

The Town of Torbay

Development Regulations 2007–2017



PLAN-TECH



ENVIRONMENT

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Minister Development Regulations, 2001

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

APPLICATION

1. Short Title

These Regulations may be cited as the Town of Torbay 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 Torbay Municipal Planning Area, hereinafter referred to as the Planning Area, on the date of publication of a notice to that effect in the Newfoundland Gazette.

4. Municipal Code and Regulations

The Building Code including the Plumbing Code, the Fire Code, the Electrical Code, and any other ancillary code and any Building Regulations, Waste Disposal Regulation and/or any other municipal regulations regulating or controlling the development, conservation and use of land in force in the Town of Logy Bay-Middle Cove-Outer, shall, under these Regulations apply to the entire Planning Area.

5. Authority

In these Regulations, “Council” means the Council of the Town of Torbay.

PART I - GENERAL REGULATIONS

6. Compliance with Regulations

No development shall be carried out within the Planning Area except in accordance with these Regulations.

7. Permit Required

No person shall carry out any development within the Planning Area except where otherwise provided in these Regulations unless a permit for the development has been issued by the Council.

8. Permit to 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, the 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) An 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 Minister's Development Regulations, Section 12, January 2, 2001)

- (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.

12. Notice of Variance (Refer to Minister's Development Regulations, Section 13, January 2, 2001)

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 a developer to pay a service levy where development is made possible or where the density of potential development is increased, or where the value of property is enhanced by the carrying out of public works either on or off the site of the development.
- (2) A service levy shall not exceed the cost, or estimated cost, including finance charges to the Council of constructing or improving the public works referred to in Regulation 13(1) that are necessary for the real property to be developed in accordance with the standards required by the Council and for uses that are permitted on that real property.
- (3) A service levy shall be assessed on the real property based on:
 - (a) the amount of real property benefited by the public works related to all the real property so benefited; and,
 - (b) the density of development made capable or increased by the public work.

- (4) The Council may require a service levy to be paid by the owner of the real property;
 - (a) at the time the levy is imposed;
 - (b) at the time development of the real property commences;
 - (c) at the time development of the real property is completed; or,
 - (d) at such other time as the Council may decide.

14. Financial Guarantees by Developer

- (1) The Council may require a developer before commencing a development to make such financial provisions and/or enter into such agreements as may be required to guarantee the payment of service levies, ensure site reinstatement, and to enforce the carrying out of any other condition attached to a permit or licence.

- (2) The financial provisions pursuant to Regulation 14(1) may be made in the form of:
 - (a) a cash deposit from the developer, to be held by the Council, or;
 - (b) a guarantee by a bank, or other institution acceptable to the Minister, for expenditures by the developer, or;
 - (c) a performance bond provided by an insurance company or a bank, or;
 - (d) an annual contribution to a sinking fund held by the Council, or;
 - (e) another form of financial guarantee that the Council may approve.

15. Dedication of Land for Public Use

In addition to the requirements for dedication of land under Regulation 78, 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. Reinstatement of Land

Where the use of land is discontinued or the intensity of its use is decreased, the Council may order the developer, the occupier of the site, or the owner or all of them to reinstate the site, to remove all or any buildings or erections, to cover or fill all wells or excavations, and to close all or any accesses, or to do any of these things or all of them, as the case may be, and the developer, occupier or owner shall carry out the order of the Council and shall put the site in a clean and sanitary condition to the satisfaction of the Council.

17. Form of Application

- (1) An application for a development permit or for approval in principle shall be made only by the owner or by a person authorized by the owner to the Council on such form as may be prescribed by the Council, and every application shall include such plans, specifications and drawings as the Council may require, and be accompanied by the permit fee required by the Council.
- (2) The Council shall supply to every applicant a copy of the application forms referred to in Regulation 17(1) and a description of the plans, specifications and drawings required to be provided with the application and any information or requirements applicable to the application.

18. Register of Application

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

19. Deferment of Application

- (1) The Council may, with the written agreement of the applicant, defer consideration of an application.

- (2) Applications properly submitted in accordance with these Regulations which have not been determined by the Council and on which a decision has not been communicated to the applicant within eight weeks of the receipt thereof by the Council, and on which consideration has not been deferred in accordance with Regulation 18(1), shall be deemed to be refused.

20. Approval in Principle

- (1) The Council may grant approval in principle for the erection, alteration or conversion of a building if, after considering an application for approval in principle made under these Regulations, it is satisfied that the proposed development is, subject to the approval of detailed plans, in compliance with these Regulations.
- (2) Where approval in principle is granted under this Regulation, it shall be subject to the subsequent approval by the Council of such details as may be listed in the approval in principle, which shall also specify that further application for approval of these details shall be received not later than two years from the grant of approval in principle.

21. Development Permit

- (1) A plan or drawing which has been approved by the Council and which bears a mark and/or signature indicating such approval together with a permit shall be deemed to be permission to develop land in accordance with these Regulations but such permission shall not relieve the applicant from full responsibility for obtaining permits or approvals under any other regulation or statute prior to commencing the development; from having the work carried out in accordance with these Regulations or any other regulations or statutes; and from compliance with all conditions imposed there under.
- (2) The Council may attach to a permit or to approval in principle such conditions as it deems fit in order to ensure that the proposed development will be in accordance with the purposes and intent of these Regulations.

- (3) Where the Council deems necessary, permits may be issued on a temporary basis for a period not exceeding two years, which may be extended in writing by the Council for further periods not exceeding two years.
- (4) A permit is valid for such period, not in excess of two years, as may be stated therein, and if the development has not commenced, the permit may be renewed for a further period not in excess of one year, but a permit shall not be renewed more than once, except in the case of a permit for an advertisement, which may be renewed in accordance with Part III of these Regulations.
- (5) The approval of any application and plans or drawings or the issue of a permit shall not prevent the Council from thereafter requiring the correction of errors, or from ordering the cessation, removal of, or remedial work on any development being carried out in the event that the same is in violation of this or any other regulations or statute.
- (6) The Council may revoke a permit for failure by the holder of it to comply with these Regulations or any condition attached to the permit or where the permit was issued in error or was issued on the basis of incorrect information.
- (7) No person shall erase, alter or modify any drawing or specifications upon which a permit to develop has been issued by the Council.
- (8) There shall be kept available on the premises where any work, matter or thing is being done for which a permit has been issued, a copy of the permit and any plans, drawings or specifications on which the issue of the permit was based during the whole progress of the work, or the doing of the matter or thing until completion.

22. Reasons for Refusing Permit

The Council shall, when refusing to issue a permit or attaching conditions to a permit, state the reasons for so doing.

23. Notice of Right to Appeal (Refer to Minister's Development Regulations, Section 5, January 2, 2001)

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 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.

24. Appeal Requirements (Refer to Minister's Development Regulations, Section 6, January 2, 2001)

- (1) The secretary of the Appeal Board at the Department of Municipal and Provincial Affairs, Main Floor, 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.

25. Appeal Registration (Refer to Minister's Development Regulations, Section 7, January 2, 2001)

- (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 24(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.

26. Development Prohibited (Refer to Minister's Development Regulations, Section 8, January 2, 2001)

- (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.

27. Appeal Board

- (1) The minister may, by order, establish an Appeal Board and shall assign to the Appeal Board a specific area of the province over which it shall have jurisdiction, as outlined in section 40, of the Act.

28. 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 Board shall not make a decision that does not comply with the municipal plan, a scheme and development regulations that apply to the matter being appealed.
- (4) 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.
- (5) 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.

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- (6) 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.
 - (7) An Appeal Board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.
 - (8) 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.
 - (9) 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.
 - (10) 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.
 - (11) Notwithstanding subsection (10), where the Council may, in its discretion, make a decision, an Appeal Board shall not make another decision that overrules the discretionary decision.
 - (12) 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.
 - (13) An Appeal Board shall, in writing notify the appellant and the appropriate Council of the decision of the Appeal Board.

29. Hearing Notice and Meetings (Refer to Minister's Development Regulations, Section 9, January 2, 2001)

- (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.

30. Hearing of Evidence (Refer to Minister's Development Regulations, Section 10, January 2, 2001)

- (1) An Appeal Board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under regulation 29(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.

31. 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 24(2) shall be paid to him or her by the Council.

32. Right of Entry

The Council, the Director, or any inspector may enter upon any public or private land and may at all reasonable times enter any development or building upon the land for the purpose of making surveys or examinations or obtaining information relative to the carrying out of any development, construction, alteration, repair, or any other works whatsoever which the Council is empowered to regulate.

33. Notice of Application (Refer to Minister's Development Regulations, Section 13 and 15, January 2, 2001)

The Council may, and when a variance is necessary under Regulation 11 and the Council wishes to consider whether to authorize such a variance, when a change in nonconforming use is to be considered under Regulation 49, or when the development proposed is listed as a discretionary use in Schedule C of the Regulations shall, at the expense of the applicant, give notice of an application for a permit or for approval in principle, by public advertisement in a newspaper circulating in the area or by any other means deemed necessary, and under Regulation 12 and 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.

34. Record of Violations

Every inspector shall keep a record of any violation of these regulations which comes to his knowledge and report that violation to the Council.

35. Stop Work Order and Prosecution

- (1) Where a person begins a development contrary or apparently contrary to these Regulations, the Council may order that person to stop the development or work connected therewith pending final adjudication in any prosecution arising out of the development.

- (2) A person who does not comply with an order made under Regulation 35(1) is guilty of an offence under the provisions of the Act.

36. Delegation of Powers (Refer to Minister's Development Regulations, Section 18, January 2, 2001)

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 II - GENERAL DEVELOPMENT STANDARDS

37. Accesses and Service Streets

- (1) Access shall be located to the specification of the Council so as to ensure the greatest possible convenience and safety of the street system and the Council may prescribe the construction of service streets to reduce the number of accesses to collector and arterial streets.
- (2) No vehicular access shall be closer than 12 metres to the street line of any street intersection.

38. Accessory Buildings

- (1) 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.
- (2)
 - (a) No accessory building shall be located closer to the street line than the main building.
 - (b) Notwithstanding Section 38 (2) (a), the Council may approve the location of an accessory building closer to the street line than is the main dwelling where the Council considers that the location of an accessory building as required under Section 38 (2)(a) would pose a severe inconvenience or hazard, and provided that the location of the accessory building would not pose a threat to road safety.
- (3) The sideyard requirements set out in the use zone tables in these Regulations shall apply to accessory buildings wherever they are located on the lot.

39. Buffer Strips

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 the Council and shall be maintained by the owner or occupier to the satisfaction of the Council.

40. Advertisements

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

41. 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 rearyard 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 rearyard shall not be less than the minimum building line setback calculated as described in (1) above plus 6 metres.

42. Building Line and Setback

The Council, by resolution, may establish building lines on an existing or proposed street or service 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.

43. Family and Group Care Centres

Family group care centre use may be permitted in any dwelling or apartment that is adequate in size to accommodate the number of persons living in the group, inclusive of staff, provided that in the opinion of the Council, the use of the dwelling does not materially differ from, nor adversely affect, the amenities of the adjacent residences, or the neighbourhood in which it is located. The Council may require special access and safety features to be provided for the occupants before occupancy is permitted.

44. 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% the permitted height of the structure shall only be authorized under the provisions of Regulation 11.

45. 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 610 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 610 m of an existing structure designed to contain more than five animal units unless the development is first approved by the Department of Natural Resources.

46. 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.

47. 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 public street or forms part of a Comprehensive Development Scheme.

48. Lot Area and Size Exceptions

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 street or forms part of a Comprehensive Development Scheme.

49. Non-Conforming Use

- (1) Notwithstanding the Municipal Plan, scheme or regulations made under this Urban and Rural Planning Act, 2001, 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;
 - (g) where a building, structure or development does not meet the development standards included in development regulations, the building, structure or development shall not be expanded if the expansion would increase the non-

conformity and an expansion must comply with the development standards applicable to that building, structure or development.

(h) where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the municipal plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed.

(4) Where considering a non conforming building, structure or development 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.

50. 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.

51. Offstreet 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 or 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 at least 1 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.

52. 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.

53. Parks and Playgrounds, and Conservation Uses

Nothing in these Regulations shall prevent the designation of conservation areas or the establishment of parks and playgrounds in any zones provided that such parks and playgrounds are not located in areas which may be hazardous to their use and are not operated for commercial purposes.

54. Screening and Landscaping

The Council may, in the case of existing unsightly development, order the owner or occupier to provide adequate and suitable landscaping or screening; and for this purpose may require the submission of an application giving details of the landscaping or screening, and these Regulations shall then apply to that application. The provision of adequate and suitable landscaping or

screening may be made a condition of any development permit where, in the opinion of the Council, the landscaping or screening is desirable to preserve amenity, or protect the environment.

55. 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.

56. Service Stations

The following requirements shall apply to all proposed service stations:

- (a) All gasoline pumps shall be located on pump islands designed for such purpose, and to which automobiles may gain access from either side.
- (b) Pump islands shall be set back at least 4 metres from the front lot line.
- (c) Accesses shall not be less than 7 metres wide and shall be clearly marked, and where a service station is located on a corner lot, the minimum distance between an access and the intersection of street lines at the junction shall be 10 metres and the lot line between entrances shall be clearly indicated.
- (d) All surface run from the parking lot and around the pump island shall drain into an oil/water separator before being discharging into the natural storm drainage system.

57. Side Yards

A sideyard shall be kept clear of obstruction and shall be provided on the exposed sides of every building in order to provide access for the maintenance of that building. On a corner lot in any zone, no part of any building or accessory building shall be erected closer to the lot line of the flanking street than the front yard requirement of the zone.

58. Street Construction Standards

A new street may not be constructed except in accordance with and to the design and specifications laid down by the Council.

59. Subsidiary Apartments

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

60. Unsubdivided Land

Development is not permitted on unsubdivided land unless sufficient area is reserved to satisfy the yard and other allowances called for in the Use Zone in which it is located and the allowances shall be retained when the adjacent land is developed.

61. Corner Lot Sight Triangle

On a corner lot, a fence, sign, hedge, shrub, bush or tree or any other structure or vegetation shall not be erected or permitted to grow to a height greater than .6 metres (2 ft.) above grade of the streets that abut the lot within the triangular area included within the street lines for a distance of 6 metres (19.7 ft.) from their point of intersection.

PART III - ADVERTISEMENTS

62. Permit Required

Subject to the provisions of Regulation 67, no advertisement shall be erected or displayed in the Planning Area unless a permit for the advertisement is first obtained from the Council. Permit for erection or display of advertisement on Provincial Highways shall be obtained from the Government Service Centre.

63. Form of Application

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

64. Advertisements Prohibited in Street Reservation

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

65. 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 periods.

66. Removal of Advertisements

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

- (a) hazardous to road traffic by reason of its siting, colour, illumination, or structural condition, or;
- (b) detrimental to the amenities of the surrounding area.

67. 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 courtyard of a dwelling, one nameplate not exceeding 0.2 m² in area;

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- (b) on an agricultural holding or farm, a notice board not exceeding 1 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 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 m² in area relating to the operation conducted on the land;
 - (e) on a dwelling or within the courtyard 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 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 m² in size, identifying the parking lot.

68. 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 of these Regulations.

69. Non-Conforming Uses

Notwithstanding the provisions of Regulation 62, 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 IV - SUBDIVISION OF LAND

70. Permit Required

No land in the Planning Area shall be subdivided unless a permit for the development of the subdivision is first obtained from the Council.

71. Services to be Provided

No permit shall be issued for the development of a subdivision unless provisions satisfactory to the Council have been made in the application for a supply of drinking water, a properly designed sewage disposal system, and a properly designed storm drainage system.

72. 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.

73. Issue of Permit Subject to Considerations

A permit shall not be issued when, in the opinion of the Council, the development of a subdivision does not contribute to the orderly growth of the municipality and does not demonstrate sound design principles. In considering an application, the Council shall, without limiting the generality of the foregoing, consider:

- (a) the location of the land;
- (b) the availability of and the demand created for schools, services, and utilities;
- (c) the provisions of the Plan and Regulations affecting the site;
- (d) the land use, physical form and character of adjacent developments;

- (e) the transportation network and traffic densities affecting the site;
- (f) the relationship of the project to existing or potential sources of nuisance;
- (g) soil and subsoil characteristics;
- (h) the topography of the site and its drainage;
- (i) natural features such as lakes, streams, topsoil, trees and shrubs;
- (j) prevailing winds;
- (k) visual quality;
- (l) community facilities;
- (m) energy conservation;
- (n) such other matters as may affect the proposed development.

74. Building Permits Required

Notwithstanding the approval of a subdivision by the Council, a separate building permit shall be obtained for each building proposed to be erected in the area of the subdivision, and no building permit for any building in the area shall be issued until the developer has complied with all the provisions of these Regulations with respect to the development of the subdivision.

75. Form of Application

Application for a permit to develop a subdivision shall be made to the Council in accordance with Regulation 17.

76. Subdivision Subject to Zoning

The subdivision of land shall be permitted only in conformity with the Use Zones delineated on the Zoning Maps.

77. Building Lines

The Council may establish building lines for any subdivision street and require any new building to be located on such building lines.

78. Land for Public Open Space

- (1) Before a development commences, the developer shall, if required, dedicate to the Council, at no cost to the Council, an area of land equivalent to not more than 10% of the gross area of the subdivision or 25 m² for every dwelling unit permitted in the subdivision, whichever is the greater, for public open space, provided that:
 - (a) where land is subdivided for any purpose other than residential use, the Council shall determine the percentage of land to be dedicated;
 - (b) if, in the opinion of the Council, no public open space is required, the land may be used for such other public use as the Council may determine;
 - (c) the location and suitability of any land dedicated under the provisions of this Regulation shall be subject to the approval of the Council but in any case, the Council shall not accept land which, in its opinion is incapable of development for any purpose;
 - (d) the Council may accept from the developer in lieu of such area or areas of land the payment of a sum of money equal to the value of the land which would otherwise be required to be dedicated;
 - (e) money received by the Council in accordance with Regulation 78(1)(d) above, shall be reserved by the Council for the purpose of the acquisition or development of land for public open space or other public purpose.

- (2) Land dedicated for public use in accordance with this Regulation shall be conveyed to the Council and may be sold or leased by the Council for the purposes of any development that conforms with the requirements of these Regulations, and the proceeds of any sale or other disposition of land shall be applied against the cost of acquisition or development of any other land for the purposes of public open space or other public purposes.

- (3) The Council may require a strip of land to be reserved and remain undeveloped along the banks of any river, brook or pond, and this land may, at the discretion of the Council, constitute the requirement of land for public use under Regulation 78(1).

79. 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.

80. Subdivision Design Standards

No permit shall be issued for the development of a subdivision under these Regulations unless the design of the subdivision conforms to the following standards:

- (a) The finished grade of streets shall not exceed 10 percent.
- (b) Every cul-de-sac shall be provided with a turning circle of a diameter of not less than 30m.
- (c) The maximum length of any cul-de-sac shall be:
 - (i) 200m in areas served by or planned to be served by municipal piped water and sewer services, as shown in the map and letter of agreement signed by the Municipality and the Minister of Municipal and Provincial Affairs in connection with municipal five-year capital works program eligibility.
 - (ii) 300m in areas not served by or planned to be served by municipal piped water and sewer services.
- (d) Emergency vehicle access to a cul-de-sac shall be not less than 3 m wide and shall connect the head of the cul-de-sac with an adjacent street.
- (e) No cul-de-sac shall be located so as to appear to terminate a collector street.
- (f) New subdivisions shall have street connections with an existing street or streets.
- (g) All street intersections shall be constructed within 5° of a right angle and this alignment shall be maintained for 30 m from the intersection.
- (h) No street intersection shall be closer than 60 m to any other street intersection.
- (i) No more than four streets shall join at any street intersection.
- (j) No residential street block shall be longer than 490 m between street intersections.
- (k) Streets in residential subdivisions shall be designed in accordance with the approved standards of the Council, but in the absence of such standards, shall conform to the following minimum standards:

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

- (l) No lot intended for residential purposes shall have a depth exceeding four times the frontage.
- (m) Residential lots shall not be permitted which abut a local street at both front and rear lot lines.
- (n) The Council may require any existing natural, historical or architectural feature or part thereof to be retained when a subdivision is developed.
- (o) Land shall not be subdivided in such a manner as to prejudice the development of adjoining land.

81. 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 and 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.

82. 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 of Newfoundland and in effect at the time the work is carried out.

83. 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. Any amount so deposited with the Council by the developer shall be placed in a separate savings account in a bank and all interest earned thereon shall be credited to the developer.

84. Transfer of Streets and 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.

85. 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.

86. 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 V - USE ZONES

87. 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 87(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.

88. 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.

89. 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.

90. 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 33 and has considered any objections or representations which may have been received on the matter.

91. 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.