a compliance officer under this Act will cause them undue or unnecessary hardship due to special circumstances or conditions, or
- (B) a building official under section 4.15(h) of the Planning and Land Use Management Act is in error and will cause them undue or unnecessary hardship due to special circumstances or conditions,
- (ii) a requirement under this Act regarding the siting, size, shape or design of a building or structure will cause them undue or unnecessary hardship due to the peculiarities of the lot or special circumstances or conditions,
- (iii) a requirement in section 4.15(a), (e) or (h) of the Planning and Land Use Management Act will cause them undue or unnecessary hardship due to special circumstances or conditions, or
- (iv) because of a requirement in a regulation enacted under section 5.7 of the Planning and Land Use Management Act,
  - (A) they are unable to obtain a permit authorizing tree cutting or removal, or
  - (B) they are unable to comply with a requirement of that regulation or a permit issued under that section, andthis will cause them undue or unnecessary hardship due to special circumstances or conditions.
- (b) A person referred to in subsection (a) may file a review request in accordance with the Administrative Decisions Review Act regarding their allegation.
- (c) For purposes of a review request filed in accordance with subsection (b) and the application of the requirements of the Administrative Decisions Review Act to that review request,
  - (i) the person that filed the review request in accordance with subsection (b) is the applicant,
  - (ii) the department of lands, public works and resources is the Toquaht institution that is responsible for the determination that is the subject of the review request,
  - (iii) the director is the Toquaht public employee for the purposes of that review, and

- (iv) the decision or requirement resulting in the allegation is deemed to be a decision under this Act to which section 1.3(a) of the Administrative Decisions Review Act applies.

**Notice of review request**

- 12.5** (a) The review officer must
- (i) deliver in accordance with Toquaht law a
    - (A) notice of the review request, and
    - (B) notice of the hearing at least 15 days before that date,to an owner of Toquaht lands that the chairperson decides may be affected by the outcome of the review request,
  - (ii) post in accordance with Toquaht law notice of the hearing for at least 15 days before the hearing, and
  - (iii) if the chairperson decides the matter is of sufficient importance, publish in accordance with Toquaht law notice of the hearing at least 15 days before the hearing.
- (b) A notice under this section must state generally the subject matter of the review request and the date, time and place where the review request will be heard.

**Public hearing of a review request required**

- 12.6** Despite any requirement to the contrary, the Review Board must conduct the hearing of a review request filed in accordance with section 12.4(b) in public.

**Supporting information**

- 12.7** Before making a decision on a review request, the Review Board may
- (a) view the lot in question, and
  - (b) require further information from the director or applicant to
    - (i) corroborate any written statement given by the director, applicant or other person giving evidence to the Review Board on the matter,

- (ii) explain the wording or intent of a provision in this Act or the Planning and Land Use Management Act applicable to the review request, or
- (iii) determine more fully the effect upon an adjacent lot that may be affected by the outcome of the review request.

### **Review Board order**

- 12.8** (a) On hearing a review request, if the review request relates to a decision of a compliance officer or building official referred to in section 12.4(a)(i), the Review Board must first decide whether or not that decision resulted from a circumstance identified in section 4.7(a)(i) of the Administrative Decisions Review Act and,
- (i) if it did not, the Review Board must make an order under subsection (c), and
  - (ii) if it did, the Review Board must
    - (A) set aside the decision, or
    - (B) subject to section 12.9, make an order referred to in section 4.7(c) of the Administrative Decisions Review Act.
- (b) On hearing a review request to which subsection (a) does not apply and subject to section 12.9, the Review Board must make an order under subsection (c)
- (c) Subject to subsection (a), the Review Board must order that
- (i) the applicant comply with the decision or requirement, or
  - (ii) the decision or requirement be varied for the applicant and the manner in which the decision or requirement be varied.

### **Restriction on Review Board order**

- 12.9** (a) The Review Board may not make an order referred to in section 12.8(a)(ii)(B) or 12.8(c)(ii) solely because the land, building or structure in question could be put to a more profitable use if the decision or requirement were varied.
- (b) The Review Board may only make an order referred to in section 12.8(a)(ii)(B) or 12.8(c)(ii) if all the following conditions exist:
- (i) the undue or unnecessary hardship arises from special circumstances or conditions applying only to the applicant's property;

- (ii) the strict application of the decision or requirement imposes an unreasonable restraint on the use of the property inconsistent with the general purpose and intent of the applicable zoning district referred to in the first section of the Part applicable to that zoning district;
  - (iii) the order will vary the decision or requirement only to the extent necessary to alleviate the undue or unnecessary hardship;
  - (iv) the order will not
    - (A) result in inappropriate development of the lot,
    - (B) negatively affect the natural environment or the use and enjoyment of adjacent lots,
    - (C) vary a primary use, secondary use or permitted density in the applicable zoning district,
    - (D) be in conflict with a covenant registered on the lot under section 7.13 of the Land Act or section 219 of the Land Title Act (British Columbia),
    - (E) deal with a matter that is covered by a phased development agreement under section 4.5 of the Planning and Land Use Management Act,
    - (F) deal with a flood plain specification under section 4.14(b) of the Planning and Land Use Management Act, or
    - (G) deal with a matter that is covered by a permit under Part 5 of the Planning and Land Use Management Act, other than a permit under section 5.7 of that Part; and
  - (v) varying the decision or requirement is not contrary to the intent and spirit of the Official Community Plan Act.
- (c) The Review Board may not make an order referred to in section 12.8(a)(ii)(B) or 12.8(c)(ii) for a property for which an authorization for alteration is required because of that property's heritage conservation designation.
- (d) In making an order referred to in section 12.8(a)(ii)(B) or 12.8(c)(ii), the Review Board may impose any restriction, limitation or condition consistent with the purpose and intent of this Act it decides is necessary or advisable in the circumstances.

**Time limit for variance**

**12.10** For an order of the Review Board made under section 12.8,

- (a) if the order sets a time within which construction of a building or structure must be completed and the construction is not completed within that time, or
- (b) if that construction is not substantially started within one year after the order was made, or within a longer or shorter time period stated in the order,

the ordered variance terminates and the decision or requirement, as the case may be, applies and must be complied with.

## PART 13 - ENFORCEMENT

### Compliance officer

- 13.1** (a) Subject to subsection (c), the Executive may, by Order, designate an individual, or each individual in a particular class of individuals, as a compliance officer for the purpose of enforcement under this Act.
- (b) For certainty, a compliance officer appointed in accordance with subsection (a) is an enforcement officer for purposes of the Enforcement Act and must perform the duties and may exercise the powers of an enforcement officer under section 3.2(b) of the Enforcement Act.
- (c) In accordance with 13.32.5a. of Chapter 13 Governance of the Maa-nulth Treaty, a compliance officer appointed in accordance with subsection (a) must have adequate training to perform his or her duties to a standard at least equivalent to that of a bylaw enforcement officer of a local government in British Columbia.

### Permits, licences and authorizations

- 13.2** The Toquaht administration may not issue a permit, licence or authorization under this Act, the Building and Development Act, including a final report authorizing occupancy in accordance with section 5.6 of that Act, the Business Licensing Act or any other Toquaht enactment for, or in relation to, a lot, building, structure or use that violates a requirement of this Act.

### Penalties

- 13.3** (a) A person who contravenes this Act, or a restriction, limitation or condition imposed by the Review Board under section 12.9(d), commits an offence and is liable, on summary conviction, to a fine not exceeding \$1,000 per day for each day the offence continues up to a maximum of \$5,000.
- (b) The maximum fine to which a person is liable on a second or subsequent conviction for the same offence is \$10,000.

### Signs contraventions

- 13.4** (a) A compliance officer may remove or alter a sign erected, placed or displayed contrary to Part 11.
- (b) A sign removed in accordance with subsection (a) may be impounded by the director for up to 30 days and, on payment of any applicable fee or penalty by the owner, the director may return the sign to that owner.

- (c) A sign which has not been returned to an owner after 30 days in accordance with subsection (b) may be destroyed or otherwise disposed of by the director.
- (d) Any cost associated with removing, altering, impounding, storing, destroying or disposing of a sign under this section is due and payable on demand by the owner to the Toquaht Nation within 14 days, if that demand is delivered in accordance with Toquaht law to that owner, and may be collected by the Toquaht Nation in accordance with sections 5.6 to 5.11 of the Financial Administration Act.

## PART 14 - GENERAL PROVISIONS

### Regulations

- 14.1** (a) The Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) The powers of the Executive under subsection (a) include the power to make regulations
- (i) prescribing when a ticket may be issued for an offence under this Act and, if so, establishing in relation to that offence the amount of
    - (A) the penalty,
    - (B) the discounted penalty, and
    - (C) the surcharge penalty,
  - (ii) prescribing any matter or thing referred to in this Act as prescribed or to be prescribed,
  - (iii) prescribing the form and content of applications and notices that are required or permitted under this Act,
  - (iv) defining words and expressions that are used but not defined in this Act, and
  - (v) generally for the purpose of giving effect to this Act.

### Amendments

- 14.2** (a) A person may apply in accordance with this section for an amendment to this Act.
- (b) A person wishing to apply for an amendment to this Act under subsection (a) must provide the director with
- (i) a completed application in the prescribed form, including any additional supporting information required on that form or by the director, acting reasonably, and
  - (ii) the prescribed application fee.
- (c) An application under subsection (a) made in accordance with subsection (b) will be considered by Council where a similar application has not, within the previous 12 months, either been withdrawn by the applicant after being referred to a public hearing in



- accordance with Part 3 of the Planning and Land Use Management Act or has been refused.
- (d) Council may waive the requirements of subsection (c) in any case where it considers that, due to extraordinary circumstances, it is in the interest of the Toquaht Nation for the application to be considered.
  - (e) Where, after a public hearing held in accordance with Part 3 of the Planning and Land Use Management Act, an application made in accordance with subsection (b) has been approved by Council by adopting a resolution to accept an amendment to this Act in principle after second reading under section 2.7(a)(ii) of the Government Act but the amending Act cannot be enacted by Council by adopting a resolution to enact that amending Act after third reading under section 2.7(a)(iii) of the Government Act because an insufficient number of members of Council are available as a result of an election or a by-election, the application is deemed to have been refused but the person who made the application may, despite subsection (c), apply again and
    - (i) that application will not be referred to a new public hearing held in accordance with Part 3 of the Planning and Land Use Management Act, and
    - (ii) an amendment to this Act will be considered by Council for that application.

### **Secondary use and other amendments**

- 14.3** (a) Subject to subsection (b), the Executive may, by regulation, amend the following sections in Part 3 to Part 8:
- (i) a section titled “Secondary uses” by adding, deleting or amending a secondary use or a requirement or restriction on a secondary use for that zoning district;
  - (ii) a section titled “Maximum lot coverage” by increasing or decreasing the percentage of maximum lot coverage for that zoning district; or
  - (iii) a section titled “Minimum yard requirements” by increasing, decreasing or eliminating the minimum depth for a front yard, side yard or back yard for that zoning district.
- (b) An amendment under subsection (a) must not conflict with the purpose of the applicable zoning district referred to in the first section of the Part applicable to that zoning district.
  - (c) For certainty, amendments may only be made to this Act by Executive after a public hearing is held in accordance with Part 3 of the Planning and Land Use Management Act or that public hearing is waived by the Legislature under section 3.1(e) of that Act.

## Consequential amendments

### 14.4 The Planning and Land Use Management Act is amended as follows:

- (a) by adding the following definitions in alphabetical order to section 1.4:
  - (i) ““board of variance” means a board established under a zoning law to hear applications requesting a review of a decision or requirement under that zoning law or another Toquaht enactment;”;
  - (ii) ““building official” has the meaning given to it in the Building and Development Authorization Act;”;
  - (iii) ““building permit” means an “authorization”, within the meaning of that term in the Building and Development Authorization Act, for either “standard construction” or “major construction”, as those terms are defined in that Act;”;
  - (iv) ““[director]” means the [director] of lands and resources;”;
  - (v) ““zoning law” means an Act referred to in section 4.1(a);”;
- (b) By striking out “a zoning law or” and substituting “a zoning law, an amendment to a zoning law or” in the second line of section 3.1(a);
- (c) by striking out “under this Part” in sections 4.15(a), (c), (f), (h) and (j), 4.16(a) and 4.17(b);
- (d) by striking out “under section 7.3(b)” in section 4.15(e);
- (e) by striking out “building inspector” and substituting “building official” in sections 4.15(h);
- (f) by striking out “under this Act” in sections 4.17(a), 6.5 and 9.1(a)(ii);
- (g) by striking out “under Part 4 or Part 6 of this Act” and substituting “or a regulation under section 6.1” in section 5.2(b)(i);
- (h) by striking out “under section 4.1” in section 5.4(c)(i);
- (i) by striking out “under sections 4.1 to 4.11 or 4.14” in section 5.12(a)(ii);
- (j) by striking out “under Part 7” in section 5.13(a)(iii);

- (k) by striking out “an approving officer” and substituting “the [director]” in sections 5.13(d), 6.5, 6.6(c) and 6.7(a);
- (l) by striking out “or a building inspector” in section 6.3(a) and striking out “or building inspector” in 6.3(b)(i)(B)
- (m) by striking out every instance of “the approving officer” and substituting “the [director]” in sections 6.3(a), 6.3(b)(i)(B), 6.7(b);
- (n) by striking out “an approving officer” and substituting “the [director]” in section 9.2(d); and
- (o) by repealing Part 7.

### **Commencement**

- 14.5** (a) Subject to subsections (b) to (d), this Act comes into force by Order of the Executive.
- (b) An Order of the Executive under subsection (a) must not be made until
- (i) notice of that Order and a copy of this Act has been posted in accordance with Toquaht law for at least 30 days,
  - (ii) notice of that Order has been published in accordance with Toquaht law, and
  - (iii) notice of that Order has been delivered in accordance with Toquaht law to
    - (A) British Columbia,
    - (B) the Alberni-Clayoquot Regional District,
    - (C) the Port Alberni Port Authority,
    - (D) a non-member ordinarily resident on Toquaht lands, and
    - (E) a person, other than a non-member, with a registered office located on Toquaht lands or is authorized to do business on Toquaht lands.
- (c) A notice under subsection (b) must provide an opportunity for at least 30 days to persons affected by this Act to make representations to the Executive concerning this Act.
- (d) The Executive must give full and fair consideration to any representations received in accordance with subsection (c) and may, by regulation, make necessary amendments to

this Act in accordance with section 15.3 to address any reasonable concern raised by a representation received in accordance with subsection (c).

**SCHEDULE 1**

**Zoning districts**

<b>Zoning district</b>	<b>Abbreviation</b>
<b>Institutional Zones</b>	
Institutional	G1
<b>Residential Zones</b>	
Single Family Residential	R1
Two Family Residential (Low Density)	R2
<b>Rural Zones</b>	
Limited Development	W1
Prohibited Development	W2
Foreshore Prohibited Development	F3

**SCHEDULE 2**

**Zoning maps**



