

The background image shows a bright yellow building with green trim around the windows and roofline. A sign on the building reads "CN Whitbourne". To the right, there is a large orange piece of machinery, possibly a train engine or a large truck, on a grassy area. The sky is blue with some clouds.

TOWN OF WHITBOURNE

DEVELOPMENT REGULATIONS 2013 – 2023

PARTS 1 TO 5

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MINISTERS DEVELOPMENT REGULATIONS, 2001.

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**TOWN OF WHITBOURNE
LAND USE, ZONING, SUBDIVISION AND ADVERTISEMENT REGULATIONS
(DEVELOPMENT REGULATIONS)**

APPLICATION

1. Title

These Regulations may be cited as the Whitbourne Development Regulations.

2. Interpretation

- (1) Words and phrases used in these Regulations shall have the meanings ascribed to them in Schedule A.
- (2) Words and phrases not defined in Schedule A shall have the meanings which are commonly assigned to them in the context in which they are used in the Regulations.

3. Commencement

These Regulations come into effect throughout the Whitbourne Municipal Planning Area, referred to as the Planning Area, on the date of publication of a notice of registration to that effect in the **Newfoundland and Labrador Gazette**.

4. Municipal Regulations

The building regulations, the fire regulations and any other municipal regulations controlling development shall, under these Regulations, apply to the Whitbourne Municipal Planning Area. The National Building Code of Canada, Fire Code of Canada, and all ancillary codes and regulations, shall also apply to the entire Whitbourne Municipal Planning Area.

5. Council

In these Regulations, “Council ” means the municipal council of the Town of Whitbourne hereby authorized to administer the Municipal Plan and these Regulations.

PART 1 – GENERAL REGULATIONS**6. Compliance with Regulations**

Development shall be carried out in accordance with the Municipal Plan, these Regulations, and the conditions stated in a Permit to Develop.

7. Permit to Develop Required

Development shall not be carried out unless the Council has first issued a Permit to Develop.

8. Permit to Develop be Issued

Subject to Regulations 9 and 10, a permit shall be issued for development within the Planning Area that conforms to:

- (a) the general development standards set out in Part II of these Regulations, the requirements of Part V of these Regulations, and the use classes, standards, requirements, and conditions prescribed in Schedule C of these Regulations for the use zone in which the proposed development is located;
- (b) the standards set out in the Building Code and/or other ancillary codes, and any Building Regulations, Waste Disposal Regulations, and/or any other municipal regulation in force in the Planning Area regulating or controlling development, conservation and use of land and buildings;
- (c) the standards set out in Part III of these Regulations in the case of advertisement;
- (d) the standards set out in Part IV of these Regulations in the case of subdivision;
- (e) the standards of design and appearance established by the Council.

9. Permit not to be Issued In Certain Cases

Neither a permit nor approval in principle shall be issued for development within the Planning Area when, in the opinion of the Council, it is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or being beyond the natural development of the area at the time of application unless the applicant contracts to pay the full cost of construction of the services deemed necessary by the Council and such cost shall attach to and upon the property in respect of which it is imposed.

10. Discretionary Powers of Council

- (1) In considering an application for a permit or for approval in principle to carry out development, the Council shall take into account the policies expressed in the Municipal Plan and any further scheme, plan or regulations pursuant thereto, and shall assess the general appearance of the development of the area, the amenity of the surroundings, availability of utilities, public safety and convenience, and any other considerations which are, in its opinion, material, and notwithstanding the conformity of the application with the requirements of these Regulations, Council may, in its discretion, and as a result of its consideration of the matters set out in this Regulation, conditionally approve or refuse the application.
- (2) Council may, in its discretion, determine the uses that may or may not be developed in a use zone and those uses shall be listed in the Council's regulations as discretionary, permitted or prohibited uses for that area.

11. Variances (Refer to Ministerial Development Regulations, Section 12)

- (1) Where an approval or permit cannot be given by the Council because a proposed development does not comply with development standards set out in development regulations, the Council may, in its discretion, vary the applicable development standards to a maximum of 10% if, in the Council's opinion, compliance with the development standards would prejudice the proper development of the land, building or structure in question or would be contrary to public interest.
- (2) The Council shall not allow a variance from development standards set out in development regulations if that variance, when considered together with other variances made or to be made with respect to the same land, building or structure, would have a cumulative effect that is greater than a 10% variance even though the individual variances are separately no more than 10%.
- (3) The Council shall not permit a variance from development standards where the proposed development would increase the non-conformity of an existing development, or where approval of a variance will result in the creation of a non-conformity of any legal existing development.

12. Notice of Variance (Refer to Ministerial Development Regulations, Section 13)

Where the Council is to consider a proposed variance, the Council shall give written notice of the proposed variance from development standards to all persons whose land is in the immediate vicinity of the land that is the subject of the variance, and allow a minimum period of 7 days for response.

13. Service Levy

- (1) The Council may require the payment of a service levy in accordance with Section 149 (2) of the Municipalities Act, SN, 1999.
- (2) A service levy shall not exceed the cost, including finance charges, to the Council of improving or constructing the public works that are necessary for the real property to be developed in accordance with the standards required by the Council and permitted by the Council on that real property.
- (3) A service levy shall be assessed on;
 - (a) the amount of property benefiting by the public work relative to all the property benefited,
 - (b) and the density of development made possible or increased by the public work.
- (4) The Council may require a service levy be paid by the owner of the property benefited and may specify the time for payment. The amount of the service levy shall be determined by the Council.

14. Financial Guarantees and Insurance

- (1) The Council may require a developer to enter into a financial agreement in order to guarantee compliance with the Permit to Develop. Permit securities shall be determined by the Council.
- (2) The Council may require a developer to have insurance sufficient to cover public liability relative to the development.
- (3) The Council shall determine the form, amount and conditions of the financial agreement and the insurance, as outlined under Section 38 of the Urban and Rural Planning Act (*Act*).

15. Dedication of Land for Public Use

In addition to the requirements for dedication of land under Regulation 79, the Council may require the dedication of a percentage of the land area of any subdivision or other development for public use, and such land shall be conveyed to the Council in accordance with the provisions of the *Act*.

16. Restoration of Land

The Council may order the developer, the site occupier, the owner, or any of them to restore the site to the satisfaction of the Council where;

- (a) the use of land is discontinued,
- (b) a Permit to Develop has been revoked or has expired,

- (c) the intensity of the use has been decreased, or
- (d) a temporary Permit to Develop has expired.

17. Form of Application

- (1) An application for a Permit to Develop or an Approval in Principle shall be made by the owner or the owner's agent to the Council on the application form referred to in (3), and will include plans and an application fee if required.
- (2) The Council shall supply to each applicant a copy of the application form referred to in (1), and any available information required by the applicant applicable to the application.
- (3) The application forms to be used are available from the Town Council Office.

18. Register of Application

The Council shall keep a public register of all applications for development, which shall contain a record of the Council's decision of each application and the result of any appeal from that decision.

19. Deferment and Deemed Refusal of an Application

- (1) The Council may defer consideration of an application with the written agreement of the applicant.
- (2) Applications which have not been determined or deferred by the Council, and on which a decision has not been communicated in writing to the applicant within 60 days of the application being received by the Council, shall be deemed refused.

20. Approval in Principle

- (1) An application for Approval in Principle shall include;
 - a) a description of the proposed development,
 - b) a description of the limits of the land to be used with the proposed development, and may include a survey description of the subject lands,
 - c) submission of conceptual plans,
 - d) any additional information that may be required by the Council.

- (2) The Council may issue an Approval in Principle if it determines the application conforms to the Municipal Plan and these Regulations.
- (3) An Approval in Principle shall be valid for a period of 1 year, and may be extended 1 year, if requested by applicant, up to a total maximum period of 2 years.
- (4) No development shall be carried out under an Approval in Principle.
- (5) Council may revoke an Approval in Principle if it determines the applicant has changed the proposed development in a way that significantly alters the original intent of the applications.

21. Permit to Develop

- (1) A written Permit to Develop, including a temporary Permit to Develop, issued by the Council or its staff and validated by its designated official, shall be permission to develop. This permission shall not relieve the applicant from full responsibility of obtaining all other approvals, prior to the commencement of development, and complying with the requirements of all other regulations and statutes during development.
- (2) The Council may attach conditions to a Permit to Develop to ensure compliance with the Municipal Plan and these Regulations, and the permit holder shall be responsible for full compliance with the permit conditions.
- (3) A Permit to Develop is valid for a period of 1 year and may be extended 1 year if requested by applicant, up to a total maximum period of 2 years
- (4) The issuance of a Permit to Develop shall not prevent the Council from requiring the correction of errors, or ordering the cessation, removal of, or remedial work on any development being carried out that is in violation of the Municipal Plan and these Regulations.
- (5) The Council may revoke a Permit to Develop for failure by the developer to comply with the Municipal Plan and these Regulations, or any condition attached to the Permit to Develop, or where it was issued in error or was issued on the basis of incorrect information.
- (6) No person shall change the application for which a Permit to Develop has been issued unless the change has been approved by a resolution of the Council, and written approval has been issued.
- (7) A copy of the Permit to Develop, and the plans and specifications, shall be kept on the site until completion of the development.

22. Temporary Use Permit to Develop

A Permit to develop for a temporary use, which must comply with the Municipal Plan and these Regulations, may be issued for a period not exceeding 1 year, and may be extended in writing for further 1 year period, and shall not exceed maximum period of 2 years.

23. Permit Fees

A fee may be charged for a Permit to Develop in accordance with the annual schedule of fees as adopted by the Council.

24. Reasons for Conditions or Refusing a Permit

The Council shall state in writing the reasons;

- (a) for refusing a Permit to Develop or an Approval in Principle , and
- (b) for attaching conditions to them.

25. Notification of Right to Appeal (Refer to Ministerial Development Regulations, Section 5)

Where the Council makes a decision that may be appealed under Section 42 of the *Act*, the Council shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the:

- (a) person's right to appeal the decision to the appeal board;
- (b) time by which an appeal is to be made;
- (c) right of other interested persons to appeal the decision; and
- (d) manner of making an appeal and the address for the filing of the appeal.

26. Appeal Requirements (Refer to Ministerial Development Regulations, Section 6)

- (1) The secretary of the Appeal Board at the Department of Municipal Affairs, Confederation Building (West Block), P.O. Box 8700, St. John's, Nfld., A1B 4J6 is the secretary to all Appeal Boards in the province and an appeal filed with that secretary within the time period referred to in subsection 42(4) of the *Act* shall be considered to have been filed with the appropriate Appeal Board.

- (2) The fee required under section 44 of the *Act* shall be paid to the Appeal Board that hears the decision being appealed by filing it with the secretary referred to in subsection (1) or (2) within the 14 days referred to in subsection 42(4) of the *Act*.
- (3) The Appeal Board that hears the decision being appealed shall, subject to subsection 44(3) of the *Act*, retain the fee paid to the Appeal Board.
- (4) Where an appeal of a decision and the required fee is not received by an Appeal Board in accordance with this section and Part VI of the *Act*, the right to appeal that decision shall be considered to have been forfeited.

27. Appeal Registration (Refer to Ministerial Development Regulations, Section 7)

- (1) Upon receipt of an appeal and fee as required under the Act and these regulations, the secretary of the Appeal Board as referred to in subsections 26(1) and (2), shall immediately register the appeal.
- (2) Where an appeal has been registered the secretary of the Appeal Board shall notify the Council of the appeal and shall provide to the Council a copy of the appeal and the documentation related to the appeal.
- (3) Where the Council has been notified of an appeal that Council shall within one week of notification forward to the appropriate board a copy of the application being appealed, all correspondence, council minutes, plans and other relevant information relating to the appeal including the names and addresses of the applicant and other interested persons of whom the Council has knowledge.
- (4) Upon receipt of the information under subsection (3), the secretary of the board shall publish in a newspaper circulated in the area of the appropriate Council, a notice that the appeal has been registered.
- (5) A notice published under subsection (4) shall be published not fewer than 2 weeks before the date upon which the appeal is to be heard by the board.

28. Development Prohibited (Refer to Ministerial Development Regulations, Section 8)

- (1) Immediately upon notice of the registration of an appeal the Council shall ensure that any development upon the property that is the subject of the appeal ceases.
- (2) Sections 102 and 104 of the *Act* apply to the Council acting under subsection (1).
- (3) Upon receipt of a notification of the registration of an appeal with respect to an order under section 102 of the *Act*, the Council shall not carry out work related to the matter being appealed.

29. Board of Appeal

The Western Newfoundland Board of Appeal is established as the Appeal Board for the Whitbourne Municipal Planning Area. The mandate, powers, and duties of this Appeal Board are specified under Sections 40 - 46 of the *Act*, and the Ministerial Regulations there under.

30. Appeals

- (1) A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate Appeal Board where the decision is with respect to
 - (a) an application to undertake a development;
 - (b) a revocation of an approval or a permit to undertake a development;
 - (c) the issuance of a stop work order; and
 - (d) a decision permitted under the Act or another Act to be appealed to the board.
- (2) A decision of the Council to adopt, approve or proceed with a municipal plan, a scheme, development regulations and amendments and revisions of them is final and not subject to an appeal.
- (3) An appeal shall be filed with the Appeal Board not more than 14 days after the person who made the original application appealed from has received the decision being appealed.
- (4) An appeal shall be made in writing and shall include:
 - (a) a summary of the decision appealed from;
 - (b) the grounds for the appeal; and
 - (c) the required fee.
- (5) A person or group of persons affected by the subject of an appeal or their representatives may appear before an Appeal Board and make representations concerning the matter under appeal.
- (6) An Appeal Board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.
- (7) An Appeal Board shall consider and determine appeals in accordance with the *Act* and the municipal plan, scheme and regulations that have been registered under section 24, of the *Act*, and having regard to the circumstances and merits of the case.
- (8) A decision of the Appeal Board must comply with the plan, scheme or development regulations that apply to the matter that has been appealed to that board.
- (9) In determining an appeal, an Appeal Board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct the Council to carry out its decision or make the necessary order to have its decision implemented.

- (10) Notwithstanding subsection (9), where the Council may, in its discretion, make a decision, an Appeal Board shall not make another decision that overrules the discretionary decision.
- (11) The decision of a majority of the members of an Appeal Board present at the hearing of an appeal shall be the decision of the Appeal Board.

31. Hearing Notice and Meetings (Refer to Ministerial Development Regulations, Section 9)

- (1) An Appeal Board shall notify the appellant, applicant, Council and other persons affected by the subject of an appeal of the date, time and place for the appeal not fewer than 7 days before the date scheduled for the hearing of the appeal.
- (2) An Appeal Board may meet as often as is necessary to conduct its work in an expeditious manner

32. Hearing of Evidence (Refer to Ministerial Development Regulations, Section 10)

- (1) An Appeal Board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under regulation 31(1) or their representative may appear before the Appeal Board and make representations with respect to the matter being appealed.
- (2) An Appeal Board shall hear an appeal in accordance with section 43 of the *Act* and these regulations.
- (3) A written report submitted under subsection 43(2) of the *Act* respecting a visit to and viewing of a property shall be considered to have been provided in the same manner as evidence directly provided at the hearing of the Appeal Board.
- (4) In the conduct of an appeal hearing, the Appeal Board is not bound by the rules of evidence.

33. Return of Appeal Fee

Where an appeal made by an appellant under section 42 of the *Act*, is successful, an amount of money equal to the fee paid by that appellant under regulation 26(2) shall be paid to him or her by the Council.

34. Notice of Application (Refer to Ministerial Development Regulations, Sections 13, 15)

- (1) Notice of an application must be given when;
 - (a) a variance is to be considered under Section 11,

-
- (b) a change in a non-conforming *use* is to be considered under Section 51(4),
 - (c) the proposed development is listed as a discretionary use in Schedule C,
 - (d) the Council determines that the public should be notified of an application.
- (2) Subsequent to 34 (1) above, the Council shall give notice of an application for a Permit to Develop and for an Approval in Principle as follows;
- (a) for an application for a variance, a direct notification of persons that are affected by the application as specified under Sections 11 (Variances), and in compliance with the provisions of the *Act*. The Council may use the property tax roll where available, or other means to determine who is affected;
 - (b) for a change in a non- conforming use, any proposed development listed as a discretionary use, or if the Council determines the public should be notified of an application, there shall be a public advertisement, with a minimum seven (7) day response period, to be specified in the notice, or as specified under, Sections 51(4) (Non-conforming uses), and in compliance with the provisions of the *Act*.
- (3) Notice of an application shall be at the expense of the applicant.
- (4) Notice of an application shall contain enough information to properly inform the public of the location, the proposed type of development and other information deemed necessary to determine whether or not there is a concern about the application.

35. Right of Entry

The Council, and its designated official, may enter upon land and may, at all reasonable times, enter a building for the purpose of making inspections relative to the development.

36. Record of Violations

A designated official shall keep a record of each violation of these Regulations and report that violation to the Council.

37. Stop Work Order and Prosecution

- (1) Where a person begins or continues a development contrary, or apparently contrary, to the Municipal Plan and these Regulations, the Council may order that person to stop the development, and any work

connected with it, pending the submission and approval of an application or a final decision in a prosecution arising out of the development.

- (2) A person who does not comply with an order made under (1) is guilty of an offence under Sections 102-107 of the *Act*.

38. Delegation of Powers (Refer to Ministerial Development Regulations, Section 18)

The Council shall, where designating employees to whom a power is to be delegated under subsection 109(3) of the *Act*, make that designation in writing.

PART 2 - GENERAL DEVELOPMENT STANDARDS**39. Access and Service Streets**

- (1) An access shall be located as specified by the Council.
- (2) No vehicular access shall be closer than 10 metres to the street line of a street intersection of a local road, or 20 metres to the street line of a street intersection in the case of a collector or arterial road.
- (3) The Council may require the provision of service streets to reduce the number of individual *accesses* to an adjacent street.

40. Accessory Buildings

- a) Accessory buildings shall be clearly incidental and complementary to the use of the main buildings in character, use and size, and shall be contained on the same lot.
- b) No accessory building or part thereof shall project in front of any building line.
- c) The side yard requirements set out in the use zone tables in these Regulations shall apply to accessory buildings wherever they are located on the lot but accessory buildings on two (2) adjoining properties may be built to property boundaries provided they shall be of fire resistant construction and have a common firewall.

41. Advertisements

Advertisements shall not be erected or displayed except in accordance with Part III of these Regulations.

42. Buffers

- 1) Where any industrial development permitted in any Use Zone abuts an existing or proposed residential area, or is separated from it by a road only, the owner of the site of the industrial development shall provide a buffer strip not less than ten (10) metres wide between any residential activity and the industrial area. The buffer shall include the provision of such natural or structural barrier as may be required by Council and shall be maintained by the owner or occupier to the satisfaction of Council.

- 2) Where any commercial development permitted in any Use Zone abuts an existing or proposed residential area the owner of the site of commercial development shall provide a buffer strip between the two areas. The buffer shall include the provision of such natural or structural barrier as may be required by Council and shall be maintained by the owner or occupier to the satisfaction of Council.

- 3) The Council may require landscaping and screening for a proposed development in order to provide;
 - (a) a screen or separation between different or incompatible uses, principally between residential and non-residential uses, which will consist of either a screen of a minimum height of 1.8 metres, or a buffer of 10 metres,
 - (b) an acoustic barrier,
 - (c) an attractive visual continuity and appearance between developments or on an individual site,
 - (d) delineation of an area, and
 - (e) protection for the natural environment.

43. Building Height

The Council may permit the erection of buildings of a height greater than that specified in Schedule C, but in such cases the building line setback and rear yard requirements shall be varied as follows:

- (1) The building line setback shall be increased by 2 metres for every 1 metre increase in height.
- (2) The rear yard shall not be less than the minimum building line setback calculated as described in (1) above plus 6 metres.

44. Building Line and Setback

The Council, by resolution, may establish building lines on an existing street and may require any new buildings to be located on those building lines, whether or not such building lines conform to the standards set out in the tables in Schedule C of these Regulations.

45. Personal Care or Group Home

A personal care home use is permitted in a dwelling unit that is adequate in size to accommodate the number of persons living in the group, inclusive of staff. The use and appearance of the dwelling shall not materially differ from, nor adversely affect, the amenities of the adjacent residences or neighbourhood.

46. Height Exceptions

The height requirements prescribed in Schedule C of these Regulations may be waived in the case of communication masts and antennae, flagpoles, water towers, spires, belfries, or chimneys, but any such waiver which results in an increase of more than 10% of the permitted height of the structure shall only be authorized under the provisions of Regulation 11.

47. Livestock Structures and Uses

- (1) No structure designed to contain more than five animal units shall be erected or used unless it complies with the following requirements:
 - (a) The structure shall be at least 600 m from a residence, (except a farm residence or a residence, which is a non-conforming use in any zone in which agriculture is a permitted use class in the Use Zone Tables in Schedule C of these Regulations), and, from an area designated for residential use in an approved Plan, and, from a Provincial or Federal Park.
 - (b) The structure shall be at least 60 m from the boundary of the property on which it is to be erected.
 - (c) The structure shall be at least 90 m from the centre line of a street.
 - (d) The erection of the structure shall be approved by the Department of Natural Resources and the Department of Environment and Conservation.
- (2) No development for residential use shall be permitted within 600 m of an existing structure designed to contain more than five animal units unless the Department of Natural Resources has first approved the development.

48. Lot Area

- (1) No lot shall be reduced in area, either by the conveyance or alienation of any portion thereof or otherwise, so that any building or structure on such lot shall have a lot coverage that exceeds, or a front yard, rear yard, side yard, frontage or lot area that is less than that permitted by these Regulations for the zone in which such lot is located.
- (2) Where any part of a lot is required by these Regulations to be reserved as a yard, it shall continue to be so used regardless of any change in the ownership of the lot or any part thereof, and shall not be deemed to form part of an adjacent lot for the purpose of computing the area thereof available for building purposes.

49. Lot Area and Size Exceptions

Where, at the time of coming into effect of these Regulations, one or more lots already exist in any residential zone, with insufficient frontage or area to permit the owner or purchaser of such a lot or lots to comply with the provisions of these Regulations, then these Regulations shall not prevent the issuing of a permit by the Council for the erection of a dwelling thereon, provided that the lot coverage and height are not greater than, and the yards and floor area are not less than the standards set out in these Regulations.

50. Lot Frontage

Except where specifically provided for in the Use Zone Tables in Schedule C of these Regulations, no residential or commercial building shall be erected unless the lot on which it is situated fronts directly onto a publicly owned and maintained street or forms part of a Comprehensive Development Scheme.

51. Non-Conforming Use

- (1) Notwithstanding the Municipal Plan, scheme or regulations made under the *Urban and Rural Planning Act, 2000*, the Council shall, in accordance with regulations made under this Act, allow a development or use of land to continue in a manner that does not conform with a regulation, scheme, or plan that applies to that land provided that the non-conforming use legally existed before the registration under section 24 of the *Act*, scheme or regulations made with respect to that kind of development or use.
- (2) Notwithstanding subsection (1), a right to resume a discontinued non-conforming use of land shall not exceed 12 months after that discontinuance.
- (3) A building, structure or development that does not conform to a scheme, plan or regulations made under the *Act* that is allowed to continue under subsection (1)
 - (a) shall not be internally or externally varied, extended or expanded unless otherwise approved by the Council;
 - (b) shall not be structurally modified except as required for the safety of the building, structure or development;
 - (c) shall not be reconstructed or repaired for use in the same non-conforming manner where 50% or more of the value of that building, structure or development has been destroyed;
 - (d) may have the existing use for that building, structure or development varied by the Council to a use that is, in the Council's opinion, more compatible with the plan and regulations applicable to it;
 - (e) may have the existing building extended by approval of the Council where, in the Council's opinion, the extension is not more than 50% of the existing building;
 - (f) where the non-conformance is with respect to the standards included in these development regulations, shall not be expanded if the expansion would increase the non-conformity;

- (4) Where considering a non-conforming building, structure or development under paragraph 108(3)(d) of the Act and before making a decision to vary an existing use of that non-conforming building, structure or development, the Council, at the applicant's expense, shall publish a notice in a newspaper circulating in the area or by other means give public notice of an application to vary the existing use of a non-conforming building, structure or development and shall consider any representations or submissions received in response to that advertisement.

52. Offensive and Dangerous Uses

No building or land shall be used for any purpose which may be dangerous by causing or promoting fires or other hazards or which may emit noxious, offensive or dangerous fumes, smoke, gases, radiation, smells, ash, dust or grit, excessive noise or vibration, or create any nuisance that has an unpleasant effect on the senses unless its use is authorized by the Council and any other Council having jurisdiction.

53. Off Street Parking Requirements

- (1) For every building, structure or use to be erected, enlarged or established, there shall be provided and maintained a quantity of off-street parking spaces sufficient to ensure that the flow of traffic on adjacent streets is not impeded by the on-street parking of vehicles associated with that building, structure or use.
- (2) The number of parking spaces to be provided for any building, structure, use of occupancy shall conform to the standards set out in Schedule D of these Regulations.
- (3) Each parking space, except in the case of one or two-family dwellings, shall be made accessible by means of a hard surfaced right-of-way at least 3 m in width. Parking required in a Residential Zone shall be provided on the same lot as the dwelling or dwellings. Parking space for apartments shall be provided in the rear yard where possible. In a Non-Residential Zone, parking spaces shall be provided within the limits of the zone in which the use is situated and not more than 200 m distant from the use concerned.
- (4) The parking facilities required by this Regulation shall, except in the case of single or attached dwellings, be arranged so that it is not necessary for any vehicle to reverse onto or from a street.
- (5) Where, in these Regulations, parking facilities for more than four vehicles are required or permitted:
 - (a) parking space shall mean an area of land, not less than 15 m² in size, capable of being used for the parking of a vehicle without the need to move other vehicles on adjacent areas;
 - (b) the parking area shall be constructed and maintained to the specifications of the Council;
 - (c) the lights used for illumination of the parking area shall be so arranged as to divert the light away from adjacent development;
 - (d) a structure, not more than 3 m in height and more than 5 m² in area may be erected in the parking area for the use of attendants in the area;

- (e) except in zones in which a service station is a permitted use, no gasoline pump or other service station equipment shall be located or maintained on a parking area;
 - (f) no part of any off-street parking area shall be closer than 1.5 m to the front lot line in any zone;
 - (g) access to parking areas in non-residential zones shall not be by way of residential zones;
 - (h) where a parking area is in or abuts a residential zone, a natural or structural barrier a minimum of 1.8 m in height shall be erected and maintained along all lot lines;
 - (i) where, in the opinion of the Council, strict application of the above parking requirements is impractical or undesirable, the Council may as a condition of a permit require the developer to pay a service levy in accordance with these Regulations in lieu of the provision of a parking area, and the full amount of the levy charged shall be used by the Council for the provision and upkeep of alternative parking facilities within the general vicinity of the development.
- (6) Parking spaces, other than residential, for the physical challenged shall meet the requirements of the Department of Government Services and Lands or the appropriate agency in place at the time of application.

54. Off-Street Loading Requirements

- (1) For every building, structure or use to be erected, enlarged or established requiring the shipping, loading or unloading of animals, goods, wares or merchandise, there shall be provided and maintained for the premises loading facilities on land that is not part of a street comprised of one or more loading spaces, 15 m long, 4 m wide, and having a vertical clearance of at least 4 m with direct access to a street or with access by a driveway of a minimum width of 6 m to a street.
- (2) The number of loading spaces to be provided shall be determined by the Council.
- (3) The loading facilities required by this Regulation shall be so arranged that vehicles can manoeuvre clear of any street and so that it is not necessary for any vehicle to reverse onto or from a street.

55. Parks, Playgrounds and Open Spaces

The Council may permit the establishment of recreational spaces (public parks, playgrounds, and open spaces) in any use zone if the location of the development is not adjacent to a hazardous or incompatible use, or in an area not compatible for such a recreational use.

56. Services and Public Utilities

The Council may within any zone permit land to be used in conjunction with the provision of public services and public utilities if the use of that land is necessary to the proper operation of the public service or public utility concerned provided that the design and landscaping of any development of any land so used is, in the opinion of the Council, adequate to protect the character and appearance of the area.

57. Petroleum Dispensing Facilities/Service Stations

The following requirements shall apply to lots on which petroleum-dispensing pumps are located;

- (a) petroleum dispensing pumps must be located on pump islands which vehicles may access on either side, except for propane, diesel, and kerosene pumps which may have access on one side,
- (b) pump islands shall be set back a minimum of 4 metres from the front lot line,
- (c) accesses to the lot shall have a minimum width of 7 metres, and shall be clearly defined,
- (b) when a dispensing pump is located on a corner lot, the minimum distance between an access to the lot and the intersection of street lines shall be 10 metres.
- (c) Surface run-off shall be directed to an oil/water separator before discharging into any storm sewer or any other surface or sub-surface drainage system.

58. Side Yards

A side yard, which shall be kept clear of obstruction, shall be provided on the exposed sides of every building in order to provide access for the maintenance of that building.

59. Street Construction Standards

A Street shall be constructed in accordance with the Municipal Standards of the Council in effect at the time of development.

60. Subsidiary Apartments

Subsidiary apartments may be permitted in single and double dwellings only, and for the purposes of calculating lot area and yard requirements, shall be considered part of the self-contained dwelling.

61. Drainage System of Developments

- (1) A development may not be constructed or maintained so that it alters the natural flow of water causing damage to other properties.
- (2) Each development shall be provided with a drainage system that is adequate to prevent the retention of surface water on the development site.
- (3) The Council may require the provision of an off-site drainage system to dispose of on-site drainage.
- (4) The drainage system of a development shall connect to other drainage systems on surrounding properties and streets.

62. Mobile Homes

A mobile home shall if allowed in any zone:

- (a) be supported and secured to a foundation sufficient to support its weight and prevent movement,
- (b) be anchored to the ground with a minimum tension of 2,180 kilograms at each required anchor point, including each corner, and have skirting extending to the ground.
- (c) Abide by the conditions listed in the applicable use zone tables found in Schedule C of these Regulations.

63. Zero Lot Line and Comprehensive Development

The Council may approve the development of dwellings, which are designed to form part of a zero lot line development or other comprehensive development design if the minimum floor area of each dwelling conforms to the standards set out for the use zone in which the development is proposed.

64. Services Required

- (1) A development that is required or proposed to contain a plumbing system, must include provisions satisfactory to the Council for the supply of water and disposal of sewage.
- (2) A development may be required to connect to a system for the supply of electricity.
- (3) A development may be required to include a fire fighting system in accordance with the requirements of the municipal and/or provincial fire regulations.

65. Multiple Uses on a Lot

- (1) A multiple use occurs when two or more different use classes exist in the same building or on the same lot.
- (2) The Council shall not permit a multiple use where it determines the proposed use is not compatible with existing uses on or adjacent to the lot by reason of amenity, safety, appearance, design, or nuisance.
- (3) Where the requirements of these Regulations are different for each component use of the multiple use(s), then the requirements will be cumulative or the more stringent will apply as determined by the Council.

PART 3 - ADVERTISEMENT**66. Permit Required**

Subject to the provisions of Regulation 71, no advertisement shall be erected or displayed in the Planning Area unless a permit for the advertisement is first obtained from the Council. Permits for the erection or display of advertisement on Provincial Highways shall be obtained from the Government Service Centre.

67. Form of Application

Application for a permit to erect or display an advertisement shall be made to the Council in accordance with Regulation 17.

68. Advertisements Prohibited in Street Reservation

No advertisement shall be permitted, to be erected or displayed within, on or over any highway or street reservation.

69. Permit Valid for Limited Period

A permit granted under these Regulations for the erection or display of an advertisement shall be for a limited period, not exceeding two years, but may be renewed at the discretion of the Council for similar period.

70. Removal of Advertisements

Notwithstanding the provisions of these Regulations, the Council may require the removal of any advertisement that, in its opinion, is:

- (a) hazardous to vehicular and pedestrian traffic by reason of its sitting, colour, illumination, or structural condition, or,
- (b) detrimental to the amenities of the surrounding area,
- (c) not maintained to the satisfaction of the Council.

71. Advertisements Exempt from Control

The following advertisements may be erected or displayed in the Planning Area without application to the Council:

- a) on a dwelling or within the court yard of a dwelling, one nameplate not exceeding 0.2 m² in area;
- b) on an agricultural holding or farm, a notice board not exceeding 1.0 m² in area and relating to the operations being conducted on the land;
- c) on land used for forestry purposes, signs or notices not exceeding 1.0 m² in area and relating to forestry operations or the location of logging operations conducted on the land;
- d) on land used for mining or quarrying operations, a notice board not exceeding 1.0 m² in area relating to the operation conducted on the land;
- e) on a dwelling or within the court yard of a dwelling, one nameplate not exceeding 0.2 m² in area in connection with the practice of a professional person carried on in the premises;
- f) on any site occupied by a church, school, library, art gallery, museum, institution or cemetery, one notice board not exceeding 1.0 m² in area;
- g) on the principal facade of any commercial, industrial or public building, the name of the building or the name of the occupants of the building, in letters not exceeding one-tenth of the height of that facade or 3 m, whichever is the lesser;
- h) on any parking lot directional signs and one sign not exceeding 1.0 m² in size, identifying the parking lot;
- i) election signs of any candidate or political party during Federal, Provincial, Municipal or School Board elections;
- j) temporary signs relating to Federal, Provincial or Municipal works;
- k) notices required by law;
- l) real estate sales or leasing signs;
- m) one construction sign not exceeding 9 m² relating to the development of a property, located on that property and to be removed after its completion;
- n) temporary signs for local events, fairs, markets, etc. one month prior to the event and to be removed within one week of its conclusion.

72. Approval Subject to Conditions

A permit may only be issued for the erection or display of advertisements, which comply with the appropriate conditions, and specifications set out in the Use Zone Tables in Schedule C, Standard Conditions for all use zones.

73. Non-Conforming Uses

Notwithstanding the provisions of Regulation 66, a permit may be used for the erection or display of advertisements on a building or within the courtyard of a building or on a parcel of land, the use of which is a

non-conforming use, provided that the advertisement does not exceed the size and type of advertisement which could be permitted if the development was in a Use Zone appropriate to its use, and subject to any other conditions deemed appropriate by the Council.

PART 4 - SUBDIVISION OF LAND**74. Application of Part 4**

This Part of the Regulations applies where land in single or joint ownership is subdivided, into two or more pieces and may include, or is required by the Council to include, one of the following;

- (a) new street construction, street upgrading, or street extension,
- (b) extension and upgrading of the municipal water and sewer system,
- (c) infilling of two or more lots on an existing public street.

75. Permit Required

Where Section 74 applies, land shall not be subdivided unless the Council first issues a Permit to Develop.

76. Payment of Service Levies and Other Charges

No permit shall be issued for the development of a subdivision until agreement has been reached for the payment of all fees levied by the Council for connection to services, utilities and streets deemed necessary for the proper development of the subdivision, and all service levies and other charges imposed under Regulations 13 and 14.

77. Issue of a Permit to Develop Subject to Considerations

A Permit to Develop shall not be issued when the development of a Subdivision does not contribute to the orderly growth of the municipality and does not demonstrate sound design principles. In determining an application, the Council shall consider:

- (a) the availability of and the demand created for public services, and public utilities,
- (b) the land use, physical form and character of adjacent developments,
- (c) the transportation network and traffic densities affecting the site,
- (d) the topography, drainage, soil, and subsurface characteristics of the site,
- (e) natural features such as lakes, streams, trees and shrubs,
- (f) community facilities, and
- (g) any other factor(s) that Council may deem material.

78. Permit to Develop Required for Each Lot

A separate Permit to Build is required for each lot proposed to be developed in a Subdivision, and shall not be issued until the developer has complied with all the provisions of these Regulations, and conditions attached to the Permit to Develop for the Subdivision. This section may apply to each phase of a Subdivision.

79. Land for Public Use

- (1) Subject to Section 37 of the *Act*, the Council may require the developer to convey to the Council title to an area of land for public use equal to, but not exceeding, 10% of the gross land area to be developed, provided that;
 - (a) the location and suitability of the land conveyed is acceptable to the Council ,
 - (b) in lieu of the conveyance of land, the Council may accept a sum of money equal to the value of the land. The money shall be reserved for the acquisition and development of land for public use.
- (2) Land conveyed for public use may be sold or leased and the proceeds of any sale shall be applied against the cost of acquisition and development of land for public uses.

80. Structure in Street Reservation

The placing within any street reservation of any structure (for example, a hydro pole, telegraph or telephone pole, fire hydrant, mail box, fire alarm, sign post) shall receive the prior approval of the Council, which shall be satisfied on the question of safe construction and relationship to the adjoining buildings and other structures within the street reservation.

81. Subdivision Design Standards

A Subdivision shall conform to the following standards;

- (a) the finished grade of a street shall not exceed 10 percent,
- (b) a dead end street shall be terminated with a turning circle having a minimum driving surface of 30m, diameter, forming a cul de sac,
- (c) the maximum length of a cul de sac shall be;
 - i)110 metres without an emergency vehicle access,
 - ii)230 metres with an emergency vehicle access.
- (d) emergency vehicle access to a cul de sac shall not be less than three (3) metres wide and shall connect the head of the cul de sac with an adjacent street,

- (e) a cul de sac shall not terminate, or appear to terminate, a collector street,
- (f) a Subdivision shall have street connections with an existing street(s),
- (g) street intersections shall be constructed within 5° of a right angle and this alignment shall be maintained for 30 m from the intersection,
- (h) the centre line of a street intersection shall not be closer than 60 m to the centre line of another street intersection,
- (i) no more than 4 streets shall join at any street intersection,
- (j) no street block shall be longer than 500m between street intersections,
- (k) Streets, water, sewer and storm sewers in a subdivision shall be designed in accordance with the Council’s Municipal Standards, in force at the time of their construction, but in the absence of such standards, shall conform to the minimum standards set out in table below.

STREET DESIGN STANDARDS

| | Street Reservation | Pavement Width | Sidewalk Width | Sidewalk Number |
|--|---------------------------|-----------------------|-----------------------|------------------------------|
| Arterial | 30m | 15m | 1.5m | Discretion Of Council |
| Collector Streets | 20m | 15m | 1.5m | 2 |
| Local Residential Streets: Where more than 50% of the units are single or double dwellings. | 15m | 9m | 1.5m | 1 |
| Local Residential Streets: Where 50% or more of the units are row houses or apartments. | 20m | 9m | 1.5m | 2 |
| Service Streets | 15m | 9m | 1.5m | Discretion Of Council |

- (l) residential lots shall not abut a local street at both front and rear lot lines,
- (m) no lot intended for residential purposes shall have a depth exceeding four times the frontage.
- (n) the Council may require an existing natural, historical or architectural feature to be retained, and
- (o) land shall not be subdivided in such a manner as to inhibit the development and subdivision of adjoining land.

82. Engineer to Design Works and Certify Construction Layout

- (1) Plans and specifications for all water mains, hydrants, sanitary sewers, storm sewers and all appurtenances thereto and all streets, paving, curbs, gutters and catch basins and all other utilities deemed necessary by the Council to service the area proposed to be developed or subdivided shall

be designed to Council's Municipal Standards and be prepared by or approved by the Engineer. Such designs and specifications shall, upon approval by the Council, be incorporated in the plan of subdivision.

- (2) Upon approval by the Council of the proposed subdivision, the Engineer shall certify all work of construction layout preliminary to the construction of the works and thereupon the developer shall proceed to the construction and installation, at his own cost and in accordance with the approved designs and specifications and the construction layout certified by the Engineer, of all such water mains, hydrants, sanitary sewers and all appurtenances and of all such streets and other works deemed necessary by the Council to service the said area.

83. Developer to Pay Engineer's Fees and Charges

The developer shall pay to the Council all the Engineer's fees and charges for the preparation of designs and specifications and for the layout and supervision of construction; such fees and charges being percentages of the total cost of materials and labour for the construction and installation of all works calculated in accordance with the Schedule of Fees recommended by the Association of Professional Engineers and Geoscientists of Newfoundland and in effect at the time the work is carried out.

84. Street Works May Be Deferred

The construction and installation of all curbs and gutters, catch basins, sidewalks and paving specified by the Council as being necessary, may, at the Council's discretion, be deferred until a later stage of the work on the development of the subdivision but the developer shall deposit with the Council before approval of his application, an amount estimated by the Engineer as reasonably sufficient to cover the cost of construction and installation of the works. In the later stage of the work of development, the Council shall call for tenders for the work of construction and installation of the works, and the amount so deposited by the developer shall be applied towards payment of the contract cost. If the contract cost exceeds the deposit, the developer shall pay to the Council the amount of the excess. If the contract price is less than the deposit, the Council shall refund the amount by which the deposit exceeds the contract price.

85. Transfer of Streets and Public Utilities to Council

- (1) The developer shall, following the approval of the subdivision of land and upon request of the Council, transfer to the Council, at no cost to the Council, and clear of all liens and encumbrances:
 - (a) all lands in the area proposed to be developed or subdivided which are approved and designated by the Council for public uses as streets, or other rights-of-way, or for other

public use;

- (b) all services or public works including streets, water supply and distribution and sanitary and storm drainage systems installed in the subdivision that are normally owned and operated by the Council.
- (2) Before the Council shall accept the transfer of lands, services or public works of any subdivision, the Engineer shall, at the cost to the developer, test the streets, services, and public works installed in the subdivision and certify his satisfaction with their installation.
- (3) The Council shall not provide maintenance for any street, service or public work in any subdivision until such time as such street, service or public work has been transferred to and accepted by the Council.

86. Restriction on Sale of Lots

The developer shall not develop or dispose of any lot within a subdivision for the purposes of development and no building permit shall be issued until the Council is satisfied that:

- (a) the lot can be served with satisfactory water supply and sewage disposal systems, and;
- (b) satisfactory access to a street is provided for the lots.

87. Grouping of Buildings and Landscaping

- (1) Each plan of subdivision shall make provision for the grouping of building types and for landscaping in order to enhance the visual aspects of the completed development and to make the most use of existing topography and vegetation.
- (2) Building groupings, once approved by the Council, shall not be changed without written application to and subsequent approval of the Council.

PART 5 - USE ZONES**88. Use Zones**

- (1) For the purpose of these Regulations, the Planning Area is divided into Use Zones, which are shown on the Zoning Map attached to and forming part of these Regulations.
- (2) Subject to Regulation 88(3), the permitted use classes, discretionary use classes, standards, requirements and conditions applicable to each Use Zone are set out in the Use Zone Tables in Schedule C of these Regulations.
- (3) Where standards, requirements and conditions applicable in a Use Zone are not set out in the Use Zone Tables in Schedule C, the Council may in its discretion, determine the standards, requirements and conditions which shall apply.

89. Use Classes

The specific uses to be included in each Use Class set out in the Use Zone Tables in Schedule C shall be determined by the Council in accordance with the classification and examples set out in Schedule B.

90. Permitted Uses

Subject to these Regulations, the uses that fall within the Permitted Use Classes set out in the appropriate Use Zone Table in Schedule C shall be permitted by the Council in that Use Zone.

91. Discretionary Uses

Subject to these Regulations, the uses that fall within the Discretionary Use Classes set out in the appropriate Use Zone Table in Schedule C may be permitted in that Use Zone if the Council is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest, and if the Council has given notice of the application in accordance with Regulation 34 and has considered any objections or representations which may have been received on the matter.

92. Uses Not Permitted

Uses that do not fall within the Permitted Use Classes or Discretionary Use Classes set out in the appropriate Use Zone Tables in Schedule C shall not be permitted in that Use Zone.