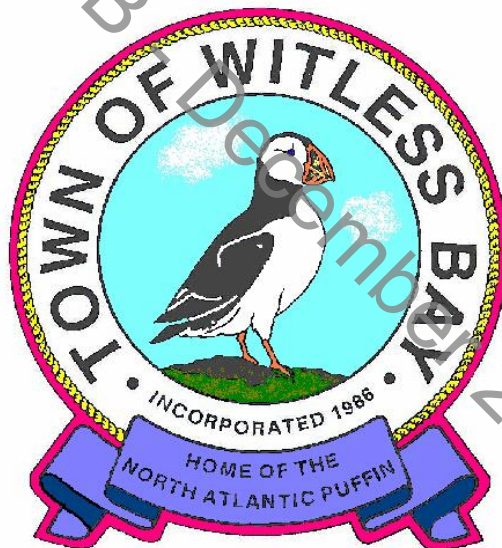

TOWN OF WITLESS BAY MUNICIPAL PLAN 2014-2024



PLAN-TECH



ENVIRONMENT

Version B - December 2014

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1.0 INTRODUCTION

1.1 MUNICIPAL PLAN PREPARATION

The Witless Bay Municipal Plan is Council's comprehensive policy document for the management of growth within the municipal planning area over the ten-year planning period of 2014-2024. The Plan repeals and replaces the Witless Bay Municipal Plan 2005-2015.

The Witless Bay Municipal Plan has been prepared in accordance with the requirements of the *Urban and Rural Planning Act 2000*, following surveys and studies of land use, population growth, the local economy, present and future transportation and communication needs, public services, social services and other relevant factors.

The Plan outlines the goals, objectives and policies of Council regarding the development of the Municipal Planning Area over the next ten years. This Municipal Plan, consisting of a written text in which the goals, objectives and policies are set out, also includes Land Use Maps indicating the proposed allocation of land into various land use categories. Its aim is to promote the well-being of the community and efficiently utilize land, water, and other resources. The Witless Bay Municipal Plan consists of written text and Future Land Use Maps.

1.2 PLAN APPROVAL

For the Plan to gain full legal effect, Council must hold public consultation with area residents and concerned groups and individuals to allow for public input into the planning process. After this consultation, Council must adopt the draft Plan and allow for further input from the general public through a Public Hearing.

Council shall appoint a qualified Commissioner to conduct a formal hearing to consider objections and representations from the public, either opposing or in favour of the Municipal Plan. The Commissioner shall formally report his findings to Council as a result of the public hearing. Council may adopt the report in whole, in part or reject the report in its entirety. Council can then formally approve the Municipal Plan and apply to the Department of Municipal Affairs for registration. A notice will then appear in the Newfoundland and Labrador Gazette and a local newspaper advising the public of Council's intent. Once this notice has been published in the Newfoundland and Labrador Gazette, the Plan is legally binding on Council and any person or group proposing to develop, or to change the use of land, anywhere within the Planning Area.

1.3 PLAN REVIEW AND AMENDMENT

Every five years from the date on which the Municipal Plan first comes into effect, Council is required to initiate a review of the Plan. Where necessary, changes may then be made to account for any new policies or land use requirements for the next ten years. The Plan may otherwise be amended at any other time, in whole or in part. Any such amendment will be read together with, and become part of the Municipal Plan and so must not conflict with any other of its policies. If circumstances do not permit a Plan review to be undertaken within the

prescribed time, the current Municipal Plan, and any amendments that had been made to it, will remain in effect until a Plan review is completed and fully approved.

When the Municipal Plan comes into effect, Council is required to develop regulations for the control of the use of land, in strict conformity with the Municipal Plan, in the form of *Land Use Zoning, Subdivision and Advertisement Regulations*. These are also known as the Development Regulations. Normally, these are prepared at the same time as the Municipal Plan, and like the Plan, may be amended at any time to include new land uses and specific regulations.

1.4 PLAN ADMINISTRATION

The day-to-day administration of the Municipal Plan and Development Regulations is administered by staff members authorized by Council. Council staff issue all necessary permits approved by Council, make recommendations to Council in accordance with the Municipal Plan, and enforce the regulations. The Department of Municipal Affairs may be consulted on any development matters.

1.5 WITLESS BAY MUNICIPAL PLAN REVIEW

The Town of Witless Bay was incorporated on January 1, 1986, which was also the introduction of its first Municipal Plan. The preceding Witless Bay Municipal Plan was drafted in 2005 and this is the first comprehensive review of that Plan. This 2014 Municipal Plan updates and accommodates various amendments made to the original documents.

History and Regional Context

The Town of Witless Bay originally developed in a linear pattern along Witless Bay harbour and later spread inland with the construction of local roads and highways. The Town consists mostly of residential development interspersed with businesses, public offices and other facilities. Further inland there is more single-family residential development, as well as public buildings, businesses, recreational and industrial uses. In more recent years, residential development has expanded along back roads, such as Track Road, Gully Pond Road, and Gallows Cove Road. Most of these areas consist of unserviced large lot residential development. Homes in Witless Bay are serviced with on-site water and septic. Rural parts of the Planning Area provide resource areas for the Town's residents; most notably blueberry grounds, some forest resources, and a surrounding natural setting.

Historically, the economic base of Witless Bay has been dependent on the fishery. However, with the downturn in the fishery in recent years the economy of the Town is now largely dependent on local taxation from mostly residential dwellings and a smaller portion from businesses. In recent years, tourism has been playing an increasing role as well. Also, with the completion of the Howlett Memorial Drive, the proximity of the Town to larger centres (St. John's and Mount Pearl) allows residents to commute elsewhere in the region for employment opportunities. A sufficient land base appears to be available to accommodate new business development should opportunities arise, as outlined in the previous version of the Plan.

Witless Bay is located about 30 km from St. John's, on the Southern Shore of Newfoundland. According to folklore legend, the name Witless Bay originally came from an early European habitant named Captain Whittle from Dorsetshire, England. The area was originally named Whittle's Bay, after this one family.

Upon the death of Captain Whittle, his widow and children decided to return to England. The remaining settlers referred to Whittle's Bay as Whittle-less Bay and eventually became Witless Bay.

This community is a small, scenic outport, originally settled to participate in the cod fishery. Migratory fishermen began visiting the vicinity in the late 1600s and by the mid-1700s, Irish fishing servants began to settle, quickly outnumbering any English who had settled. In 1835 Witless Bay had a population of 542, and within ten years, this substantial population saw a school and chapel built. During settlement history, residents of Witless Bay kept gardens and tended livestock, such as sheep, to supplement the inshore cod fishery. However, residents were still susceptible to the eventual decline in the fishery. As the fishing industry rose and then fell, so too the population of Witless Bay grew and then dipped. Nowadays, with the fishery all but gone, The Town relies on a crab processing plant, some service industries and a number of tourism related business that include accommodations.

Source: Intangible Cultural Heritage Inventory, Memorial University

Witless Bay Tourism

The Town of Witless Bay has identified tourism as a key market opportunity to pursue. The Town's long term sustainable advantage in the tourism industry is based on the natural resources and attractions throughout the area. Therefore, protection of the natural tourism potential is a key element. A tourism strategy is recommended to promote natural attractions such as Lower and Upper Pond, the Tolt Lookout, the East Coast Trail, and Witless Bay Ecological Reserve.

Witless Bay Ecological Reserve

The Witless Bay Ecological Reserve, consisting of four islands: Gull Island, Green Island, Great Island, and Pee Pee Island, is located to the east of Witless Bay. The Reserve contains North America's largest Atlantic Puffin colony and is estimated that more than 260,000 pairs of Atlantic Puffins nest there during the late spring and summer. The Reserve also hosts the world's second-largest colony of Leach's Storm-petrels. More than 620,000 pairs of these birds come here to nest every year. Thousands of Black-legged Kittiwakes and Common Murres arrive for the nesting season. Large numbers of birds nest on these islands during the seabird breeding season, roughly from April to September.

Witless Bay Puffin Patrol

Hundreds of thousands of breeding pairs of Atlantic puffins return to the islands of the Witless Bay Ecological Reserve every summer, each pair raising a single puffin chick. These chicks are fed caplin and other fish from the surrounding waters until they are large enough to leave their underground burrows for the first and last time. The fledglings leave their burrows during the night to avoid predators, likely orienting by the light of the moon. Some of these inexperienced young birds, alone for the first time, are often disoriented by the artificial lights of the nearby communities and are lured towards land instead of out to sea. Once stranded on land they are unable to take flight and fall victim to automobiles, domestic animals, hunger, and other dangers.

In response to the many dead puffins that appeared on the community's roads during the late summer, a local couple began a rescue program with neighbourhood children. Armed with butterfly nets and crates, they captured the stranded young puffins and returned them to the ocean. In the years since its

inception the Puffin Patrol has partnered with Canadian Parks and Wilderness Society, Parks and Natural Areas, and the Canadian Wildlife Service. Each bird is weighed, measured, and tagged prior to release. This valuable data is adding to our knowledge of the early lives of puffins. The program also encourages local homeowners and businesses to reduce unnecessary artificial lights during the fledging season.

The program has grown immensely popular with many locals and tourists taking part in the rescue and release of hundreds of puffins a year. Tourists have travelled from all over the province and Canada, as well as the United States, for the rare opportunity of seeing puffins up close and being involved in their rescue. The Town of Witless Bay acknowledges the great value of this program in building community spirit, protecting local wildlife, contributing to scientific knowledge of the birds in our Reserve, and attracting tourists to the area.

1.6 COMMUNITY PROFILE

Vision Statement

Witless Bay is known for its scenic and rugged beauty, its Puffins, Whales and tourism values. Witless Bay is embracing the convenience of urban living with the traditional setting of a rural Newfoundland community. A forward-looking community that meets the needs of its citizens and striking a balance between development and environmental sustainability while maintaining and enhancing its unique rural community character and natural environment.

Community Assets

Witless Bay is home to a crab processing plant, a retirement complex, a farm, automobile service centers both mechanical and autobody, a bank, building supplies store and a music studio. The town is also home to a number of tourism related business that include accommodations, food service and adventure tourism. The balance of the forty business that operate in the town of Witless Bay include food take out, gas bar, pottery, convenience stores, plastic manufacturing, bus companies, trucking, construction, personal and pet services as well as printing, home heating and business to business services.

The primary/elementary school for this region is in Witless Bay. The regional volunteer fire department is administered through the town of Witless Bay and the town has a number of service and recreation organizations that are run by volunteers. The town is working on a town plan to better manage the challenges that are associated with the rapid growth they are experiencing and how such growth impacts on the town and its residents.

Witless Bay Puffin Festival

The Witless Bay Puffin Festival was started by a local service group originated from the thousands of Atlantic Puffins that make their annual migration to the breeding grounds on the Witless Bay Ecological Reserve. The Puffin is the provincial bird of Newfoundland and Labrador and the main tourist attraction for the Town of Witless Bay.

The Witless Bay Festival is a summer celebration which provides an opportunity for local entertainers to showcase their talent as well to provide the community and tourists a chance to enjoy local hospitality and attractions.

Population Characteristics 1996-2011

The 2011 census population of Witless Bay is 1179, representing a 10.2% increase from the 2006 population which was 1070, a slight increase of 1.3% from its 2001 population of 1056 and a -5.5% decrease from its 1996 population of 1118. This figure reflects a significant growth rate compared to the provincial population increase of 5.4% during the 2006-2011 census period. Since 2001, Witless Bay is also experiencing resurgence in population and residential development.

Table 1: Population Change

Year	Population	Change	% Change
1996	1118		
2001	1056	-62	-5.5%
2006	1070	14	1.3%
2011	1179	109	10.2%

Housing

The 2011 census recorded 484 dwellings, while the 2006 census recorded a 420 dwellings. Council has been issuing an average of 10-12 new dwelling permits from 2006-2009, but new housing starts rose dramatically from 2010 to present day. A substantial proportion of new dwelling construction has occurred in west end of Town along Track Road in the Emerald Estates subdivision as well as Juniper Hill Estates. This new housing trend is expected to maintain at current levels with a number of new housing developments being considered in particular in the Dean's Road and Gallows Cove Road areas.

New Housing Permits 2006 - 2014	
2006	11
2007	1
2008	11
2009	18
2010	38
2011	44
2012	34
2013	35
2014 (to date)	5

Economy and Labour Force

The 2011 Census Data do not provide labour force data. While less accurate, the 2006 census data for labour force is used. In 2001, the employable workforce of Witless Bay numbered 520 people. This figure increased to 890 in 2006, of which the majority worked outside of Town. In Witless Bay, there is work in service-sector businesses, educational and health care. The construction trades have a healthy work force. Table 3 shows the types of occupations in which these people worked.

TABLE 3: EMPLOYMENT BY INDUSTRY, WITLESS BAY 2006

Industry	No. of Employees
Agriculture and other Resource Based Industries	55
Construction	50
Manufacturing	85
Wholesale Trade	15
Retail Trade	50
Finance and Real Estate	0
Health Care and Social Services	60
Educational Services	55
Business Services	90
Other Services	90
TOTAL	890

Land Use

While Witless Bay was once considered a low-density rural community, it is now undergoing growth and urbanization and density has increased substantially in the past decade. The predominant housing form is the single-family detached house with a small percentage of apartments. Most dwellings are located on single lots. In 2010, the Municipal Assessment Agency showed an increase of 20% in residential property value.

The Town has developed in the form of a long and narrow ribbon along the North Track Road, Harbour Road and Gallow's Cove Road to name a few. The more in-depth developments are located off Southside Track Road and Gull Pond Road with new developments proposed off Dean's Road and Gallows Cove Road. The predominantly linear and dispersed form of development will make it difficult and expensive should the Town ever consider municipal services such as water and sewer. Additionally, new residential development is proving to be costly for on-site water and septic services. Commercial and some industrial land uses are being considered along the Southern Shore Highway, Route 10, at the entrance to the Town.

Planning Issues

With a significant increase in population, Witless Bay has ample land designated for future residential growth, in particular along Dean's Road and future phases of the Emerald Estates west of Southside Track Road. However, development in the adjoining Town of Bay Bulls appears to have had little effect on new residential development. However, both Towns are constrained by the availability of land suitable for large scale subdivision development. Therefore, the Town may experience a continuous demand for residential growth along Dean's Road, Southside Track Road and south off Gallows Cove Road.

1.7 ST. JOHN'S URBAN REGION REGIONAL PLAN

The St. John's Urban Region Regional Plan covers Witless Bay and designates it as one of the Local Centres where the extent of present development is such that public services must be provided. In the residential areas priority will be given to the provision of a piped water supply and sewage collection facilities. The growth of these areas will depend upon servicing facilities and physical constraints to development.

In considering the position of Witless Bay in the St. John's Urban Region as established in the Regional Plan, it is essential to recognize one of the basic concepts of the Regional Plan which envisages that the major population growth of the region will be accommodated in the established urban centre (the City of St. John's and its immediately peripheral locations) in order to maximize the use of roads, water supply and all other urban services.

For the planning and development of the designated Local Centres, the Regional Plan establishes the following guidelines:

- Local centres may be able to develop to the fullest extent possible with the constraints established by:
 - The existing and likely future extent of municipal services;
 - The ability of the region to finance the necessary capital works to service such development;
 - The need to protect regional resources including agricultural and forest lands, watersheds and scenic resources;

- The need to limit as far as possible heavy capital expenditure on additions to the regional road network to handle commuting and other traffic;
 - The amount of infilling possible within presently developed areas;
 - The capacity of existing local roads and the need to achieve a desirable level of transportation service;
 - The effect of additional population on present school facilities.
- Within the local centres, residential uses shall generally be of a low density nature with a continuing predominance of single-family dwellings. Consistent with the size of most of the local centres and the policies of educational authorities in the region, school facilities may be limited to the junior grades.
- Commercial uses shall be limited to those of a local nature but may include both retail and highway-commercial functions, where such uses are deemed desirable. Industrial activities shall generally be limited to those of a specialized local nature such as the fishing industry. Other small scale industries providing local employment to a small number of persons may also be considered appropriate.
- Two prime aims in the local centres will be to encourage the infilling and consolidation of presently semi-developed areas once essential public services to existing development are installed and to develop improved local road systems so that better circulation of traffic may be facilitated.
- The Local Area and Municipal Plans shall recognize and define, where applicable, a core area or areas within which higher density development and development in depth may be possible.

- Two levels of service may be provided in the local centres depending upon local conditions; one area within which water and sewer and full municipal services would eventually be installed would form the heart of each such local centre. Outside of this would be an additional area of somewhat lower density development within which a lesser standard of services would be required.
- In addition, the following two objectives of the Regional Plan are also essential in guiding the planning and development of Witless Bay:
 - To prevent development that will require disproportionately costly public services because of location or use and to preserve in its natural state land that should not be developed due to its physical characteristics.
 - To prevent the continuation of 'ribbon development' along the main roads and highways of the region.

1.8 INTERPRETATION

The following sections and the Future Land Use Maps constitute the legally effective parts of the Witless Bay Municipal Plan. In this Municipal Plan:

- “Council” shall mean the Council of the Town of Witless Bay.
- “Development Regulations” shall mean the Witless Bay Land Use Zoning, Subdivision and Advertisement Regulations.
- “Municipal Planning Area” shall mean the Witless Bay Municipal Planning Area.
- “Town” shall mean the Town of Witless Bay.

The boundaries between the different land uses designated in the Municipal Plan are meant to be general, except in the case of roads or other prominent physical features where they are intended to define the exact limits of each category.

Nothing in the Plan shall affect the continuance of land uses which are lawfully established on the date that this Plan comes into effect.

2.0 GOALS AND OBJECTIVES

It is the intention of the Municipal Plan to establish a number of goals and objectives. A goal is a desired state which reflects the long-range purpose of the Plan and is related to a major area of concern. An objective is a short-range step toward the goal. It is concrete, realistic, action-oriented and attainable within a period of 3 to 5 years. The achievement of an objective should move the goal closer to reality.

Based on a comprehensive study of the planning aspects of the Witless Bay Planning Area, including consultation and referrals to Government Departments as well as the general public, the following are the goals and objectives of this Municipal Plan, which are to be pursued within the ten year planning period.

2.1 PHYSICAL STRUCTURE

Goals:

- To provide for development and allocate land for its best use which will enhance the viable functioning of the community.

- To encourage future growth in a manner that ensures land use compatibility and orderly development.
- To control future growth of the town in such a manner as to develop a balanced and attractive community.
- To preserve the rural character of the Town, allowing residents to maintain activities such as small-scale traditional agricultural uses, while preventing problems to neighbouring residents.
- To protect the natural environment and natural resources throughout the Planning Area.

Objectives:

- To allocate land for future development on the basis of its best use considering its physical characteristics and location.
- To ensure that natural areas such as drainage courses, shorelines, and steep slopes are protected from development to preserve environmental resources and the rural character of the Town.
- To preserve scenic views of the shoreline, ponds and hills, recognizing their value to residents and visitors for recreation and tourism.

2.2 ECONOMIC OPPORTUNITIES**Goal:**

- To encourage the continued operation of existing businesses through appropriate land use policies.
- To encourage the development of additional employment opportunities to serve the present and future population.

Objectives:

- To allocate land so that new businesses will be attracted to Witless Bay.
- To support the development of facilities and attractions in promoting the tourism industry within Witless Bay.
- To encourage home-based businesses.

2.3 HOUSING**Goals:**

- To provide for an adequate quality, quantity and mix of housing to serve the needs of the present and future population.
- To provide good quality residential site design and a high standard of municipal services.

Objectives:

- To provide an adequate amount of land to accommodate residential development within the municipality.
- To encourage improvement of existing dwelling standards.
- To provide for a mixture of housing types within the municipality.
- To encourage the development of residential infilling lots within built up neighbourhoods.

2.4 TRANSPORTATION

Goal:

- Ensure that the local transportation system adequately and safely provides access throughout the Planning Area.

OBJECTIVES:

- To undertake continued improvements to the municipal roads through a regular maintenance program.
- To aim for a proper road system by connecting streets which require a second access.
- To reserve land for future access to backlands.

2.5 COMMUNITY AND SOCIAL SERVICES

Goal:

- To provide a full range of social and community services to Witless Bay.

Objectives:

- To ensure that land is reserved throughout the town for recreation and open space.
- To ensure public access to the major natural features of the planning area such as the vistas, ponds, streams, and ocean shoreline.

- To encourage the multi-functional use of existing community buildings (schools, churches, community halls, etc.).

2.6 Environment

Goals:

- To provide a pleasant and safe living and working environment in Witless Bay.
- To provide for the health, safety and welfare of the general public.
- To protect and enhance the natural environment, including larger areas of land defined as the four cornerstones of the community, for its aesthetic, recreational, tourism and resource values.

Objectives:

- To promote a regular community “clean-up” program.
- To discourage development in areas with slopes greater than 15 percent, recognizing that development in such areas can result in environmental damage and higher costs for servicing and maintenance.
- To maintain a minimum 15 metre buffer of land from the highwater mark of ponds, lakes, streams and shorelines to be kept generally free from development.
- To protect natural resources from degradation including water, air, soils, traditional agricultural land, forests and scenic areas.

2.7 MUNICIPAL FINANCE

Goal:

- To manage municipal expenditures and revenues so as to provide necessary municipal services within a framework of long-term financial stability.

Objectives:

- To manage municipal expenditures with restraint, aiming for maximum return on investment.
- To manage the municipal debt, considering the Town's ability to meet its expenditures over the long term.
- To encourage a more diversified economic base to generate more revenues through business taxes.

2.8 RECREATION

Goal:

- To provide recreation facilities and develop new facilities to accommodate recreational and social needs for all age groups in the Town.

Objectives:

- Encourage public participation in the planning of recreational open space lands and encourage events such as community festivals, sporting events, and other attractions.
- Develop public recreational areas and facilities in feasible locations which will service the maximum number of residents of the Town.
- Promote the Town along with the East Coast Trail as a tourist attraction and encourage travelers to visit Witless Bay.

2.9 SUSTAINABLE DEVELOPMENT**Goal**

- To encourage the preservation of natural resources and to promote the development of sustainable development activities.

Objective:

- To promote the development of industries that use clean renewable sources of energy.

2.10 Tourism

Goals:

- To implement a tourism development strategy for Witless Bay.
- To partner with the Irish Loop Development Association to assist in identifying markets to be included in a tourism development strategy.
- To protect the natural tourism and natural attractions.
- To protect and enhance the natural environment for its aesthetic, recreational, tourism and resource values.

Objectives:

- To identify tourism potential of Lower and Upper Pond a scenic attraction.
- To identify tourism potential of the Tolt Lookout as a hiking trail.
- To work with the East Coast Trail Association in capturing the tourism potential of the trail.
- To promote the Witless Bay Ecological Reserve as a place to visit.

3.0 THE LAND USE PLAN

The following policies with accompanying Future Land Use Maps constitute the land use component of the Witless Bay Municipal Plan, 2014-2024. Included are all policies which are seen as necessary by Council to ensure that the physical development of Witless Bay is undertaken in an efficient and economic manner during the ten-year (2014-2024) life of this municipal plan. The Land Use Plan is meant to complement the Goals and Objectives outlined in Section 2.

3.1 GENERAL LAND USE POLICIES

The following policies can be categorized as general in scope in that they can be applied to more than one land use and to different sections of the Town of Witless Bay. They are therefore presented as a separate section of this Land Use Plan.

3.1.1 GENERAL POLICIES

1. Physical Structure:

Land uses will be allocated in accordance with the Future Land Use Map attached to this text. Development within the Planning Area will be managed in accordance with the regulations of Council, in adherence with the policies, acts, and regulations of the Province.

Nothing in the Plan shall affect the continuation of a use which was legally established on the day that this Plan is registered by the Minister of

Municipal Affairs. Where a building or use exists which does not comply with the intent of the Plan and the designated use, then it shall not be permitted to expand substantially. Minor extensions of such properties may be approved provided there will be no adverse effects on surrounding properties or the environment.

Municipal and public utility works such as telephone, pollution control and electric utility facilities are permitted uses in all use designations, provided no adverse effect on adjacent land uses is created. In this regard, the size and appearance of such works must be in keeping with adjacent uses and provision shall be made for buffering in the form of landscaped areas between uses.

2. Subdivision Policies:

Land which borders developed residential areas may be suitable for future residential development. All proposed subdivision developments shall be subject to a comprehensive evaluation by Council. The content of this evaluation will be detailed in the Witless Bay Development Regulations and will include:

- An investigation of physical features of the site and the opportunities and constraints to development that they represent. Where possible, the layout of proposed lots and roads shall conform to the topography;
- An outline of how the proposed subdivision will integrate with existing development and roads and services on adjacent lands and provide for future access to undeveloped lands in the area;

- Ensure compatibility between the subdivision and surrounding land uses, both existing and future; and
- Review of municipal servicing proposals by the developer and the public costs of providing and maintaining these services.

3. Subdivision Development Agreement

As a condition of approval, Council shall require the developer to sign a subdivision development agreement with the municipality.

4. Conveyance to Council of Private Roads

New subdivision streets shall be constructed and upgraded to the Town's road standards before Council shall assume ownership and responsibility for future maintenance. All new streets shall have a legal land survey and a Deed of Conveyance, approved by the Town's solicitor, before Council assumes ownership.

5. Access and Public Street

All development shall front onto a publicly maintained street, unless otherwise specified in this Plan.

6. Easements and Emergency Access

Where land is required for utility easements or emergency access, the land may be obtained for the appropriate agency (such as Newfoundland Power) in the course of approving subdivision or other development applications.

7. Building Setback

Adequate building setback from roads shall be required in order to maintain road standards. Setbacks should be sufficient to allow for landscaping of front yards, vehicle off-street parking and not interfere with the abilities of the Towns snow clearing program. In certain circumstances where topography restricts the development of a lot, a larger setback may be permitted to accommodate the development.

8. Soil and Drainage

Development shall only be permitted on lands having soil and drainage conditions which are suitable for the proposed uses.

9. Infill Development

Council will monitor all infill development to ensure that appropriate standards are maintained with respect to lot size, frontages, road widening, alignments, and any other matter concerning current or future public works. In older developed sections of the Town, infill lots may not meet current standards. Council shall review any proposed development on a lot by lot basis. Lots that do not meet current frontage development standards may be approved for infill residential development under Councils discretion provided there are sufficient lands for the safe development of the lot.

10. Environmental Preservation and Enhancement

Council shall place high importance on environmental preservation and enhancement, given its importance to residents and to Council's intention of preserving the local environment.

Natural Environment

The policy of preserving the natural environment will be extended to all natural systems within the Planning Area, including natural drainage systems, wetlands, bogs, plant and fish habitats. The preservation of watercourses and shoreline areas will be a priority within the Planning Area.

Development proposals shall include plans for grading, ditching, and landscaping. Significant alterations to the natural environment (such as changing the drainage pattern or removing vegetation) will be considered during the evaluation of development proposals. Alterations which will adversely affect adjacent property shall not be permitted.

Built Environment

Council shall encourage partnerships and initiatives aimed at changing environmental attitudes, awareness and promoting projects which will enhance the built environment. Examples will include the following:

- preservation of trees on sites for new development (i.e., to discourage the traditional practise of clearing development sites of all trees and vegetation);
- development and expansion of recreation lands;

- development of walking trails along shoreline; and
- Encourage the reduction and recycling of solid waste within the Town.

11. Open Space and Recreation

Not more than 10% of the gross area of land developed for subdivision purposes shall be dedicated to the Town as public open space. This land would be suitable for walking trails, tot lots, green belts, etc. Council may accept from the developer in lieu of such area of land, payment of a sum of money equal to the market value of the land which would otherwise be required to be dedicated. Money accepted in lieu of land, shall be used for the purchasing of land dedicated to public open space or of equipment to be used on land dedicated to public open space such as playground equipment.

Council shall ensure the preservation of scenic viewpoints and ensure long-term stewardship. Public access to natural areas and open spaces shall be maintained.

It is the intent of this Plan to designate open space areas within the Town for active, outdoor community recreation and passive, outdoor recreation needs. Council shall maintain and wherever, improve the integrity of natural recreational systems such as walking and hiking trails.

12. Removal of Topsoil

Removal of topsoil from land will not take place unless a permit has been obtained from the Department of Natural Resources, Mineral Lands Division and Council has granted approval.

13. Development Criteria for Non-Residential Sites

All built-up development of non-residential land uses will conform to the following criteria:

- Each site will have direct frontage on a public road.
- Development will be located and designed in a manner that minimizes the impact of traffic, noise, lighting, and signage on adjacent residential areas. Where necessary, screening will be required through the provision of trees, shrubs, banks and berms, landscaping or fencing.
- Properties will be designed and maintained to a high standard with regard to safety, appearance, and compatibility with surrounding land uses.
- Access points to the public street will be limited in number and designed for maximum safety for pedestrians and vehicles.
- Each site will provide space for adequate off-street parking and loading facilities to meet the needs of the proposed development.
- Adequate municipal services must be available to meet the needs of each proposed development.

Development must be in accordance with the Town's Development Regulations and where applicable the regulations of Service NL and the Departments of Environment and Conservation; Transportation and Works, Fisheries and Oceans Canada; and other relevant agencies.

14. Heritage Structures and Sites

Houses and other buildings and structures which were built in a traditional or distinctive architectural style (or otherwise are deemed to have historic or aesthetic value by Council, or a department or agency of a higher level of government) may be considered heritage structures. It is Council's intention to protect heritage structures for aesthetic and historic reasons and for their historic value as a heritage and tourist attraction. Council may enact regulations for such purposes. Historic sites shall also be protected by Council for their historical value and as tourist attractions.

3.1.2 SERVICING POLICIES

1. Ground Water Assessment

New subdivisions shall require a groundwater assessment be done to determine the acceptable quality and quantity of drinking water. The *Groundwater Supply Assessment and Reporting Guidelines For Subdivisions Serviced, by Individual Private Wells*, provide administrative and technical guidance to developers. The Water Resources Management Division, Department of Environment and Conservation, should be contacted prior to new residential subdivision development.

2. On-Site Sewerage Disposal

On-site sewerage disposal system shall be in compliance with the requirements of the Service NL. Sub-surface sewerage disposal systems shall be no closer than 30 metres from a waterbody or watercourse.

3.1.3 ENVIRONMENTAL POLICIES

1. Preservation of Trees

Mature trees shall be preserved and replaced where necessary. Such trees shall be removed only if they become dangerous because of age, disease or proximity to a building; if they are overcrowded, and unduly inhibit light and air circulation for landscape purposes and building occupancy, or if they will unduly inhibit construction.

2. Protection of Watercourses, Wetlands, and Waterfowl Habitat

Rivers, streams, ponds, and shorelines shall be protected from pollution and development. The existing vegetation shall be maintained along banks and shorelines where possible. No development shall be permitted within 15 metres of a watercourse without approval from the Department of Environment and Conservation and, if fish habitat is affected, from Fisheries and Oceans Canada.

Council shall encourage the preservation and protection of sensitive wetlands that are valuable for controlling flooding; habitat for water fowl or have important aesthetic value to the surrounding areas. Any development proposal within sensitive wetlands areas shall be referred to the Department of Environment and Conservation, Water Resources Management Division, prior to Council approving any development proposal.

3. Waste Disposal

Protective measures shall be taken to prevent or minimize pollution when disposing of sewage and solid waste.

4. Alterations to the Natural Environment

Development proposals shall include plans for grading, ditching, and landscaping. Significant alterations to the natural environment (such as changing the drainage pattern or removing vegetation) will be considered during the evaluation of development proposals. Alterations which will adversely affect adjacent property or watercourses shall not be permitted. Topsoil or sods shall not be removed except with the approval of Council.

5. Environmentally Sensitive Areas

Development shall be prohibited in environmentally sensitive areas such as steep slopes and bogs. Development shall also be prohibited in areas prone to landslides and rockfall. Development shall be prohibited in conservation areas within 30 metres of the rock cliff along sea wall areas known for coastal erosion. The Future Land Use Map identifies Conservation areas. This policy applies to environmentally sensitive areas in other land use designations.

6. Upkeep of Properties

Council shall promote the upkeep of residential properties, businesses, and institutions; encourage the repair or removal of dilapidated buildings and structures; and prohibit indiscriminate dumping.

3.2 SPECIFIC POLICIES - LAND USE DESIGNATIONS

The land within the Witless Bay municipal planning area shall be managed according to the designations shown on the Future Land Use Map and the policies of this Municipal Plan.

The Future Land Use Map divides the Planning Area into the following designations:

- Residential
- Commercial
- Industrial
- Mixed Use
- Public Use
- Conservation
- Open Space/Recreation
- Watershed
- Rural

3.2.1 RESIDENTIAL

The purpose of the Residential designation is to preserve the amenity and character of existing residential areas and to reserve undeveloped lands for future residential use. Anticipated new housing throughout the Planning Area over the ten year planning period is in the order of 250 dwellings, most of which will be single detached houses. If past trends continue, about 2/3 of new development should occur in the built up area of Witless Bay as infilling on existing developed roads, or as incremental extensions to existing development. There are undeveloped backland areas throughout town which may be suitable for future residential development as residential subdivisions, and these areas should be reserved for such purposes.

Infill development on existing roads within built up areas of the town shall be encouraged to increase the density of development and to make efficient use of municipal services such as snow clearing, garbage collection and reduce operating costs.

Residential Policies:

1. Land Designation

The Residential land use district is reserved primarily for residential uses and other development compatible with residential uses. The Residential district will consist of three categories for zoning purposes: Residential, Residential Rural and Residential Subdivision Area. In the Residential Zones, building lot requirements shall be smaller than in Residential Rural Zone, in keeping with the traditional development pattern of those areas. Residential Rural lots shall apply to new subdivision development and is designed for large lot

development. Residential Subdivision Areas are lands reserved for future residential development.

Residential subdivisions may be developed in Residential designated lands, subject to policy 3.2.1.10, Residential Subdivisions, and in accordance with the requirements of the development standards within the appropriate Land Use Zone Table, Schedule C.

2. Land Use

Within lands designated Residential, single-family detached and double dwelling dwellings shall be permitted. Compatible uses such as row dwelling, apartment building, child care, office, home office, boarding house residential (bed and breakfast), place of worship, education, agriculture (hobby farming), cultural and civic, personal services, professional services, recreation, light industry, convenience store or a small scale business use where they are part of a residence may be permitted throughout the area under the discretion of the Council. Mini Homes, as defined under Schedule A, shall be prohibited.

Council shall consider the impact of the scale of proposed uses in residential designations to ensure that development does not adversely affect the residential character and amenity of the area; provision of adequate space for on site parking, loading, and buffering is provided; and the primary use of the lot remains residential. A compatible use will occupy only a minor part of the floor area of the dwelling.

Residential growth shall be accommodated in approved comprehensive subdivisions and through the orderly infilling of existing areas serviced in the town to ensure the efficient use of available lands.

All new development and all newly created residential lots shall have direct frontage onto a publicly-maintained road or in the case of a new subdivision shall have frontage on a road being constructed under the terms of a development permit issued by Council. The costs of providing services to any new subdivision development shall be the responsibility of the developer.

3. Density of Development

Residential development shall be of higher density within the older developed areas of the Town where infilling may be feasible. In other outlying areas residential development shall be of a low density type development consistent with larger lot environment.

4. Environmental Aesthetics

Residential development, as well as other discretionary uses that are developed, shall preserve the scenic quality of the community, with emphasis on building design and landscaping of new development. Tree cutting and removal shall be limited to that necessary for construction, space around the building, and for the installation of a septic field where required.

5. Recreation Uses

Compatible recreation uses such as playgrounds and tot lots may be located within Residential areas provided that adequate screening from nearby properties is provided, and safe setback distances from public roads can be obtained.

6. Bed-and-Breakfast

Bed-and-breakfast operations shall be a permitted use in the residential land use designation and shall clearly be subsidiary to the residential use and shall not adversely affect the residential quality of the area through excessive traffic, noise, or parking of an excessive number of vehicles.

7. Office Use

Office use (home office) shall be limited to a home based business which may be permitted if contained inside the residence, is clearly subsidiary to the residential use, and there shall be no open storage of materials, equipment or products, and do not adversely affect the residential quality of the area through increased traffic, noise, unsightly premises, and similar considerations.

8. Childcare

Group or Family Childcare use must not adversely affect the residential quality of an area through excessive traffic, noise, or similar considerations that may be associated with the business. Any Group or Family Childcare business shall operate in an existing dwelling and in accordance with provincial *Child Care Services Act* and all applicable Regulations.

9. Convenience Store

Within the Residential designated lands, new convenience stores may be permitted as a subsidiary use to a residential dwelling or as a separate

structure on its own lot. Council shall encourage the even distribution of convenience stores in appropriate areas throughout the Town. Development standards shall ensure that the size of the convenience store is limited so that it will not interfere with neighbouring residential uses.

When reviewing applications for a new or expanded convenience store, Council shall consider factors such as access to the site; amount of parking to be provided; any adverse impacts upon adjoining neighbours or the neighbourhood in general, and effects of the business on traffic flow.

10. Residential Subdivisions

In order to ensure efficient use of land and future provision of services, avoid a proliferation of individual cul-de-sacs that are costly to service, and ensure that development is properly located so as not to interfere with optimal future development of adjacent lands, subdivision proposals will be considered only if they conform to the following:

- Conformity to the goals, objectives, and policies of this Municipal Plan;
- Conformity to an area concept plan, a plan that identifies the relationship between adjacent parcels of land, roads and addresses all needs pertinent to planning and development as approved by Council;
- A description of the subject lands;
- Consideration of land ownership as it will affect the layout of streets and the optimal use of land and municipal services;
- Access to the site from existing roads and internal road layout;
- Demonstration of the long-term viability of any proposed on-site servicing system through soil analysis and other appropriate site evaluation. Council may require a site assessment as part of a area concept plan which shall

accurately depict the conditions of the proposed subdivision site;

- Phasing scheme;
- Provision for lotting;
- Provision for 10% recreation lands or alternative measures if requested by Council;
- Adherence to the Town's engineering and development standards for streets designs, grades, storm drainage, building line setback, access, landscaping, buffers, development standards for each lot, etc.

11. Backlot Development

Backlot development may be permitted at the discretion of Council in developed areas behind existing dwellings where vacant parcels of land exist which are of sufficient size for a building lot, but which do not have the required frontage on a publicly maintained street. In such cases, the following requirements shall be met:

- The site is located in an area designated for Residential development in the Witless Bay Development Regulations;
- Approval for on-site water supply and sewage disposal must be obtained from Council and the Government Service Centre;
- The development of the lot does not prejudice the use of adjoining backland. Where there is potential for additional development in the area, the lot and access shall be developed in a manner which will accommodate future development. In such cases, access to the public street must be of sufficient width (15 metres) to accommodate future public use;

- Where there is no potential for additional development, the access road shall be treated as a private driveway and only one backlot development shall be permitted;
- Council shall be satisfied that the backlot development will not detract or restrict other types of development on adjacent lands;
- Approval of any backlot development shall not affect the legal conformity of any existing lots;
- To ensure that Council can meet its responsibility for public safety and emergency access, the dwelling on a backlot shall be a minimum of 32 metres and a maximum of 100 metres from a public street.
- Standards for backlot development shall be established in the Witless Bay Development Regulations.

12. Open Space Requirements

The provision for open space within a residential subdivision development shall be the responsibility of the developer, and if required by Council, shall dedicate not more than 10 % of suitable land in new residential areas for recreational open space or alternatively, Council may as an alternative require the developer to pay a sum of money equal to 10 % of the assessed value of the area of land prior to any development of the subdivision. Money accepted in lieu of land, shall be used for the purchasing of land dedicated to public open space or of equipment to be used on land dedicated to public open space such as playground equipment.

3.2.2 MIXED USE

A mixture of different kinds of development may be found along the Southern Shore Highway, Route 10, and consists predominantly of residential uses interspersed with businesses, light industry and public buildings. Such areas are placed under the Mixed Use designation. This designation shall ensure that a viable combination of compatible uses can co-exist with the predominantly residential development. Areas designated Mixed Use are intended for the continuation of a traditional mix of land uses.

It is the intention of Council to permit this form of development to continue while ensuring amenity and safety between the different land uses in the Mixed Use land use designation. The Mixed Use area is designated on the Future Land Use map and applies to various locations along both sides of the Southern Shore Highway. The following policies will guide the growth and development of the Mixed Development areas.

Mixed Use Policies:

1. Land Use

Within the Mixed Use area, single dwelling, double dwelling, childcare, group child care, boarding house (includes tourist home, and bed and breakfast), medical treatment and special care (home for the aged only) , personal services shall be permitted. Other uses such as row dwelling, apartment building, cultural and civic, general assembly, club and lodge, catering, indoor assembly, office, personal service, general service, communications, taxi stand, take-out food service, shop, office, convenience store, general and light industry, recreational open space and antenna may be permitted under the discretion of the Council

provided they are compatible with the residential character of the area and do not cause a nuisance by virtue of excessive noise, dust, odour, increased traffic or hours of operation.

2. Site Plans

Council may require the developer to provide a comprehensive site plan for any proposed developments, indicating building locations, delivery areas, parking spaces, access, landscaping and buffer areas, and where other development components are to be located. In assessing proposals, Council shall be primarily concerned with aesthetic factors, scale and conformity with the desired character of the area, and compatibility with other land uses in the vicinity, in particular any residential development.

3. Adverse effects

Adverse effects of any proposed development on adjacent residential uses shall be prevented or minimized through proper site layout, scale of development, and buffering. The type of buffer that may be required is subject to the site specifics of the particular proposed development.

4. Access to Street

Access points to the public street shall be limited in number and properly designed, in order to keep the street safe and efficient for both vehicles and pedestrians.

5. Parking

Adequate off-street parking and loading facilities shall be provided for any non residential development.

6. Office Use

Office use may be permitted as a home based business. The office use, if located within the home, shall be subsidiary to the residential use. The office use may be located in an accessory building on the same lot as the residence. There shall be no open storage of materials, equipment or products, and the use does not adversely affect the residential quality of the area through increased traffic, noise, unsightly premises, and similar considerations. Provisions for parking shall meet the standards as prescribed by Council.

7. Boarding House Residential

Boarding House Residential uses such as Bed and Breakfast operations shall not adversely affect the residential quality of the area through excessive traffic, noise, or parking of an excessive number of vehicles.

8. Medical Treatment and Special Care

Medical Treatment and Special Care may be permitted provided they are limited to only homes for the aged for residence for seniors, and adequate pedestrian and vehicular access and parking can be provided. The size and scale of the

development shall be reviewed by the Council in any decision to permit this form of development within a residential area.

9. Childcare

Group or Family Childcare use shall not adversely affect the residential quality of an area through excessive traffic, noise, or similar considerations that may be associated with the business. Group or Family Childcare business shall operate in accordance with provincial Child Care Services Act and all applicable Regulations.

10. General Services and Light Industrial Uses

General services uses and light industrial uses shall be small scale uses such as small workshops, laundromat and warehouses. The use shall be carried out in a separate building from any residence. There shall be no outdoor storage of equipment or materials. Activities associated with the use shall not be hazardous and shall not create a nuisance by reason of noticeable noise, odour, dust or flames, or result in electrical interference.

3.2.3 COMMERCIAL

Commercial designation is applied to concentrations of retail, restaurants, service and office uses. Often significant cultural and entertainment facilities are located in commercial areas. Generally, the most appropriate areas for such

development are along main transportation routes, exposed to traffic. Because these types of uses generate a considerable amount of traffic, local roads and residential areas are generally unsuitable for them. Over the past couple of decades, most commercial development has occurred along the Southern Shore Highway in Witless Bay. Further consolidation and development of land fronting along the Southern Shore Highway for commercial development is to be encouraged.

Small-scale local and personal-service commercial uses may be permitted within residential areas (see the Residential policies). Commercial uses may also be permitted within the Mixed Use designation. Retail and service commercial uses which serve residents beyond the neighbourhood are intended to be located primarily along the Southern Shore Highway.

Commercial Policies:

1. Land Use

The Commercial designation includes various sites on both sides of the Southern Shore Highway. Land designated Commercial shall be developed primarily for such commercial uses such as retail and service activities oriented toward highway users. The permitted uses shall include catering (restaurants only), office, medical and professional, personal service, general service, shop and convenience store, indoor market, passenger assembly, group child care, commercial residential, service station, cultural and civic and indoor assembly. Other compatible uses that may be permitted include catering (lounges and bars), general assembly, medical and professional, clubs and lodges, amusement, taxi stand, police station, funeral home, indoor market, outdoor

market, medical treatment, agriculture (greenhouse and nursery), veterinary, general industry, light industry, antenna, and recreational open space.

2. Light Industry

Light industry uses may also be permitted where it does not have a negative impact on surrounding development. Light industry uses shall be non-offensive and non-hazardous such as manufacturing, enclosed storage and warehousing, wholesaling and service industries. Commercial Highway zones are intended for large scale commercial and industrial development, and commercial uses that may cater to highway traffic.

3. Open Storage

No open storage shall be permitted in the front or side yards of any commercial or industrial property. Property owners will be required to keep their premises well maintained and tidy.

4. Offensive Uses

Commercial uses that are judged incompatible with the surrounding developments through excessive emissions of noise, smell, chemicals or other pollutants, shall not be permitted. Property owners with unsightly uses shall be required to store their materials inside and keep their premises well maintained and tidy. Any development that requires outside storage shall be required to maintain the property in a high standard of appearance.

5. Parking

Adequate off street parking, loading and safe access to the street shall be provided. Parking shall meet requirements as outline in Schedule D of the Town's Development Regulations.

6. Buffers

Proper site layout and buffering shall be used to prevent or minimize the adverse effects of any commercial development on adjacent residential uses.

7. Access to Street

Access points to the public street shall be limited in number and properly designed, in order to keep the street safe and efficient for both vehicles and pedestrians.

3.2.4 INDUSTRIAL

The Industrial designation includes a site to the rear of the Town Hall, off the Southern Shore Highway and the site of the fish plant on Harbour Road. Wherever industrial areas abut residential or other types of uses, screening or restriction on the type of industrial activity may be desirable. Similar to commercial uses, most of the small scale industrial land uses are intermingled with existing residences.

The following policies will guide the growth and development of the Industrial areas.

Industrial Policies:

1. Land Use

Land designated Industrial shall be developed primarily for industrial uses such as general industries, general services and light industries. Permitted industrial uses shall be compatible with neighbouring residential uses in terms of noise, dust, glare, vibration, smell, traffic, and related factors.

Other uses that may be permitted include office, communications, service station, antenna, professional and personal service, shop, recreation open space and transportation provided they are directly related to an industrial enterprise. Hazardous industry uses such as scrap yards shall not be permitted.

Uses that are compatible to industrial uses such as educational, passenger assembly and catering may only be considered where the use is part of an industrial operation.

2. Location

Industrial activity shall be located in areas of the Town that are suitable for such forms of development. Along with the two present industrial locations, a site located on the north side of the Witless Bay Line has been identified for future industrial expansion.

3. Environmental Concerns

Tanks or apparatus connected with the storage of fuel shall be required to provide adequate containment and dykes. Council shall require that all fuel storage tanks greater than 2500 litres be approved and inspected regularly by the Service NL. Council shall require the siting of fuel storage tanks within the industrial designations in a manner that will not adversely affect the amenities or safety of the adjoining properties.

Any fuel storage tanks proposed for removal shall require compliance with the Pollution Prevention Division, Department of Environment and Conservation and Service NL. Environmental Audits may be required prior to site remediation to determine the presence of hydro-carbons in surrounding soils.

4. Restricted Development

Industrial uses that are determined to be incompatible with the natural environment or nearby development through excessive emissions of noise, smell, chemicals or other pollutants, shall not be permitted.

5. Open Storage

Property owners with unsightly uses will be required to store their materials in the rear yard. Scrap yards and similar uses will be screened from view of the road by high fences or some other form of buffer as required by Council. Screening and buffering using fences or trees may be required in order to preserve an attractive appearance. Proper site layout and buffering shall be used to prevent or minimize the adverse effects of any proposed development on adjacent residential uses.

6. Parking

Adequate off street parking, loading and safe access to the street shall be provided. Parking shall meet requirements as outline in Schedule D of the Town's Development Regulations.

7. Access to Street

Access points to the public street shall be limited in number and properly designed, in order to keep the street safe and efficient for both vehicles and pedestrians.

3.2.5 PUBLIC USE

Land designated Public Use shall include government, church, educational and other uses for general or limited public access. A number of sites in Witless Bay are designated as Public Use. Facilities required to deliver municipal services to residents, such as the Town Hall an Fire Hall, are also within the intent of this designation.

Policies:

1. Land Use

Lands are designated Public Use to permit their general or limited use by the residents of Witless Bay. Within the Public Use designation, the predominant use of land shall be for community-oriented facilities such as schools, cultural and civic uses, general assembly, medical treatment and special care,

government or public offices, place of worship, recreational open space, child care and police station.

Compatible uses may be permitted, provided that they will not conflict with the satisfactory operation of existing facilities or the future development of public uses. The compatible uses may include recreational open space such as parks and playing fields, club and lodge, office with as associated use, indoor assembly, outdoor assembly, catering, antenna and take-out food service.

2. Compatibility with Residential Uses

The development and operation of new facilities and buildings for public use will not impose adverse effects on adjacent residential areas in terms of traffic, noise, and hours of operation.

3. Location

Public buildings and uses are encouraged to be centrally located in the community and within easy walking distance of most residents.

4. Access

Access points to the public street shall be limited in number and properly designed, in order to keep the street safe and efficient for both vehicles and pedestrians.

5. Parking

Adequate off-street parking and loading facilities shall be provided.

3.2.6 Conservation

Land designated as Conservation uses are intended to protect certain lands within the Town which by reason of their intrinsic character, are sensitive, vulnerable, or ecologically significant, or have natural or recreation values. They include the four cornerstone areas of the community, wetlands, watercourses, bodies of water, shoreline frontages, steep cliffs, as well as, open natural spaces such as woodlands, green belts, buffers, natural trails, areas of scenic attraction for public enjoyment, etc.

Conservation designated lands should be preserved from development because of dangerous or unstable surface conditions, or to provide for recreational and conservation purposes. Scenic areas and vistas such as the Tolt, north and south headlands, and historic graveyards should also be preserved against urban development. It is also essential that all the visual amenities and areas unsuitable for development within the community such as shorelines, flood plains, water supply areas, steep slopes, rock outcrops and small streams are preserved and retained in their natural state. This can add to the open space system, complement the urban development and serve to meet additional needs of the community. Cemeteries are also included under this category.

The Future Land Use Map identifies Conservation areas. Four large areas of land, known as the community cornerstones shall be designated as Conservation. These areas include the north and south headlands around Witless Bay, along with a large wetland area in the northwest corner and an undeveloped area in the southwest corner. These areas shall be preserved against urban development because of their intrinsic character, sensitive vulnerability or ecologically significant and conservation purposes.

Conservation Policies:

1. Land Uses

The Conservation designation shall protect and conserve environmentally sensitive and important lands from adverse development. No permanent buildings or structures shall be permitted on lands designated for Conservation uses, except those necessary for environmental protection (e.g., for erosion control).

The permitted uses shall include recreation open space, and cemetery. Other compatible uses that may be permitted include agriculture, forestry, transportation and antenna. The harvesting of firewood by individuals in possession of a domestic cutting permit may be permitted in the Conservation designation identified as a domestic cutting area by the Department of Natural Resources.

2. Conservation Buffer Waterbodies

Along the shoreline of all water bodies and water ways, a conservation buffer area shall be established which includes all land within 15 metres of the high water mark along shoreline. Proposed developments affecting water bodies or watercourses, such as stream crossings, watercourse alterations, and other public works, may be permitted in limited circumstances where it can be demonstrated the proposed use will have a minimal adverse impact. The number and size of such activities shall be limited in numbers. Any such proposed development shall be referred for review and approval to the Department of Environment and Conservation, and the Department of Fisheries

and Oceans, and any other relevant agencies before Council issues any permits for development.

3. Trail Development

The development of passive recreation uses such as the East Coast Trail, walking or nature trails, and associated interpretation programs may be permitted provided they will not have an adverse impact on the natural environment.

4. Preservation of Natural landscape

It is also essential that all the visual amenities and undevelopable areas such as the shoreline, rivers, brooks, streams, flood plains, steep slopes, and rock outcrops are preserved and retained in their natural state. This can add to the open space system and complement the rural development patterns. Areas of scenic attraction and with recreational potential shall be preserved and protected.

5. Excessive Slope

Extensive areas of land having slopes in excess of 15 percent are designated Conservation. Development is not considered feasible on such slopes because of excessive runoff and erosion and high costs to install and maintain services, and risk to public safety.

3.2.7 OPEN SPACE RECREATION

The intent of this Plan is to designate lands used for active and passive recreation to meet the needs of Witless Bay residents and visitors. Passive recreational uses such as walking trails shall be permitted, provided that they will have no adverse effect on the site.

Policies:

1. Land Uses

Permitted uses include recreation parks, linear trail systems, walking trails for pedestrians and cross-country skiers in winter shall be permitted. Indoor assembly uses (recreation facilities) such as a recreation centre and outdoor facilities such as sports fields, community festival areas, and picnic and day use parks shall also be permitted. Ragged Beach is designated as a recreation park.

Other uses that may be included within this designation are cultural and civic, take-out food service, agriculture, forestry, transportation and antenna.

2. Effects Surrounding Property

Development and operation of recreation facilities shall not impose adverse effects on adjacent residential and other uses in terms of noise, traffic and hours of operation.

3. Recreation Uses

Additional recreation facilities shall be provided in areas where they are needed and when the Town's financial resources permit. Since most of the regional and local recreational facilities are less accessible to the older age groups, the provision of additional facilities will give special consideration to these groups.

4. Town Recreation Facilities

Existing recreational facilities owned by the Town shall be properly equipped and maintained. Witless Bay has a softball field, a multi-purpose court, outdoor swimming pool and a playground. New playgrounds and recreation areas will be developed by both land developers and the Council to meet the future recreational needs of the community.

5. Trail Development

The development of passive recreation facilities such as walking or nature trails, and associated interpretation programs may be permitted provided they will not have an adverse impact on the natural environment and residential properties.

3.2.8 WATERSHED

The purpose of the Watershed zone is to protect a portion of the St. John's Regional Water Supply Area that extends just inside the Towns Planning Area Boundary near Long Pond, in the vicinity of the old Witless Bay Line at Peirre's Brook. No development shall be permitted within this area to ensure the protection of the water quality. Passive recreation uses may be permitted provided they have no negative impacts on the watershed.

3.2.9 Rural

The remaining lands within the Witless Bay Planning Area are designated Rural and are intended to be used primarily for rural resource and open space uses. Uses such as public utilities or road construction and maintenance, consistent with the objective of retaining the qualities of the rural environment, may be permitted.

Rural Policies:

1. Land Uses

The uses permitted in the designated Rural areas include agricultural, forestry, outdoor recreation and conservation uses, provided these uses do not detract from the rural character of the area.

2. Discretionary Uses

Uses that may be allowed at the discretion of Council include outdoor assembly, single dwelling, veterinary, outdoor market, general industry, cemetery, animal, and antenna. This will apply particularly to uses that need to be located close to resources or for some other reason cannot be located close to the built up areas of the Town.

3. Residential Use

Single residential dwelling use may only be permitted in conjunction with a permitted use such as forestry or agriculture.

4. Mineral Working

New mineral workings shall be prohibited in the planning area. Existing mineral workings shall include the extraction, exploration, processing or storage of gravel, sand, rock or any other mined material, concrete and asphalt making, rock crushing, quarrying, sand and gravel pits and other types of mining in general. Aggregate extraction may be permitted at the discretion of Council. All but very small scale mineral workings and related activities shall be prohibited within general view of roads and developed areas and development of new mineral workings activity at any location in the Planning Area shall not be permitted where it would create a negative impact on visual amenities as determined by Council. Council shall ensure that aggregate mining will have minimal impact upon adjoining land uses, particularly the visibility of gravel pits. Buffering and screening may be required to minimize dust and noise. Open pits shall be rehabilitated by the operator prior to abandonment.

Mineral extraction operations shall be conducted in a manner which shall minimize the adverse effects on water quality, fish and wildlife. All mineral operations will be required to complete a site rehabilitation plan as a part of the development application. Council shall not permit other development activities within 150 m of existing quarry operations that may jeopardize their operation or future expansion. Proposed operations shall be evaluated in conjunction with the Department of Natural Resources and the Department of Environment and Conservation.

5. General Industry

General industry uses may be permitted under discretion of Council where it is demonstrated that a rural rather than urban location is necessary or desired for the development of the industry, and where it will have no detrimental affect on adjacent uses or the rural and scenic environment.

6. Cottage Development

To prevent premature urban expansion and demand for services in rural areas, cottage development shall not be permitted in the Rural area.

7. Forestry

The Rural area contains forests which provide a long-term domestic wood supply, recreational opportunities, and wildlife habitat. It is important that this resource be well managed. This Plan will support initiatives of the Department of Natural Resources to manage the forests for continued use by the public during and beyond the planning period.

4.0 IMPLEMENTATION

The Municipal Plan will be implemented over the ten-year planning period through the decisions of Council and agencies such as the Department Transportation and Works, Department of Natural Resources, Department of Municipal Affairs and the Department of Environment and Conservation. Of particular importance to Council are the following:

- Effective administration of the Plan;
- The adoption of a five year capital works budget;
- adopting Land Use Zoning, Advertisement and Development Regulations
- adopting Development Schemes and plans of subdivision, and
- The procedure for considering future Amendments to the Plan.

4.1 Plan Administration

For the purposes of administering this Plan, the Future Land Use Maps shall be read in conjunction with the Goals, Objectives and Policies outlined in this document. All development applications will be carefully evaluated as to their conformity to Plan policies. The full conformity of all proposals to the Plan shall be required by Council.

The boundaries between land uses designations are meant to be general, except where they coincide with roads or other prominent physical features, where they are intended to define the exact limits. It is intended that no amendment to this Plan shall be required to permit minor adjustments to these boundaries. Other than such minor changes, no development shall be permitted that does not conform to this Plan.

All persons wishing to develop land for any purpose within the Witless Bay Municipal Planning Area shall apply to Council for permission through the established procedure. Council may approve applications with or without conditions. The appeal of all Council decisions to the Regional Appeal Board shall be permitted.

Prior to the major development of land within the Planning Area, a development agreement may be required, which will be signed by both the developer and the Council. This agreement shall establish the conditions under which development may proceed and shall be binding to both parties. Conditions governing developments may also be enforced by being attached to the development permit.

Nothing in this Plan shall affect the continuance of land uses which are lawfully established on the date that the Plan is adopted by Council.

4.2 Plan Implementation

The preparation, adoption and approval of the Witless Bay Municipal Plan represent only a part of the planning process. The Plan cannot implement itself and can be functional and effective only through Council's actions and efforts to carry it out.

In order to implement this Plan, Council must take the necessary action, as required by the *Urban and Rural Planning Act, 2000* as outlined below:

- control future development by enforcing the Witless Bay Development Regulations and the policies of this Plan;

- undertake the capital works program on a progressive basis geared to the available resources of the community and financial assistance from the provincial government;
- make necessary amendments to the Plan if conditions of the community change, and
- Undertake a review of the Plan every five years.

4.3 Development Regulations

To implement this Plan, Council shall prepare and adopt Development (Land Use Zoning, Subdivision and Advertisement) Regulations on the basis of this Plan. These regulations are intended for Council's control over future use of land and development within the Planning Area and they outline land use zoning, development standards and application procedures necessary to implement this Plan.

4.4 Development Control

The Plan is a legal document which is binding upon all persons, groups, or organizations, including the municipal Council. Council shall exercise proper control over development within the Planning Area in accordance with this Plan and the Development (Land Use Zoning, Subdivision and Advertisement) Regulations.

All persons wishing to develop land for any purpose within the Planning Area shall apply to Council for permission on the prescribed application form(s) and shall submit a detailed plot/sketch plan of the proposal indicating the location and dimensions of the land and of the development. Council shall examine the

application on the basis of the Development Regulations, which reflect the policy of this Plan, may approve the application, approve it with conditions, or refuse it.

An applicant who receives a refusal decision from Council on a development application may appeal that decision to the Eastern Regional Appeal Board.

Development in areas under the control of Council as well as other government departments will be referred to the concerned departments for review.

4.5 Public Works and Municipal Services

In order to properly implement the goals and objectives of the Plan, an annual public works program will be adopted and implemented by Council. This will include a financial overview and preparation of a "Financial Evaluation for Municipal Capital Works Projects" which outlines proposed capital works to be undertaken by Council over a seven year period, subject to the availability of government funding.

The Town of Witless Bay provides the usual municipal services (road construction and maintenance, snow clearing, street lighting, garbage collection, volunteer fire brigade and recreational sites. The Town's major service expenditures are road construction and re-surfacing.

TOWN OF WITLESS BAY DEVELOPMENT REGULATIONS 2014-2024



PLAN-TECH



ENVIRONMENT

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**TOWN OF WITLESS BAY MUNICIPAL PLAN
LAND USE, ZONING, SUBDIVISION AND ADVERTISEMENT REGULATIONS
(DEVELOPMENT REGULATIONS)**

APPLICATION

1. Short Title

These Regulations may be cited as the Witless Bay 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 Witless Bay Municipal Planning Area, hereinafter referred to as the Planning Area, on the date of publication of a notice to that effect in the Newfoundland and Labrador 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 Witless Bay, shall, under these Regulations apply to the entire Planning Area.

5. Authority

In these Regulations, “Authority” means the Council of the Town of Witless Bay.

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 Authority.

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 Authority.

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 Authority, 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 Authority and such cost shall attach to and upon the property in respect of which it is imposed.

10. Discretionary Powers of Authority

- (1) In considering an application for a permit or for approval in principle to carry out development, the Authority 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 Authority 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 authority 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 authority's regulations as discretionary, permitted or prohibited uses for that area

11. Variances

- (1) Where an approval or permit cannot be given by the Authority because a proposed development does not comply with development standards set out in development regulations, the Authority may, in its discretion, vary the applicable development standards to a maximum of 10% if, in the authority'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 Authority 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 Authority 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

Where the Authority is to consider a proposed variance, the Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority may decide.

14. Financial Guarantees by Developer

- (1) The Authority 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 Authority, 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 Authority, or;
 - (f) another form of financial guarantee that the Authority may approve.

15. Dedication of Land for Public Use

In addition to the requirements for dedication of land under Regulation 78, the Authority 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 Authority 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 Authority 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 Authority and shall put the site in a clean and sanitary condition to the satisfaction of the Authority.

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 Authority on such form as may be prescribed by the Authority, and every application shall include such plans, specifications and drawings as the Authority may require, and be accompanied by the permit fee required by the Authority.
- (2) The Authority 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 Authority shall keep a public register of all applications for development, and shall enter therein the Authority's decision upon each application and the result of any appeal from that decision.

19. Deferment of Application

- (1) The Authority 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 Authority and on which a decision has not been communicated to the applicant within eight weeks of the receipt thereof by the Authority, 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 Authority 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 Authority 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 Authority 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 thereunder.
- (2) The Authority 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 Authority 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 Authority 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 Authority 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 Authority 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 Authority.
- (8) There shall be kept available on the premises where any work, matter or thing in 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 Authority 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

Where the Authority makes a decision that may be appealed under section 42 of the Act, the Authority 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

- (1) The secretary of the Appeal Board at the Department of Municipal and Intergovernmental Affairs, P.O. Box 8700, St. John's, NL, 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

- (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 Authority of the appeal and shall provide to the Authority a copy of the appeal and the documentation related to the appeal.

- (3) Where the Authority has been notified of an appeal that Authority 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 authority 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 authority, 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

- (1) Immediately upon notice of the registration of an appeal the Authority 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 Authority 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 Authority 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 Authority 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.
- (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 Authority to carry out its decision or make the necessary order to have its decision implemented.
- (11) Notwithstanding subsection (10), where the Authority 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 Authority of the decision of the Appeal Board.

29. Hearing Notice and Meetings

- (1) An Appeal Board shall notify the appellant, applicant, authority 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

- (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 Authority.

32. Notice of Application

The Authority may, and when a variance is necessary under Regulation 11 and the Authority 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 Authority 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.

33. Right of Entry

The Authority, 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 Authority is empowered to regulate.

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 Authority.

35. Stop Work Order and Prosecution

- (1) Where a person begins a development contrary or apparently contrary to these Regulations, the Authority 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

An authority 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 Authority so as to ensure the greatest possible convenience and safety of the street system and the Authority 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 10 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) No accessory building or part thereof shall project in front of any building line.
- (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 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.

39. Advertisements

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

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

41. Building Height

The Authority 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 Authority, 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 is 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 Authority, 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 Authority 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% of 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 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 Forest Resources & Agrifoods and the Department of Environment.
- (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 development is first approved by the Department of Forest, Resources and Agrifoods.

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 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 Authority 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.

48. 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 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 Authority 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 Authority;
 - (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 Authority to a use that is, in the Authority's opinion, more compatible with the plan and regulations applicable to it;
 - (e) may have the existing building extended by approval of the Authority where, in the Authority'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.

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 Authority, 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 Authority and any other authority 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 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 Authority;
 - (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 Authority, strict application of the above parking requirements is impractical or undesirable, the Authority 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 Authority 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 Authority.

- (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 Authority 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 Authority, the landscaping or screening is desirable to preserve amenity, or protect the environment.

55. Services and Public Utilities

The Authority 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 Authority, 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.

57. Side Yards

A sideyard 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.

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 Authority.

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. Zero Lot Line and Other Comprehensive Development

The Authority may, at its discretion, approve the erection of dwellings which are designed to form part of a zero lot line development or other comprehensive layout which does not, with the exception of dwelling unit floor area, meet the requirements of the Use Zone Table in Schedule C, provided that the dwellings are designed to provide both privacy and reasonable access to natural daylight and the overall density within the layout conforms to the regulations and standards set out in the Use Zone Table apply where the layout adjoins other development.

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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 Authority. Permit for erection or display of advertisement on Provincial Highways shall be obtain from the Government Service Centre.

63. Form of Application

Application for a permit to erect or display an advertisement shall be made to the authority 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 Authority for similar periods.

66. Removal of Advertisements

Notwithstanding the provisions of these Regulations, the Authority 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 Authority:

- (a) on a dwelling or within the courtyard 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 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 curtilage 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 Authority.

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 Authority.

71. Services to be Provided

No permit shall be issued for the development of a subdivision unless provisions satisfactory to the Authority 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 Authority 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 Authority, 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 Authority 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 Authority, 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 Authority 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 Authority 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 Authority, at no cost to the Authority, an area of land equivalent to not more than 10% of the gross area of the subdivision or 25 m² for every dwelling unit per-

mitted 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 Authority shall determine the percentage of land to be dedicated;
 - (b) if, in the opinion of the Authority, no public open space is required, the land may be used for such other public use as the Authority 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 Authority but in any case, the Authority shall not accept land which, in its opinion is incapable of development for any purpose;
 - (d) the Authority 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 Authority in accordance with Regulation 78(1)(d) above, shall be reserved by the Authority 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 Authority and may be sold or leased by the Authority 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 Authority 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 Authority, 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 Authority 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 30 m.
- (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 Authority, 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; where 50% or more of the units are row houses or apartments.	15 m	9 m	1.5 m	1
	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 Authority 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 Authority 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 Authority, be incorporated in the plan of subdivision.
- (2) Upon approval by the Authority 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 Authority to service the said area.

82. Developer to Pay Engineer's Fees and Charges

The developer shall pay to the Authority all the Engineer's fees and charges related to the review of the developer's designs and specifications and for the layout and supervision of construction, if required by the Authority; 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 Authority as being necessary, may, at the Authority's discretion,

be deferred until a later stage of the work on the development of the subdivision but the developer shall deposit with the Authority 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 Authority 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 Authority the amount of the excess. If the contract price is less than the deposit, the Authority shall refund the amount by which the deposit exceeds the contract price. Any amount so deposited with the Authority 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 Authority

- (1) The developer shall, following the approval of the subdivision of land and upon request of the Authority, transfer to the Authority, at no cost to the Authority, 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 Authority 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 Authority.
- (2) Before the Authority 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 Authority 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 Authority.

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 Authority 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 Authority, shall not be changed without written application to and subsequent approval of the Authority.

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 Authority 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 Authority 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 Authority 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 Authority 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 Authority has given notice of the application in accordance with Regulation 32 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.

DEFINITIONS

ACCESS means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street.

ACCESSORY BUILDING is:

- (a) A detached subordinate building not used as a dwelling, located on the same lot as the main building or use to which it is accessory, and which has a use which is customarily incidental or complimentary to the main use of the building or land:
- (b) for residential uses such as domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetable storage cellars, shelters for domestic pets, or radio and television antennae,
- (c) for commercial uses such as workshops, garages, and
- (d) for industrial uses such as garages, offices, raised ramps and docks.

ACCESSORY USE means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use.

ACT unless the context indicates otherwise, means the *Urban and Rural Planning Act, 2000*.

ADVERTISEMENT means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, in the nature of and employed wholly or in part for the purposes of advertisement, announcement or direction, excluding such things employed wholly as a memorial, or functional advertisement of Councils, or other local authorities, public utilities and public transport undertakers, and including any boarding or similar structure used or adapted for use for the display of advertisements.

AGRICULTURE means horticulture, fruit growing, grain growing, crop growing, seed growing, dairy farming, bee keeping, the breeding or keeping of animals for food, skins, or fur, the use of land, meadow land, market gardens and nursery grounds and the use of land for woodlands where that use is ancillary to the farming of the land. Agriculture includes primary processing of onsite products. For the purposes of these regulations, agriculture also includes the keeping or boarding of horses.

AMUSEMENT USE means the use of land or buildings equipped for the playing of electronic, mechanical, or other games and amusements including electronic games, pinball games and slot machine arcades and billiard and pool halls.

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

APARTMENT BUILDING means a building containing three or more dwelling units, but does not include a row dwelling or a single dwelling with a subsidiary apartment.

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

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

ARTERIAL STREET means the streets in the Planning Area constituting the main traffic arteries of the area and defined as arterial streets or highways in the Municipal Plan or on the Zoning Map.

APPROVAL IN PRINCIPLE means that Council when considering a development application shall evaluate the application to the development requirements within the Town. If the proposed development meets the development requirements of the Town an approval in principle may be given to the application. Final approval and issuance of a permit to commence development are subject to the agreement by the applicant to meet specified conditions as outlined by Council.

AUTHORITY means the Town Council of Witless Bay, authorized administrator or regional authority.

BACKLOT means a lot characterized by the location of the residential lot generally at the rear of another residential lot, or otherwise separated from the public street which provides access, and by a narrower area extending from the rear residential lot to the public street.

BED AND BREAKFAST means a detached dwelling occupied by the property owner or the bed and breakfast host as a primary residence in which overnight accommodation and a breakfast meal are offered to registered guests for a fee.

BOARDING HOUSE means a dwelling in which at least 2 rooms are regularly rented to persons other than the immediate family of the owner or tenant.

BUFFER means a berm, row of trees or shrubs, hedge, fence, or distance separation that provides a barrier between incompatible sites, uses or districts.

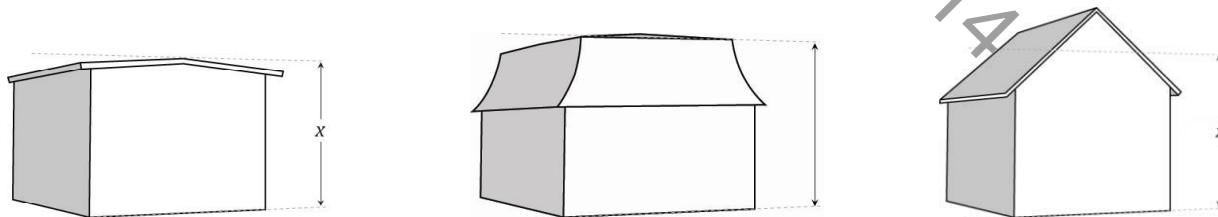
BUILDING means:

- (a) a structure, erection, excavation, alteration or improvement placed on, over or under land, or attached, anchored or moored to land; mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses;
- (b) a part of and fixtures on buildings referred to in (a) and (b), and
- (c) an excavation of land whether or not that excavation is associated with the intended or actual construction of a building or thing referred to in subparagraphs (a) to (c).

BUILDING HEIGHT means the vertical distance, in metres, from established grade to the:

- a) highest point of the roof surface of a flat roof;
- b) deck line of a mansard roof; and
- c) mean height level between the eave and ridge of a gable, hip or gambrel roof.

In any case, a Building Height shall not include mechanical structures, smokestacks, steeples, and purely ornamental structures above a roof.



BUILDING LINE means a line established by the Council that runs parallel to the street line and is set at the closest point to a street that a building may be placed. A corner lot is deemed to have a building line setback on both the primary and flanking streets.

CHILD CARE FACILITY means a building or part of a building in which services and care are regularly provided to children or adults, but does not include a school as defined by the Schools Act.

COLLECTOR STREET means a street that is designed to link local streets with arterial streets and which is designated as a collector street in the Municipal Plan, or on the Zoning Map.

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

CORNER LOT SIGHT TRIANGLE means a corner lot, a fence, sign, hedge, shrub, bush or tree or any other structure or vegetation shall not be erected or permitted to grow to a height greater than 1 metres above grade of the streets that abut the lot within the triangular area included within the street lines for a distance of 6 metres from the point of intersection.

COUNCIL means the Municipal Council of the Town of Witless Bay.

DEVELOPMENT means the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of a material change in the use, or the intensity of use of land, buildings, or premises and the:

- (a) making of an access onto a highway, road or way,
- (b) erection of an advertisement or sign,
- (c) construction of a building,
- (d) the parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation, and excludes,
- (e) the carrying out of works for the maintenance, improvement or other alteration of a building, being works which affect only the interior of the building or which do not materially affect the external appearance or use of the building,
- (f) the carrying out by a highway authority of works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road reservation,
- (g) the carrying out by a local authority or statutory undertaker of works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of streets or other land for that purpose,
- (h) the use of a building or land within the courtyard of a dwelling house for a purpose incidental to the enjoyment of a dwelling house as a dwelling.

DEVELOPMENT AGREEMENT means a written agreement between the municipality and a developer which establishes particular circumstances and conditions under which a development may be carried out.

DEVELOPMENT REGULATIONS means Regulations and by-laws respecting development that have been enacted by Council.

DISCRETIONARY USE means a use that is listed within the discretionary use classes established in the use zone tables of the Council's Development Regulations.

DOUBLE DWELLING means one building containing two dwelling units, placed one above the other, side by side, or joined by a carport with separate lot areas dedicated to each unit, but does not include a single dwelling containing a subsidiary apartment.

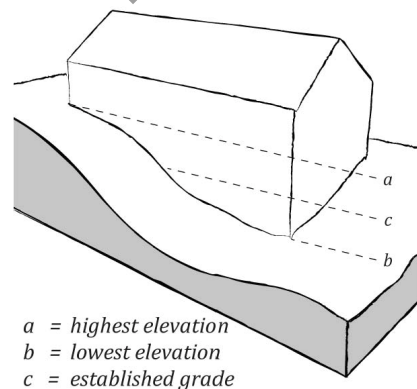
DWELLING UNIT means a self-contained unit consisting of one or more habitable rooms used or designed as the living quarters for one or more persons.

ENGINEER means an engineer who is a member of the Association of Professional Engineers and Geoscientists of Newfoundland, employed or retained by the Council.

ESTABLISHED BUILDING LINE means the average distance from the street line of existing buildings in any block where more than half the frontage has been built upon in the past.

ESTABLISHED GRADE means:

- a) where used in reference to a building, the average elevation of the finished surface of the ground where it meets the exterior of the front of that building exclusive of any artificial embankment or entrenchment;
- b) where used in reference to a structure that is not a building, the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment.



FAMILY CHILD CARE USE means a building or part of a building in which services and activities are regularly provided for up to six (6) children as defined in the *Child Care Services Act*, but do not include a school as defined by the *Schools Act*.

FLANKING STREET means the secondary street bordering a corner lot.

FLOODWAY means the inner portion of a flood risk area where the risk of flood is greatest, on average once in twenty years and where the flood depths and water velocities are greatest.

FLOODWAY FRINGE means the outer portion of a flood risk area, between the floodway and the outer boundary of the flood risk area, where the risk of flooding is lower, on average once in one hundred years, and flood waters are shallower and slower.

FLOOD PROOFING means structural and/or non-structural measures incorporated in the design of a building or structure which reduce or eliminate the risk of flood damage by ensuring that the ground floor elevation is higher than the projected flood level and that the building can be exited without hindrance in the event of a flood.

FLOOR AREA means the total area of all floors of a building measured to the outside face of exterior walls.

FORESTRY means the use of land for the purpose of forest and woodland management including the felling, cutting, trimming and thinning of forest or woodland for the extraction of timber, and includes reforestation and silviculture.

FRONTAGE means the horizontal distance between side lot lines measured at the building line.

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

GARAGE (Residential) means a building erected for the storage of motor vehicles as an ancillary use to a main dwelling on the lot.

GENERAL GARAGE means land or buildings used for the repair, maintenance and storage of motor vehicles and may include the sale of petroleum products.

GENERAL INDUSTRY means the use of land or buildings for the purpose of storing, assembling, altering, repairing, manufacturing, fabricating, preparing, processing, testing, salvaging, breaking up, demolishing, or treating any article, commodity or substance, and "Industry" shall be construed accordingly.

GROUP CHILD CARE USE means a building or part of a building in which services and activities are regularly provided for seven (7) or more children as defined in the *Child Care Services Act*, but do not include a school as defined by the *Schools Act*.

GROUP HOME means a dwelling unit accommodating not more than 6 persons, exclusive of staff, in a home-like setting where staff provide care and supervision. This definition includes, but is not limited to, the facilities called "Transition House" and "Foster Home".

HAZARDOUS INDUSTRY means the use of land or buildings for industrial purposes involving the use of materials or processes, which because of their inherent characteristics constitute a special fire, explosion, radiation or other hazard.

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

HOSPITALITY HOME means a dwelling unit in which at least 1 room is regularly rented, and includes the uses commonly referred to as "Bed and Breakfast", and "Boarding House".

IN-LAW SUITE (APARTMENT) means a small one bedroom apartment that forms part of the primary residence and used to accommodate an in-law relative. The apartment may have a communicating door to the residence, but has a separate entrance.

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

LAND includes land covered by water, and buildings and structures on, over, or under the soil and fixtures that form part of those buildings and structures.

LANDSCAPING means the development of land by altering the topography and ground cover and may include the use of turf, plants, shrubs, trees, retaining walls and fences.

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

LIGHT INDUSTRY means the use of land or buildings for industrial use that can be carried out without hazard or intrusion and without detriment to the amenity of the surrounding area by reason of noise, vibration, smell, fumes, smoke, grit, soot, ash, dust, glare or appearance.

LIVESTOCK OPERATION means a livestock operation of agricultural animals confined in one location which consists of 5 or more animal units at a given point in time.

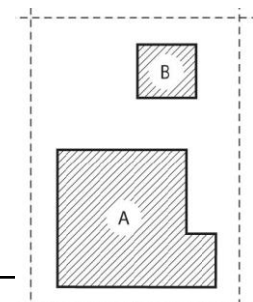
LOCAL STREET means a street designed primarily to provide access to adjoining land and which is not designated as a collector street or arterial street in the Municipal Plan, or on the Zoning Map.

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

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

LOT COVERAGE means the combined area of all buildings on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot.

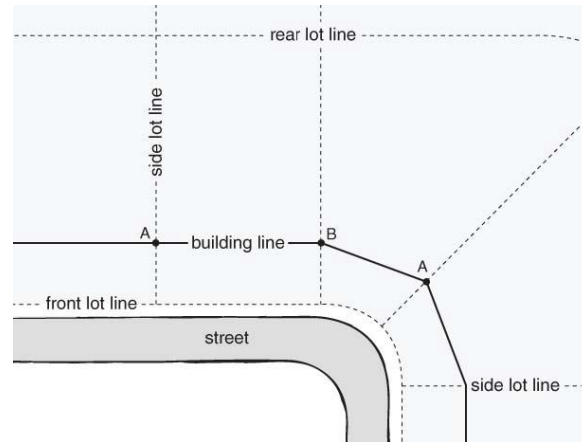
$$\text{Lot coverage} = \frac{\text{Area of A} + \text{Area of B}}{\text{Lot area}}$$



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

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

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



LOT LINE, FLANKING means a lot line which abuts the street on a corner lot.

MINERAL WORKING means land or buildings used for the working, stockpiling or extraction of rock, mineral, peat or aggregate material, and will include a "quarry".

MINI HOME means a factory produced single dwelling complying with the National Building Code and having the appearance or proportions of a mobile home.

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

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

MUNICIPAL PLAN means a plan adopted by the Council as a Municipal Plan pursuant to the *Urban and Rural Planning Act, 2000*.

NON-CONFORMING USE means a legally existing use that is not listed as a permitted use or discretionary use for the use zone in which it is located or which does not meet the development standards for that use zone.

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

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

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

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

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

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

PROHIBITED USE means a use that is not listed in a use zone within the permitted use classes or discretionary use classes or a use that Council specifies as not permitted within a use zone.

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

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

RECREATION PARK means an area of open space provided for public recreational use. It can be in its natural or semi-natural state, or planted, and is set aside for human enjoyment or for the protection of wildlife or natural habitats. It may consist of rocks, soil, water, flora and fauna and grass areas, but may also contain buildings and play grounds.

RESTAURANT means a building or part of a building, licensed for the purpose of serving meals and includes a "Snack Bar", but not take-out food service.

ROW DWELLING means three or more dwelling units at ground level in one building, each unit separated vertically from the others.

SEASONAL RESIDENCE means a dwelling which is designed or intended for seasonal or recreational use, and is not intended for use as permanent living quarters.

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

SERVICE STATION means a building, including gas pumps, used for the sale of petroleum products, and may include general merchandise, minor automotive repairs, and washing of vehicles.

SERVICE STREET means a street constructed parallel to or close to another street for the purpose of limiting direct access to that street.

SHOP means a building or part thereof used for retail trade wherein the primary purpose is the selling or offering for sale of goods, wares or merchandise by retail or the selling or offering for sale of retail services but does not include an establishment wherein the primary purpose is the serving of meals or refreshments, an amusement use, a general garage, or a service station.

SHOPPING CENTRE means a group of retail stores with integrated parking which is planned, developed and designed as a unit containing a minimum of 5 retail establishments.

SHOWROOM means a building or part of a building in which samples or patterns are displayed and in which orders may be taken for goods, wares or merchandise, including vehicles and equipment, for later delivery.

SIDEYARD WIDTH means the distance between a side lot line and the nearest side wall of a building on the lot.

SIGN means a word, letter, model, placard, board, device or representation, whether illuminated or not, in the nature of or employed wholly or in part for the purpose of advertisement, announcement, or direction and excludes those things employed wholly as a memorial, advertisements or local government, utilities and boarding or similar structures used for the display of advertisements.

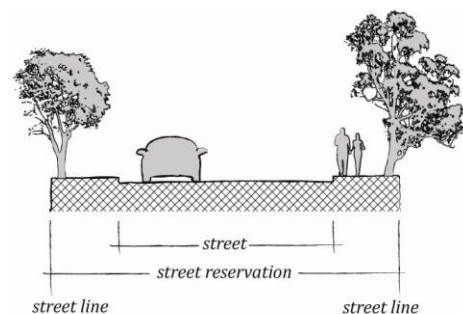
SINGLE DWELLING means one building containing a single dwelling unit for the use of one family, placed on its own lot, and can include a subsidiary apartment.

SITE PERMIT means a permit issued by the Town of Witless Bay for any earth disturbance or other earthwork including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, road maintenance, and the moving, depositing, stockpiling or storing of soil, rock, or earth materials. A Site Permit shall not be construed as a Development Permit.

STREET means a street, road, highway or other way designed for the passage of vehicles and pedestrians, and which is accessible by fire department and other emergency vehicles.

STREET LINE means the edge of the right of way of a street reservation as defined by the authority having jurisdiction.

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



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

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

SUBSIDIARY APARTMENT means a separate dwelling unit constructed within and subsidiary to a single dwelling.

TAKE-OUT FOOD means a building in which the primary purpose is the preparation and sale of meals and refreshments for consumption off the premises.

TOT LOT means a small park or playground for young children located in or near residential neighbourhoods containing play structures that are typically suitable for children from age 2 to 5 years.

USE means a building or activity situated on a lot or a development permitted on a lot.

USE ZONE or ZONE means an area of land including buildings and water designated on the zoning map to which the uses, standards and conditions of a particular use zone table apply.

VARIANCE means a departure, to a maximum of 10% from the yard, area, lot coverage, setback, size, height, frontage, or any other numeric requirement of the applicable use zone table of the Council's regulations.

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

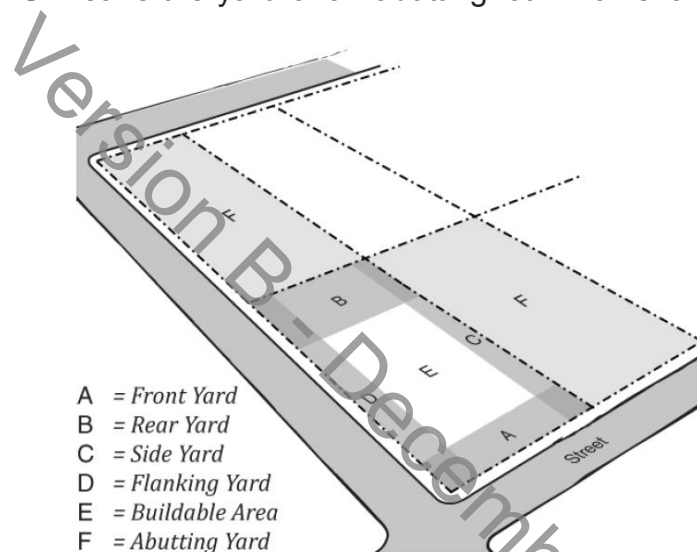
YARD, REAR means the distance between the rear lot line and the rear wall of the main building on a lot.

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

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

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

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



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

SCHEDULE B**CLASSIFICATION OF USES OF LAND AND BUILDINGS**

GROUP	DIVISION	CLASS	EXAMPLES
A. ASSEMBLY USES	1. Assembly Uses for the production and viewing of the performing arts.	(a) Theatre	Motion Picture Theatres T.V. Studios admitting an audience.
	2. General Assembly Uses	(a) Cultural and Civic	Libraries Museums Art Galleries Court Rooms Meeting Rooms Council Chambers
		(b) General Assembly	Community Halls Lodge Halls Dance Halls Gymnasias Auditoria Bowling Alleys
		(c) Educational	Schools Colleges (non- residential)
		(d) Place of Worship	Churches and similar places of worship. Church Halls
		(e) Passenger Assembly	Passenger Terminals
		(f) Club and Lodge	Private Clubs and Lodges (non-residential)
		(g) Catering	Restaurants Bars Lounges
		(h) Funeral Home	Funeral Homes and Chapels
		(i) Child Care	Day Care Centres
		(j) Amusement	Electronic Games Arcades Pinball Parlours Poolrooms

CLASSIFICATION OF USES OF LAND AND BUILDINGS

GROUP	DIVISION	CLASS	EXAMPLES
A. ASSEMBLY USES (continued)	3. Arena-type Uses	(a) Indoor Assembly	Arenas Armouries Ice Rinks Indoor Swimming Pools
	4. Open-air Assembly Uses	(a) Outdoor Assembly	Bleachers Grandstands Outdoor Ice Rinks and Swimming Pools Amusement Parks and Fair-grounds Exhibition Grounds Drive-in Theatres Camping Grounds R. V. Camping Parks
B. INSTITUTIONAL USES	1. Penal and Correctional Institutional Uses	(a) Penal and Correctional Detention	Jails Penitentiaries Police Stations (with detention quarters) Prisons Psychiatric Hospitals (with detention quarters) Reformatories
	2. Special Care Institutional Uses	(a) Medical Treatment and Special Care	Children's Homes Convalescent Homes Homes for Aged Hospitals Infirmaries Orphanages Psychiatric Hospitals Sanatoria
C. RESIDENTIAL USES	1. Residential Dwelling Uses	(a) Single Dwelling	Single Detached Dwellings Family & Group Homes
		(b) Double Dwelling	Semi-detached Dwelling Duplex Dwellings Family & Group Homes
		(c) Row Dwelling	Row Houses Town Houses Family & Group Homes
		(d) Apartment Building	Apartments Family & Group Homes

CLASSIFICATION OF USES OF LAND AND BUILDINGS

GROUP	DIVISION	CLASS	EXAMPLES
C. RESIDENTIAL USES (continued)	2. General Residential Uses (continued)	(a) Collective Residential	Residential Colleges & Schools University & College Halls of Residence Convents & Monasteries Nurses and Hospital Residences
		(b) Boarding House Residential	Boarding Houses Lodging Houses
		(c) Commercial Residential	Hotels & Motels Hostels Residential Clubs
		(d) Seasonal Residential	Summer Homes & Cabins Hunting & Fishing Cabins
		(e) Mobile Homes	Mobile Homes
D. BUSINESS & PERSONAL SERVICE USES	1. Business, Professional, and Personal Service Uses	(a) Office	Offices (including Government Offices) Banks
		(b) Medical & Professional	Medical Offices and Consulting Rooms Dental Offices & Surgeries Legal Offices Similar Professional Offices
		(c) Personal Service	Barbers Hairdressers Beauty Parlours Small Appliance Repairs
		(d) General Service	Self-service Laundries Dry Cleaners (not using flammable or explosive substances) Small Tool and Appliance Rentals Travel Agents

CLASSIFICATION OF USES OF LAND AND BUILDINGS

GROUP	DIVISION	CLASS	EXAMPLES
D. BUSINESS & PERSONAL SERVICE USES (continued)	1. Business, Professional & Personal Service Uses (continued)	(e) Communica-tions	Radio Stations Telephone Exchanges
		(f) Police Station	Police Stations
		(g) Taxi Stand	Taxi Stands
		(h) Take-out Food Service	Take-out Food Service
		(i) Veterinary	Veterinary Surgeries
E. MERCANTILE USES	1. Retail Sale and Display Uses	(a) Shopping Centre	Shopping Centres
		(b) Shop	Retail Shops, Stores and Showrooms Department Stores
		(c) Indoor Market	Market Halls Auction Halls
		(d) Outdoor Market	Market Grounds Animal Markets Produce and Fruit Stands Fish Stalls Sale of Firewood Sale of Garbage Box
		(e) Convenience Store	Confectionary Stores Corner Stores Gift Shops Specialty Shops
F. INDUSTRIAL USES	1. Industrial uses involving highly combustible and hazardous substances and processes.	(a) Hazardous Industry	Bulk Storage of hazardous liquids and substances. Chemical Plants Distilleries Feed Mills Lacquer, Mattress, Paint, Varnish, and Rubber Factories Spray Painting

CLASSIFICATION OF USES OF LAND AND BUILDINGS

GROUP	DIVISION	CLASS	EXAMPLES
F. INDUSTRIAL USES (continued)	2. General Industrial Uses involving Limited Hazardous Substances and Processes.	(a) General Industry	Factories Cold Storage Plants Freight Depots General Garages Warehouses Workshops Laboratories Laundries Planing Mills Printing Plants Contractors' Yards Outdoor Storage Heavy Equipment Storage
		(b) Service Station	Gasoline Service Stations Gas Bars
	3. Light, Non-hazardous or Non-intrusive Industrial Uses.	(a) Light Industry	Light Industry Parking Garages Indoor Storage Warehouses and Workshops
G. NON-BUILDING USES 1. Uses not directly related to building.		(a) Agriculture	Commercial Farms Hobby Farms Market Gardens & Nurseries
		(b) Forestry	Tree Nurseries Silviculture
		(c) Mineral Working	Quarries and Pits Mines Oil Wells
		(d) Recreational Open Space	Playing Fields Sports Grounds Parks Playgrounds
		(e) Conservation	Watersheds Buffer Strips Flood Plains Architectural, Historical and Scenic Sites Steep Slopes Wildlife Sanctuaries
		(f) Cemetery	Cemeteries and Graveyards
		(g) Scrap Yard	Car Wrecking Yards Junk Yards Scrap Dealers
		(h) Wind Power	Wind Turbine(s)

CLASSIFICATION OF USES OF LAND AND BUILDINGS

GROUP	DIVISION	CLASS	EXAMPLES
G. NON-BUILDING USES (continued)	1. Uses not directly related to building.	(h) Solid Waste	Solid Waste Disposal Sanitary Land Fill Incinerators
		(i) Animal	Animal Pounds Kennels Zoos Dog Grooming
		(j) Antenna	TV, Radio and Communications Transmitting, Receiving Masts and Antennae
		(k) Transportation	Airfields Docks and Harbours Boathouses and wharves

Version B - December 2014

TOWN OF WITLESS BAY

SCHEDULE "C"

USE ZONE TABLES

NOTE: This schedule contains tables showing the use classes which may be permitted or which may be treated as discretionary use classes for the purpose of these Regulations. The tables also indicate the required standards of development and may also include conditions affecting some or all of the use classes.

The schedule contains tables for the following Use Zones:

Land Use Zone	Abbreviation	Page
Residential	Res	1
Residential Rural	RR	9
Residential Subdivision Area	RSA	17
Mixed Development	MD	19
Commercial Local	CL	27
Commercial Highway	CH	32
Industrial Light	IL	37
Public Buildings	Pub	42
Recreation	Rec	46
Conservation	Con	48
Watershed	W	50
Rural	Rur	51

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USE ZONE TABLE

ZONE TITLE				RESIDENTIAL (Res)			
PERMITTED USE CLASSES - (see Regulation 89) Single dwelling, double dwelling.							
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Boarding house (bed and breakfast), row dwelling, apartment building, agriculture, convenience store, education, cultural and civic, place of worship, medical and professional, personal service, child care, light industry, recreational open space, office (for home business), shop							
STANDARDS	Single Dwelling	Double Dwelling	Row Dwelling	APARTMENT BUILDING			
				1 Bed Apt.	2 Bed Apt.	3 Bed Apt.	4 Bed Apt.
Lot area (m²) minimum	1860	1500*	1200* (average)	800*	850*	900*	950*
Floor area (m²) minimum	80	80*	65*	40*	50*	60*	70*
Public Road Frontage (m) (minimum)	30	20*	15* (av)	50			
Building Line Setback (m) (minimum)	8	8	8	15			
Building Line Setback (m) (maximum)	32	32	32	32			
Sidyard Width (m)(min.)	3	3	3	5			
Rearyard Depth (m)(min.)	9	9	9	14			
Lot Coverage (%)(max.)	33	33	33	33			
Building Height (max.)	10	10	15	15			
* Per dwelling unit							

CONDITIONS**1. Discretionary Uses Classes**

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

2. Corner Lots

Properties situated on existing or proposed corner lots shall be deemed to have two street frontages and shall be required to maintain the minimum building line setback on both the primary and flanking streets as prescribed in the use zone table.

3. Dwelling Frontage

The front wall of a dwelling shall be parallel to the street on which it is fronting and has a civic number.

4. Accessory Buildings

- (a) All accessory buildings shall have a maximum floor area of 70m².
- (b) An accessory building shall be prohibited to project in front of a building line or in the flanking sideyard of a corner lot.
- (c) Accessory buildings shall located be on the same lot as the residential dwelling and shall be clearly incidental and complementary to the main use of the residential dwelling in character, use, style and exterior finish, and shall be located so as to minimize any visual impacts on adjoining properties.
- (d) The maximum height shall be 6m with a minimum of 1m from any property line and 2m from the nearest corner of a residential dwelling.
- (e) Accessory buildings (private garages only) may be permitted in the sideyard at Council discretion, but not in the flanking sideyard of a corner lot.
- (f) Residential lots may have more than one accessory building provided that the maximum combined floor area of all buildings, including a second storey, shall not be greater than the maximum area as set out in the General Development Regulations and this Land Use Zone Table.
- (g) Aside from minor vehicle maintenance, no person shall use an accessory building for the purpose of performing major repairs, painting, dismantling, or scrapping of vehicles or machinery.
- (h) Where it can be clearly demonstrated that a need exists for a larger accessory building, Council shall have discretion where the proposed accessory building will exceed the maximum floor area of 70m², and the maximum height of 6m.

5. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

6. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and amenities of the surrounding area.

7. Convenience Store

Convenience stores may only be permitted as a discretionary use provided that:

- (a) The convenience store forms part of the residential dwelling and shall not exceed more than 25% of the total floor area of the building, to a maximum of 45 m².
- (b) The convenience store must front directly onto a public road.
- (c) The retail use shall be subsidiary to the residential character of the area,

- and shall not affect residential amenities of adjoining properties.
- (d) Adequate provision for on site parking, loading, buffering and landscaping.
- (e) A convenience store shall not be located on single access or dead end roads, unless on a corner lot at the intersection with a main road.

8. Home Businesses - Office, Medical and Professional Service, Personal Service, and Light Industry Uses as Home Occupations

A Home Business is defined as an accessory use of a residential dwelling consisting of an occupation or profession which generates revenue for the resident.

Office, medical and professional service, personal service, and light industry uses may be permitted provided they are carried out as home occupations, businesses operated in the dwelling, or in a building subsidiary to the dwelling on the same lot, by the occupants of the dwelling, and meet the following requirements.

- (a) Office uses shall be limited to small business services and professional offices;
- (b) Light Industry uses shall be limited to fabrication for the production of handmade articles such as clothing, and arts and crafts objects;
- (c) The use is clearly subsidiary to the residential use, does not alter the residential character of the dwelling unit, and does not detract from the residential character of the neighbourhood.
- (d) No wholesale sales or storage of goods is carried out, any retail sales are incidental and subsidiary to the approved use, no repairs to vehicles or heavy equipment are carried out.
- (e) Activities associated with the use are not hazardous and do not cause noticeable noise, odour, dust, fumes, or inconvenience to occupants of adjoining residences.
- (f) Activities associated with the use shall be carried on inside the dwelling or in a building separate from the dwelling.
- (g) One building only, separate from the dwelling, may be used in connection with a light industrial use and service use and shall conform to the Accessory Buildings condition height and floor area limit for this zone; child care use shall be carried out in the dwelling unit or be attached to the dwelling unit.
- (h) Except for child care, no more than 30% of the total floor area of the dwelling is devoted to the use.
- (i) The use shall not generate traffic, parking, sewage or water use in excess of what is normal in the residential area.
- (j) Activities associated with the use are not hazardous and do not cause a noticeable increase in noise, odour, dust or fumes, nor cause electrical

interference or in any other way result in a nuisance to the occupants of surrounding residences.

- (k) The residential lot has sufficient area to accommodate the parking requirements of the dwelling unit and the home occupation.
- (l) No regular parking of commercial vehicles except for one vehicle with a gross weight of no greater than one tonne will be permitted on the lot or on the road reservation adjacent to the lot.

9. Child Care

A day care or day nursery (i.e.: a child care operation in which services are regularly provided to seven or more children), in an existing dwelling, is subject to the following conditions:

- (a) The operation is in accordance with all applicable provincial laws and regulations.
- (b) A limit of one day care or day nursery will be permitted on any street.
- (c) The use will not occupy more than 70m² or 40% of the floor area, whichever is less.
- (d) Provision for off-street parking will be required as per the off-street parking requirements of these Regulations.
- (e) The drop-off and pick-up of children will not interfere with the free flow of vehicular traffic.
- (f) The use is not located adjacent to or near hazardous, dangerous, or incompatible uses. These include, but are not limited to, heavy industrial uses, service stations, garages, taverns, night clubs, and amusement uses.

10. Boarding House Residential (Tourist Home/Bed and Breakfast)

A tourist home/bed and breakfast use in a dwelling may be permitted as a discretionary use to provide room and board for tourists or the travelling public, under the following conditions:

- (a) the use does not detract from the residential character of the neighbourhood;
- (b) the use is carried out by a resident/owner of the dwelling unit;
- (c) the dwelling in which the tourist home/bed and breakfast use is carried out is similar in exterior finish, design, height, and scale to a private residential dwelling;
- (d) one parking space shall be provided for each guest room on the lot;
- (e) Council may require the parking area to be screened by a fence, or hedge;

- (f) the maximum number of guest rooms shall be five (5), and
- (g) the establishment shall be licensed under the Tourist Establishment Regulations, as amended from time to time.

11. Buffer (around waterways and waterbodies)

No development shall be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

12. Landscaping and Surfacing

Residential buildings lots shall be landscaped. No debris or material left over from site preparation may be allowed to remain in general public view. The surface of the entire building lot must be finished with a stable surface (grass, pavement, gravel) to ensure dusty or muddy surface conditions will not arise.

13. Effects on Surrounding Areas

Any development in any zone must be generally acceptable within the context of surrounding development and so must not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

14. Residential Buffer

In the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

15. Agriculture

Only home based agriculture may be permitted at the discretion of Council. Home based agriculture, including the keeping of livestock, at a limited and minor scale, may only take place on residential property where the size and general location of the property lot is sufficient to allow such activity to take place in a manner that will be safe and nuisance free, with respect to other areas. Such activity shall not in any way present a nuisance or disturbance to surrounding property owners. Council shall refer any agriculture related applications to the Department of Natural Resources, Agrifoods Branch and the Department of Environment and Conservation, Water Resources Division, for comments.

16. Backlot Development

Where vacant parcels of land exist which have access to a public street and are of sufficient size for a building lot, but which do not have the required frontage on a publicly maintained street, they may be considered on a discretionary basis provided the following conditions are met:

- (a) the maximum setback for front lot line or side lot line (depending on lot orientation) from a public street shall be a minimum of 32 metres and a maximum of 100 metres from a public street. The minimum lot area and all other development standards shall be the same as for other residential development in this zone;
- (b) only single dwellings may be permitted;
- (c) lots must have direct access to, and street line frontage on, a public street;
- (d) the development of the lot would not prevent the use of adjoining lands for future development. Where there is potential for additional development in the area, the lot and access shall be developed in a manner which will accommodate future development. As such, the access to the public street to which the owner must have clear title, shall be a minimum width of 15 m to accommodate future public use;
- (e) where there is no potential for future development, the access to the public street shall be a minimum of 6 m in width and shall be treated as a private driveway; which the owner must have clear title.
- (f) the dwelling is separated from, and oriented, in a manner that does not adversely affect the privacy and enjoyment of adjoining properties. Separation distances may be required by the Council as a condition for development, considering such things as slope, drainage, tree cover and soil conditions.
- (g) the development of the backlot does not affect the legal conformity of the primary lot that has frontage on to a public street.

17. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

18. Steep Slopes and Flood Plains

Applications for sites having slopes greater than 20%, or potentially subject to flooding or any other hazards such as landslides, shall not be permitted unless the site has a geo-physical assessment conducted by a Professional Engineer or other person qualified to make a determination, to ensure development can take place without endangerment to health or safety.

19. Mini Homes

Mini Homes as defined under Schedule A, shall be prohibited.

USE ZONE TABLE

ZONE TITLE	RESIDENTIAL RURAL (RR)
PERMITTED USES – see Regulation 90. Single dwelling, recreation open space.	
DISCRETIONARY USES – see Regulation 34 and 91. Boarding house residential (bed and breakfast only), convenience store, child care, medical and professional, personal service, office, agriculture (hobby farming), light industry (see condition); antenna.	

CONDITIONS**1. Development Standards**

The development standards for this zone shall be as follows:

a) Minimum Lot Size	4050 m ²
b) Minimum Frontage	45 m
c) Minimum Floor Area	100 m ²
d) Minimum Building Line Setback	15 metres
e) Maximum Building Line setback	32 metres
f) Minimum Sideyard Width	3 metres
g) Minimum Rearyard Depth	15 metres
h) Maximum Height	10 metres
i) Maximum Lot Coverage	33 %

CONDITIONS**2. Discretionary Uses Classes**

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

3. Corner Lots

Properties situated on existing or proposed corner lots shall be deemed to have two street frontages and shall be required to maintain the minimum building line setback on both the primary and flanking streets as prescribed in the use zone table.

4. Dwelling Frontage

The front wall of a dwelling shall be parallel to the street on which it is fronting and has a civic number.

5. Accessory Buildings

- (a) All accessory buildings shall have a maximum floor area of 70m².
- (b) An accessory building shall be prohibited to project in front of a building line or in the flanking sideyard of a corner lot.
- (c) Accessory buildings shall be located on the same lot as the residential dwelling and shall be clearly incidental and complementary to the main use of the residential dwelling in character, use, style and exterior finish, and shall be located so as to minimize any visual impacts on adjoining properties.
- (d) The maximum height shall be 6m with a minimum of 1m from any property line and 2m from the nearest corner of a residential dwelling.
- (e) Accessory buildings (private garages only) may be permitted in the sideyard at Council discretion, but not in the flanking sideyard of a corner lot.
- (f) Residential lots may have more than one accessory building provided that the maximum combined floor area of all buildings, including a second storey, shall not be greater than the maximum area as set out in the General Development Regulations and this Land Use Zone Table.
- (g) Aside from minor vehicle maintenance, no person shall use an accessory building for the purpose of performing major repairs, painting, dismantling, or scrapping of vehicles or machinery.
- (h) Where it can be clearly demonstrated that a need exists for a larger accessory building, Council shall have discretion where the proposed accessory building will exceed the maximum floor area of 70m², and the maximum height of 6m.

6. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

7. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and amenities of the surrounding area.

8. Convenience Store

Convenience stores may only be permitted as a discretionary use provided that:

- (a) The convenience store forms part of the residential dwelling and shall not exceed more than 25% of the total floor area of the building, to a maximum of 45 m².
- (b) The convenience store must front directly onto a public road.
- (c) The retail use shall be subsidiary to the residential character of the area, and shall not affect residential amenities of adjoining properties.
- (d) Adequate provision for on site parking, loading, buffering and landscaping.
- (e) A convenience store shall not be located on single access or dead end

roads, unless on a corner lot at the intersection with a main road.

9. Home Businesses - Office, Medical and Professional Service, Personal Service, and Light Industry Uses as Home Occupations

A Home Business is defined as an accessory use of a residential dwelling consisting of an occupation or profession which generates revenue for the resident.

Office, medical and professional service, personal service, and light industry uses may be permitted provided they are carried out as home occupations, businesses operated in the dwelling, or in a building subsidiary to the dwelling on the same lot, by the occupants of the dwelling, and meet the following requirements.

- (a) Office uses shall be limited to small business services and professional offices;
- (b) Light Industry uses shall be limited to fabrication for the production of handmade articles such as clothing, and arts and crafts objects;
- (c) The use is clearly subsidiary to the residential use, does not alter the residential character of the dwelling unit, and does not detract from the residential character of the neighbourhood.
- (d) No wholesale sales or storage of goods is carried out, any retail sales are incidental and subsidiary to the approved use, no repairs to vehicles or heavy equipment are carried out.
- (e) Activities associated with the use are not hazardous and do not cause noticeable noise, odour, dust, fumes, or inconvenience to occupants of adjoining residences.
- (f) Activities associated with the use shall be carried on inside the dwelling or in a building separate from the dwelling.
- (g) One building only, separate from the dwelling, may be used in connection with a light industrial use and service use and shall conform to the Accessory Buildings condition height and floor area limit for this zone; child care use shall be carried out in the dwelling unit or be attached to the dwelling unit.
- (h) Except for child care, no more than 30% of the total floor area of the dwelling is devoted to the use.
- (i) The use shall not generate traffic, parking, sewage or water use in excess of what is normal in the residential area.
- (j) Activities associated with the use are not hazardous and do not cause a noticeable increase in noise, odour, dust or fumes, nor cause electrical interference or in any other way result in a nuisance to the occupants of surrounding residences.
- (k) The residential lot has sufficient area to accommodate the parking requirements of the dwelling unit and the home occupation.

- (l) No regular parking of commercial vehicles except for one vehicle with a gross weight of no greater than one tonne will be permitted on the lot or on the road reservation adjacent to the lot.

10. Child Care

A day care or day nursery (i.e.: a child care operation in which services are regularly provided to seven or more children), in an existing dwelling, is subject to the following conditions:

- (a) The operation is in accordance with all applicable provincial laws and regulations.
- (b) A limit of one day care or day nursery will be permitted on any street.
- (c) The use will not occupy more than 70m² or 40% of the floor area, whichever is less.
- (d) Provision for off-street parking will be required as per the off-street parking requirements of these Regulations.
- (e) The drop-off and pick-up of children will not interfere with the free flow of vehicular traffic.
- (f) The use is not located adjacent to or near hazardous, dangerous, or incompatible uses. These include, but are not limited to, heavy industrial uses, service stations, garages, taverns, night clubs, and amusement uses.

11. Boarding House Residential (Tourist Home/Bed and Breakfast)

A tourist home/bed and breakfast use in a dwelling may be permitted as a discretionary use to provide room and board for tourists or the travelling public, under the following conditions:

- (a) the use does not detract from the residential character of the neighbourhood;
- (b) the use is carried out by a resident/owner of the dwelling unit;
- (c) the dwelling in which the tourist home/bed and breakfast use is carried out is similar in exterior finish, design, height, and scale to a private residential dwelling;
- (d) one parking space shall be provided for each guest room on the lot;
- (e) Council may require the parking area to be screened by a fence, or hedge;

- (f) the maximum number of guest rooms shall be five (5), and
- (g) the establishment shall be licensed under the Tourist Establishment Regulations, as amended from time to time.

12. Buffer (around waterways and waterbodies)

No development shall be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

13. Landscaping and Surfacing

Residential buildings lots shall be landscaped. No debris or material left over from site preparation may be allowed to remain in general public view. The surface of the entire building lot must be finished with a stable surface (grass, pavement, gravel) to ensure dusty or muddy surface conditions will not arise.

14. Effects on Surrounding Areas

Any development in any zone must be generally acceptable within the context of surrounding development and so must not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

15. Residential Buffer

In the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

16. Agriculture

- (a) Only home based agriculture may be permitted at the discretion of Council. Home based agriculture, including the keeping of livestock, at a limited and minor scale, may only take place on residential property where the size and general location of the property lot is sufficient to allow such activity to take place in a manner that will be safe and nuisance free, with respect to other areas. Such activity shall not in any way present a nuisance or disturbance to surrounding property owners. Council shall refer any agriculture related applications to the Department of Natural Resources, Agrifoods Branch and the Department of Environment and Conservation, Water Resources Division, for comments.
- (b) Traditional small scale hobby and subsistence agricultural uses may be permitted such as vegetable gardens. Areas of steep slope where soil erosion may occur shall not be developed for agriculture uses, unless a soil erosion program can be developed and implemented.

17. Backlot Development

Where vacant parcels of land exist which have access to a public street and are of sufficient size for a building lot, but which do not have the required frontage on a publicly maintained street, they may be considered on a discretionary basis provided the following conditions are met:

- (a) the maximum setback for front lot line or side lot line (depending on lot orientation) from a public street shall be a minimum of 32 metres and a maximum of 100 metres from a public street. The minimum lot area and all other development standards shall be the same as for other residential development in this zone;
- (b) only single dwellings may be permitted;
- (c) lots must have direct access to, and street line frontage on, a public street;
- (d) the development of the lot would not prevent the use of adjoining lands for future development. Where there is potential for additional development in the area, the lot and access shall be developed in a manner which will accommodate future development. As such, the access to the public street to which the owner must have clear title, shall be a minimum width of 15 m to accommodate future public use;
- (e) where there is no potential for future development, the access to the public street shall be a minimum of 6 m in width and shall be treated as a private driveway; which the owner must have clear title.

- (f) the dwelling is separated from, and oriented, in a manner that does not adversely affect the privacy and enjoyment of adjoining properties. Separation distances may be required by the Council as a condition for development, considering such things as slope, drainage, tree cover and soil conditions.
- (g) the development of the backlot does not affect the legal conformity of the primary lot that has frontage on to a public street.

17. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

18. Steep Slopes and Flood Plains

Applications for sites having slopes greater than 20%, or potentially subject to flooding or any other hazards such as landslides, shall not be permitted unless the site has a geo-physical assessment conducted by a Professional Engineer or other person qualified to make a determination, to ensure development can take place without endangerment to health or safety.

19. Mini Homes

Mini Homes as defined under Schedule A, shall be prohibited.

USE ZONE TABLE

ZONE TITLE	RESIDENTIAL SUBDIVISION AREA (RSA)
PERMITTED USE CLASSES - (see Regulation 89) None except maintenance and operation of existing uses.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Agriculture, forestry, conservation.	

CONDITIONS FOR RESIDENTIAL SUBDIVISION AREA

1. Purpose of the Residential Subdivision Area Zone

Lands zoned Residential Subdivision Area may be suitable for large-scale residential development. The Residential Subdivision Area zoning prevents development until comprehensive planning has been carried out as specified in the Witless Bay Municipal Plan.

2. Area Concept Plan

An Area Concept Plan shall be developed for a proposed subdivision development and shall include adjacent lands within the area defined on the zoning map as a Residential Subdivision Area. The requirements for an Area Concept Plan are outlined in the Municipal Plan policy section 3.2.1.10. The Area Concept Plan shall be advertised within a local newspaper and shall be placed on public display for five business (5) days at the Town Hall, during regular hours, for public viewing so that residents may be provided comments on the proposed development to Council in writing. Area Concept Plans may be considered for one lot minimal and multiple lot development proposals.

Council shall review all written submissions which shall be taken into consideration prior to approving the Area Concept Plan and any Development Regulations Amendment for rezoning the Residential Subdivision Area to the appropriate land use zone on the Land Use Zoning Map. Once the Area Concept Plan and Development Regulations Amendment have been approved by Council, the amendment shall be forwarded to the Department of Municipal Affairs for registration and a notice published in the Newfoundland and Labrador Gazette as well as a local newspaper. Note, under the *Urban and Rural Plan Act*, a public hearing is not required for a Development Regulations Amendment.

3. Subdivision Development Plan

A Subdivision Development Plan in this zone will be considered only if it is in conformity with policies outlined in the Municipal Plan Policy 3.2.1.10. The subdivision development plan shall conform to the general design and layout of the area concept plan. The subdivision development plan does not require public consultation, but is required to be submitted to the Council for development approval and the issuing of any development permits.

4. Discretionary Use

Discretionary uses permitted in this zone prior to the preparation and approval of an Area Concept Plan shall not include the development of any permanent structure.

5. Onsite Water Supply and Sewage

All unserviced developments shall have an approved water and sewage service design and approved by the Service NL prior to a Development Permit issued by Council.

6. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

USE ZONE TABLE

ZONE TITLE	MIXED DEVELOPMENT (MD)
PERMITTED USE CLASSES - (see Regulation 89) Single dwelling, double dwelling, childcare, group child care, boarding house (includes tourist home, and bed and breakfast), medical treatment and special care (home for the aged only), personal services.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Row dwelling, apartment building, cultural and civic, general assembly, club and lodge, catering, indoor assembly, personal service, general service, communications, taxi stand, take-out food service, shop, office, convenience store, general and light industry, recreational open space and antenna.	

CONDITIONS FOR MIXED DEVELOPMENT ZONE**1. Development Standards**

The development standards for this zone shall be as follows:

(a) Minimum Building Line Setback	8 metres*
(b) Maximum Building Line Setback	32 metres
(c) Minimum sideyards	3 metres
(d) Minimum Rearyard	15 metres
(e) Maximum Height	10 metres
(f) Minimum Floor area	50 m ²
(g) Minimum Frontage	30 metres
(h) Minimum Lot Size	1860 m ²

* Residential development shall conform to the standards of the Residential Land Use Zone.

2. Accessory Buildings for Residential Use

- (a) All accessory buildings shall have a maximum floor area of 70m².
- (b) An accessory building will not be permitted to project in front of a building line.
- (c) The maximum height shall be 6m with a minimum of 1m from any property line and 2m from the nearest corner of a residential dwelling.
- (d) The accessory building shall be finished in materials similar to the main dwelling on the property.
- (e) Accessory buildings (private garages only) may be permitted in the sideyard at Council discretion.
- (f) Accessory buildings are to be used strictly for ancillary purposes to the permitted uses listed in this use zone. Accessory buildings for residential properties shall not be used for non-residential uses without permission of Council.
- (g) Aside from minor vehicle maintenance, no person shall use an accessory building for the purpose of performing major repairs, painting, dismantling, or scrapping of vehicles or machinery.

3. Dwelling Frontage

The front wall of a dwelling shall be parallel to the street on which it is fronting and has a civic number.

4. Corner Lots

Properties situated on existing or proposed corner lots shall be deemed to have two street frontages and shall be required to maintain the minimum building line setback on both the primary and flanking streets as prescribed in the use zone table.

5. Discretionary Use Classes

The discretionary use classes listed in this table may be permitted at the discretion of Council, provided that they are complementary to permitted uses and will not inhibit or prejudice the existence or development of permitted uses.

6. Buffer for Residential Uses

Where a non-residential use abuts a residential use, Council may require a screen or barrier such as a fence, landscaped embankment, or trees to be erected on the non-residential site along the lot lines, consistent with the visibility requirements for traffic safety. Alternatively, Council may increase the sideyard and rearyard requirements on the non-residential site to provide additional separation from the abutting residential use.

7. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

8. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and

amenities of the surrounding area.

9. Home Businesses - Office, Medical and Professional Service, Personal Service, Child Care and Light Industry Uses as Home Occupations

A Home Business is defined as an accessory use of a residential dwelling consisting of an occupation or profession which generates revenue for the resident.

Office, medical and professional service, personal service, and light industry uses may be permitted provided they are carried out as home occupations, businesses operated in the dwelling, or in a building subsidiary to the dwelling on the same lot, by the occupants of the dwelling, and meet the following requirements.

- (a) Office uses shall be limited to small business services and professional offices;
- (b) Light Industry uses shall be limited to fabrication for the production of handmade articles such as clothing, arts and crafts objects, and workshops;
- (c) The use is clearly subsidiary to the residential use, does not alter the residential character of the dwelling unit, and does not detract from the residential character of the neighbourhood.
- (d) No wholesale sales or storage of goods is carried out, any retail sales are incidental and subsidiary to the approved use, no repairs to vehicles or heavy equipment are carried out.
- (e) Activities associated with the use are not hazardous and do not cause noticeable noise, odour, dust, fumes, or inconvenience to occupants of adjoining residences.
- (f) Activities associated with the use shall be carried on inside the dwelling or in a building separate from the dwelling.
- (g) One building only, separate from the dwelling, may be used in connection with a light industrial use and service use and shall conform to the Accessory Buildings condition height and floor area limit for this zone; child care use shall be carried out in the dwelling unit or be attached to the dwelling unit.
- (h) Except for child care, no more than 30% of the total floor area of the dwelling is devoted to the use.
- (i) The use shall not generate traffic, parking, sewage or water use in excess of what is normal in the residential area.
- (j) Activities associated with the use are not hazardous and do not cause a noticeable increase in noise, odour, dust or fumes, nor cause electrical interference or in any other way result in a nuisance to the occupants of

surrounding residences.

- (k) The residential lot has sufficient area to accommodate the parking requirements of the dwelling unit and the home occupation.
- (l) No regular parking of commercial vehicles except for one vehicle with a gross weight of no greater than one tonne will be permitted on the lot or on the road reservation adjacent to the lot.

10. Convenience Store

Convenience stores may only be permitted as a discretionary use provided that:

- (a) The convenience store forms part of the residential dwelling and shall not exceed more than 25% of the total floor area of the building, to a maximum of 45 m².
- (b) The convenience store must front directly onto a public road.
- (c) The retail use shall be subsidiary to the residential character of the area, and shall not affect residential amenities of adjoining properties.
- (d) Adequate provision for on site parking, loading, buffering and landscaping.
- (e) A convenience store shall not be located on single access or dead end roads, unless on a corner lot at the intersection with a main road.

11. Child Care

A day care or day nursery (i.e.: a child care operation in which services are regularly provided to seven or more children), is subject to the following conditions:

- (a) The operation is in accordance with all applicable provincial laws and regulations.
- (b) A limit of one day care or day nursery will be permitted on any street.
- (c) The use will not occupy more than 70m² or 40% of the floor area, whichever is less.
- (d) Provision for off-street parking will be required as per the off-street parking requirements of these Regulations.
- (e) The drop-off and pick-up of children will not interfere with the free flow of vehicular traffic.
- (f) The use is not located adjacent to or near hazardous, dangerous, or incompatible uses. These include, but are not limited to, heavy industrial uses, service stations, garages, taverns, night clubs, and amusement uses.

12. Boarding House Residential (Tourist Home/Bed and Breakfast)

A tourist home/bed and breakfast use in a dwelling may be permitted as a discretionary use to provide room and board for tourists or the travelling public, under the following conditions:

- (a) the use does not detract from the residential character of the neighbourhood;
- (b) the use is carried out by a resident/owner of the dwelling unit;
- (c) the dwelling in which the tourist home/bed and breakfast use is carried out is similar in exterior finish, design, height, and scale to a private residential dwelling;
- (d) one parking space shall be provided for each guest room on the lot;
- (e) Council may require the parking area to be screened by a fence, or hedge;
- (f) the maximum number of guest rooms shall be five (5), and
- (g) the establishment shall be licensed under the Tourist Establishment Regulations, as amended from time to time.

13. Outdoor and Open Storage

- (a) Outdoor storage will not be permitted in frontyards. It may be permitted in sideyards and rearyards. Council may require fencing or other forms of screening to prevent an unsightly appearance.
- (b) Open storage of goods or other items shall be limited to that which is normally associated with the permitted residential use. Machinery or equipment shall not be permitted to be stored on residential property. Certain discretionary uses such as building supplies stores, gardening supply business, may require open storage of goods as part of the operation of the business. Council will ensure that these businesses do not in any way present a nuisance or disturbance to surrounding property owners.

14. Outdoor Market

An outdoor market may include a used car lot, provided due consideration is given to the size and scale of the development relative to the site and to surrounding uses. Due consideration shall also be given to buffering, off-street parking, traffic movement, congestion, and safe access.

15. General and Light Industrial Uses

General industrial uses shall be small scale uses such as small workshops and warehouses, and autobody repair shops shall be permitted provided that;

- (a) The use shall constitute entirely or partly the livelihood of a person living in the specified dwelling;
- (b) Activities associated with the use shall be carried on in building separate from the residential dwelling;
- (c) One building only, separate from the dwelling, and located in the rear or side yard a minimum of 2 m from any lot line, and having a maximum floor area of 75 m² and a height of no more than 6 m, may be used in connection with the general or light industrial use;
- (d) Activities associated with the use are not hazardous and do not create a nuisance by reason of noticeable noise, odour, dust or flames, or result in electrical interference;
- (e) Retail sales are incidental and subsidiary to the approved use and there is no outdoor storage of equipment or materials.
- (f) No change is made in the type, class or extent of the use without a permit.
- (g) Adequate on-site parking, loading, buffering and landscaping is provided.

16. Service Station

A Service Station may be permitted only in the form of pump islands to dispense motor vehicle fuel and only in conjunction with a Convenience Store on the same site.

17. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

18. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

19. Mini Homes

Mini Homes as defined under Schedule A, shall be prohibited.

USE ZONE TABLE

ZONE TITLE	COMMERCIAL LOCAL (CL)
PERMITTED USE CLASSES - (see Regulation 89) Catering (restaurants only), office, medical and professional, passenger assembly, indoor assembly, personal service, general service, shop, and convenience store, group child care, commercial residential, service station, cultural and civic.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Catering (lounges and bars), clubs and lodges, amusement, general assembly, taxi stand, police station, funeral home, medical treatment, indoor market, outdoor market, agriculture (greenhouse and nursery), general industry, light industry, veterinary, antenna, and recreational open space.	

CONDITIONS FOR COMMERCIAL LOCAL ZONE**1. Development Standards**

The development standards for this zone shall be as follows:

- | | |
|-----------------------------------|-----------|
| (a) Minimum Building Line Setback | 12 metres |
| (b) Minimum Sideyard Width | 5 metres |
| (c) Minimum Rearyard Depth | 10 metres |
| (d) Maximum Height | 15 metres |

2. Discretionary Uses Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

3. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

4. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and amenities of the surrounding area.

5. General Industry

Council may consider a general industry use within this Land Use Zone such that the proposed use is associated with an existing commercial or industrial property.

6. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

7. Light Industry

Light industry is restricted to use that are nonhazardous, and do not create any negative impacts on adjoining properties.

8. Agriculture

Agriculture shall be limited to commercial greenhouses and nurseries.

9. Open Storage

Outdoor storage of materials, goods and machinery shall meet the following conditions, and any other requirement of the Use Zone in which they are located:

- (a) Where it is not the primary use of land, storage areas shall not be located in the front yard.
- (b) Where storage areas are not screened from general view by vegetation or topography, a storage area may be required to be enclosed by an opaque wall or fence not less than 2 metres in height constructed of uniform materials and approved by Council.
- (c) Storage of vehicles or other machinery or equipment, except transport vehicles which may be parked in the open provided their parking area is landscaped and suitably located, shall be prohibited in areas where there is no screening or fencing.
- (d) Buffer areas shall not be used as storage areas.

10. Effects on Surrounding Areas

Any development in this use zone shall be generally acceptable within the context of surrounding development and so shall not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

11. Convenience Stores and Shops

- (a) A convenience store or shop in any Commercial zone shall front directly onto a publicly maintained road.
- (b) Convenience stores shall not negatively affect residential amenities of adjoining properties. Outside storage shall be prohibited, except for that incidental and related to the residential use.
- (c) Landscaping and adequate off street parking with clearly defined entrance and exit points shall be provided.
- (e) Convenience stores shall not be located on single access or dead end roads, unless on a corner lot at the intersection with a main road.

12. Service Stations and Garages

Service stations and garages may be approved by Council provided:

- (a) All gasoline pumps shall be located on pump islands designed for such purposes, 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) Any access 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 centre line of any access shall be at least 30 metres from the centre line of the junction.
- (d) 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

13. Landscaping and Surfacing

Residential buildings lots shall be landscaped. No debris or material left over from site preparation may be allowed to remain in general public view. The

surface of the entire building lot must be finished with a stable surface (grass, pavement, gravel) to ensure dusty or muddy surface conditions will not arise.

14. Effects on Surrounding Areas

Any development in any zone must be generally acceptable within the context of surrounding development and so must not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

15. Residential Buffer

In the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

16. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

USE ZONE TABLE

ZONE TITLE	COMMERCIAL HIGHWAY (CH)
PERMITTED USE CLASSES - (see Regulation 89) Catering, office, medical and professional, personal service, general service, shop, and convenience store, passenger assembly, commercial residential, child care, service station, cultural and civic and indoor assembly.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Clubs and lodges, amusement, general assembly, taxi stand, police station, funeral home, indoor market, outdoor market, general services, veterinary, general industry, light industry, agriculture (greenhouse and nursery), antenna, and recreational open space.	

CONDITIONS FOR COMMERCIAL HIGHWAY ZONE**1. Development Standards**

The development standards for this zone shall be as follows:

- | | |
|-----------------------------------|-----------|
| (e) Minimum Building Line Setback | 15 metres |
| (f) Minimum Sideyard Width | 5 metres |
| (g) Minimum Rearyard Depth | 10 metres |
| (h) Maximum Height | 15 metres |

2. Discretionary Uses Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

3. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

4. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and amenities of the surrounding area.

5. General Industry

Council may consider a general industry use within this Land Use Zone such that the proposed use is associated with an existing highway commercial or industrial

property.

6. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

7. Light Industry

Light industry is restricted to use that are nonhazardous, and do not create any negative impacts on adjoining properties.

8. Open Storage

Outdoor storage of materials, goods and machinery shall meet the following conditions, and any other requirement of the Use Zone in which they are located:

- (a) Where it is not the primary use of land, storage areas shall not be located in the front yard.
- (b) Where storage areas are not screened from general view by vegetation or topography, a storage area may be required to be enclosed by an opaque wall or fence not less than 2 metres in height constructed of uniform materials and approved by Council.
- (c) Storage of vehicles or other machinery or equipment, except transport vehicles which may be parked in the open provided their parking area is landscaped and suitably located, shall be prohibited in areas where there is no screening or fencing.
- (d) Buffer areas shall not be used as storage areas.

9. Effects on Surrounding Areas

Any development in this use zone shall be generally acceptable within the context of surrounding development and so shall not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential

residential development.

10. Convenience Stores and Shops

- (a) A convenience store or shop in any Commercial zone shall front directly onto a publicly maintained road.
- (b) Convenience stores shall not negatively affect residential amenities of adjoining properties. Outside storage shall be prohibited, except for that incidental and related to the residential use.
- (c) Landscaping and adequate off street parking with clearly defined entrance and exit points shall be provided.
- (e) Convenience stores shall not be located on single access or dead end roads, unless on a corner lot at the intersection with a main road.

11. Service Stations and Garages

Service stations and garages may be approved by Council provided:

- (a) All gasoline pumps shall be located on pump islands designed for such purposes, 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) Any access 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 centre line of any access shall be at least 30 metres from the centre line of the junction.
- (d) 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

12. Landscaping and Surfacing

Residential buildings lots shall be landscaped. No debris or material left over from site preparation may be allowed to remain in general public view. The surface of the entire building lot must be finished with a stable surface (grass, pavement, gravel) to ensure dusty or muddy surface conditions will not arise.

13. Residential Buffer

In the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

14. Steep Slopes

Application for construction on sites having slopes greater than 20 %, or potentially subject to flooding or any other hazard such as land slides, shall be approved suitable for development by an engineer or other person qualified to make such a determination to ensure that site development can take place without endangerment of health or safety.

USE ZONE TABLE

ZONE TITLE	INDUSTRIAL LIGHT (IL)
PERMITTED USE CLASSES - (see Regulation 89) General service, general Industry, and light industry.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Office, communications, service station, professional and personal service, shop, recreational open space, transportation and antenna.	

CONDITIONS FOR INDUSTRIAL LIGHT ZONE**1. Development Standards**

The development standards for this zone shall be as follows:

(a) Minimum Building Line Setback	10 metres
(b) Minimum Sideyards	5 metres
(c) Minimum Rearyard	15 metres
(d) Maximum Height	15 metres

2. Discretionary Uses Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

3. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs (“yellow” or “Light Up Portable Signs”) will not be allowed in the residential area.

4. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.
- (c) Free standing portable illuminated signs (“yellow” or “Light Up Portable Signs”) will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and amenities of the surrounding area.

5. General Industry

Council may consider a general industry use within this Land Use Zone such that the proposed use is associated with an existing highway commercial or industrial property.

6. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

7. Light Industry

- (a) Light industry is restricted to use that are nonhazardous, and do not create any negative impacts on adjoining properties.
- (b) Light Industrial uses along coastline shall also allow for development of marine related industrial uses and transportation uses such as wharfs, slipways, docks, and breakwaters.

8. Storage of Flammable Liquids

All uses and structures for the bulk storage of flammable liquids shall conform to the requirements of the Provincial Fire Commissioner and shall be surrounded by such buffers and landscaping may be required by Council to prevent damage to adjacent uses by fire, explosion, or spills of flammable liquid.

9. Open Storage

Outdoor storage of materials, goods and machinery shall meet the following conditions, and any other requirement of the Use Zone in which they are located:

- (a) Where it is not the primary use of land, storage areas shall not be located in the front yard.
- (b) Where storage areas are not screened from general view by vegetation or topography, a storage area may be required to be enclosed by an opaque wall or fence not less than 2 metres in height constructed of uniform materials and approved by Council.
- (c) Storage of vehicles or other machinery or equipment, except transport vehicles which may be parked in the open provided their parking area is landscaped and suitably located, shall be prohibited in areas where there is no screening or fencing.

- (d) Buffer areas shall not be used as storage areas.

10. Effects on Surrounding Areas

Any development in this use zone shall be generally acceptable within the context of surrounding development and so shall not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

11. Convenience Stores and Shops

- (a) A convenience store or shop in any Commercial zone shall front directly onto a publicly maintained road.
- (b) Convenience stores shall not negatively affect residential amenities of adjoining properties. Outside storage shall be prohibited, except for that incidental and related to the residential use.
- (c) Landscaping and adequate off street parking with clearly defined entrance and exit points shall be provided.
- (e) Convenience stores shall not be located on single access or dead end roads, unless on a corner lot at the intersection with a main road.

12. Service Stations and Garages

Service stations and garages may be approved by Council provided:

- (a) All gasoline pumps shall be located on pump islands designed for such purposes, 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) Any access 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 centre line of any access shall be at least 30 metres from the centre line of the junction.
- (d) 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

13. Landscaping and Surfacing

Residential buildings lots shall be landscaped. No debris or material left over from site preparation may be allowed to remain in general public view. The surface of the entire building lot must be finished with a stable surface (grass, pavement, gravel) to ensure dusty or muddy surface conditions will not arise.

14. Residential Buffer

In the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

15. Steep Slopes

Application for construction on sites having slopes greater than 20 %, or potentially subject to flooding or any other hazard such as land slides, shall be approved suitable for development by an engineer or other person qualified to make such a determination to ensure that site development can take place without endangerment of health or safety.

16. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on

the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

USE ZONE TABLE

ZONE TITLE	PUBLIC BUILDINGS (Pub)
PERMITTED USE CLASSES - (see Regulation 89) Educational, cultural and civic uses, general assembly, medical treatment and special care, government or public offices, place of worship, recreational open space, child care and police station.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Indoor assembly, outdoor assembly, cemetery, shop, take-out food service club and lodge, catering and antenna.	

CONDITIONS FOR PUBLIC BUILDINGS ZONE

1. Development Standards

The development standards for this zone shall be as follows:

(a) Minimum Building Line Setback	10 metres
(b) Minimum Sideyards	5 metres
(c) Minimum Rearyard	10 metres
(d) Maximum Height	15 metres

2. Discretionary Use Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

3. Offices

Government offices, banks, and other offices of a public nature shall be permitted in this zone. Commercial offices or offices associated with a business operation

shall not be permitted.

4. Shop and Catering Uses

- (a) A shop may be permitted where it is associated with a public assembly use relating to the selling or renting of items related to a public assembly use and taking place on-site
- (b) Catering may be permitted in associations with a permitted use such as church functions, weddings, parties, etc. Catering use will only be permitted as a temporary use by Council.

5. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 1.5 m² in area.
- (c) Free standing portable illuminated signs ("yellow" or "Light Up Portable Signs") will not be allowed in the residential area.

6. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 1.5 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.

- (c) Free standing portable illuminated signs (“yellow” or “Light Up Portable Signs”) will not be allowed in the residential area.
- (d) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and amenities of the surrounding area.

7. Cemetery

A Cemetery must be associated with, and on the same grounds as, a place of worship.

8. Take-out Food Service

A take-out food service shall be subsidiary to a permitted use.

9. Buffer (around waterways and water bodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

10. Effects on Surrounding Areas

Any development in this use zone shall be generally acceptable within the context of surrounding development and so shall not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

11. Landscaping and Surfacing

Residential buildings lots shall be landscaped. No debris or material left over from site preparation may be allowed to remain in general public view. The surface of the entire building lot must be finished with a stable surface (grass, pavement, gravel) to ensure dusty or muddy surface conditions will not arise.

12. Effects on Surrounding Areas

Any development in any zone must be generally acceptable within the context of surrounding development and so must not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

13. Residential Buffer

In the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

14. Steep Slopes

Application for construction on sites having slopes greater than 20 %, or potentially subject to flooding or any other hazard such as land slides, shall be approved suitable for development by an engineer or other person qualified to make such a determination to ensure that site development can take place without endangerment of health or safety.

USE ZONE TABLE

ZONE TITLE	RECREATION (Rec)
PERMITTED USE CLASSES - (see Regulation 89) Recreational open space, indoor assembly, outdoor assembly and conservation.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Cultural and civic, take-out food service, agriculture, forestry, transportation, and antenna.	

CONDITIONS FOR OPEN SPACE RECREATION ZONE

1. Discretionary Use Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

2. Take-Out Food Service

A take-out food service use may be permitted considered on a discretionary basis provided it serves recreational activities only.

3. Accessory Buildings

Accessory buildings may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes.

4. Effects on Surrounding Areas

Any development must be generally acceptable within the context of surrounding development so as not create unacceptable amounts of noise, traffic, fumes, dust or other pollution or otherwise present a nuisance, hazard or eyesore, especially with respect to existing or potential residential development.

5. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of

rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

6. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

USE ZONE TABLE

ZONE TITLE	CONSERVATION (CON)
PERMITTED USE CLASSES - (see Regulation 89) Conservation, recreation open space and cemetery.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Agriculture, forestry, transportation (sheds and wharves along the coastline), and antenna.	

CONDITIONS FOR CONSERVATION ZONE

1. Discretionary Use Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

2. Agricultural Use

Traditional small scale hobby and subsistence agricultural uses may be permitted such as vegetable gardens. Areas of steep slope where soil erosion may occur shall not be developed for agriculture uses, unless a soil erosion program can be developed and implemented.

3. Cemetery

Cemeteries which are located separately from a church shall be permitted in the Conservation zone.

4. Accessory Building

An accessory building may be permitted in association with a cemetery and shall have a maximum floor area of 20 m². Accessory buildings shall be located a minimum of 3 metres from the nearest part of the main building and a minimum of 1 metre from a side and rear lot line and a maximum height of an accessory building shall be 4 metres.

5. Sheds and Wharves

Sheds and Wharves maybe developed along the coastline at the discretion of the Council provided they are marine related and small scale in nature.

6. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

7. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

8. Forestry

In domestic cutting areas identified by the Department of Natural Resources, the harvesting of firewood by individuals in possession of a domestic cutting permit may be permitted in the Conservation zone.

USE ZONE TABLE

ZONE TITLE	WATERSHED (W)
PERMITTED USE CLASSES - (see Regulation 89) Conservation.	
DISCRETIONARY USE CLASSES - (see Regulations 22 and 90) Recreational open space and antenna.	

CONDITIONS FOR WATERSHED ZONE**1. Discretionary Use Classes**

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

2. Recreation

Only passive recreational activities such as hiking and skiing shall be permitted in the watershed area.

USE ZONE TABLE

ZONE TITLE	RURAL (Rur)
PERMITTED USE CLASSES - (see Regulation 89) Agriculture, forestry, recreational open space, and conservation.	

DISCRETIONARY USE CLASSES - (see Regulations 22 and 90)
Single dwelling, veterinary, outdoor market, outdoor assembly, office general industry, light industry, mineral working, recreational open space, cemetery, animal, utilities, transportation and antenna.

CONDITIONS FOR RURAL ZONE

1. Discretionary Use Classes

The discretionary use classes listed in the table may be permitted at the discretion of the Council provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses.

2. Development Standards

The development standards for uses in this zone shall be determined case-by-case and shall conform to the standards for the same uses in other zones.

3. Single Dwellings

Single residential dwellings may be permitted in conjunction with a permitted use such as agriculture. The agricultural uses shall be a commercial business and the full time farmer shall obtain a minimum of 50 % of his or her gross income from the farm operation. The commercial operation shall be in operation for a minimum of two years before Council will approve any residential development.

4. General Industry

General Industrial uses and associated accessory uses may be permitted by Council provided that:

- (a) The use is restricted to maintenance and repair of equipment, processing and storage related to agriculture or forestry uses,

- (b) The proposed use will not have an adverse visual impact on the built-up areas of the Town and Council may require that the site be screened or not visible from public roads and the built-up area,
- (c) The proposed use will not generate an increase in traffic on roads in the built-up areas of the Town,
- (d) The proposed site can be developed without negative impact on the natural environment and amenities of the Town, including watercourses and ponds.

5. Residential Buffer

Where any proposed non-residential use is to abut an existing or proposed residential use or a Residential zone, the proponent of the non-residential development may be required to provide a buffer. Conversely, in the case of a residential development locating adjacent to an existing or proposed non-residential use or zone, Council may require the developer of the residential use to provide a buffer. Any such buffer shall be made up of hedges, trees, shrubs, earthen berms or structural barriers that will sufficiently mitigate noise, visual unpleasantness and other undesirable effects. Trees and shrubs existing on the site prior to development which could form all or part of a buffer shall not be removed.

Before approving any non-residential development near existing or proposed residential development or Residential zones, Council must be satisfied that the proposed non-residential development:

- (a) will not give rise to excessive noise or other forms of pollution,
- (b) will not generate vehicle traffic which is above the level acceptable to adjacent residential amenities,
- (c) will not cause unacceptable nuisance or hazard to adjacent residential uses, and
- (d) can, in general, be considered acceptable to the amenity of residential uses.

6. Buffer (around waterways and waterbodies)

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval

of Council and the Department of Environment and Conservation.

7. East Coast Trail

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council is committed to the maintenance of a buffer along the trail to protect the natural landscape and views from the trail, and to ensure that the trail is not negatively impacted by development, erosion, and other changes in the landscape.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trail. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town's coastline, where the East Coast Trail transverses private property.

8. Advertisements Relating to Onsite Uses

The conditions for the erection or display of an advertisement on any lot or site occupied by a permitted use or a legal non-conforming use shall be as follows:

- (a) The size, shape, illumination and material construction of the advertisement shall meet the requirements of Council, having regard to the safety and convenience of users of adjacent streets and sidewalks, and the general amenities of the surrounding area.
- (b) No advertisement shall exceed 5 m² in area.

9. Advertisements Relating to Offsite Uses

The conditions for the erection or display of an advertisement on any site, relating to a use permitted in this or another zone, or not relating to a specific land use, shall be as follows:

- (a) No advertisement shall exceed 3 m² in area.
- (b) When the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show thereon the name and nature of the distance or direction to, the premises to which they relate.

- (c) The location, siting and illumination of each advertisement shall be to the satisfaction of Council, having regard to the grade and alignment of streets, the location of street junctions and nearby buildings, and the amenities of the surrounding area.

10. Seasonal Residential

Seasonal residential use and recreation cottage use shall not be permitted within the Rural land use zone.

11. Mineral Working

Council may permit mineral working subject to the following conditions:

- (a) Effective tree screens shall be maintained around the periphery of any mineral working. Where trees are not present to create an effective screen, Council may require the installation of a landscaped embankment or fence.
- (b) Topsoil removed for mineral working shall be retained for restoration of the site.
- (c) No mineral working shall be conducted which causes danger or nuisance to the public.
- (d) No mineral working shall be permitted within the view of a designated scenic road.
- (e) Proposed mineral working operations will be evaluated carefully by Council in conjunction with the Department of Natural Resources.
- (f) No mineral working shall unacceptably reduce the quality of water in a watercourse or waterbody. Any access road which crosses a watercourse shall have a bridge or culvert according to the regulations of the Department of Environment and Conservation.
- (g) No mineral working shall result in the excavation of land below the level of the water table nor cause the ponding of water. However, settling ponds may be permitted with the approval of the Department of Environment and Conservation.
- (h) No mineral working shall be carried out in a manner which causes the erosion of adjacent land.
- (i) The mineral working shall be kept clean of refuse, abandoned vehicles and equipment, and derelict buildings.
- (j) Upon completion of mineral working, and when there is no intention to re-open such operations, all buildings and machinery shall be removed from the site and the site restored so as not to constitute a danger to the public or present an unsightly appearance.

1. Separation from Adjacent Uses

Unless the Authority is satisfied that the working will not create a nuisance and will not adversely affect the amenity of the specified development or natural feature, no mineral working shall be located closer than the minimum distances set out below to the specified development or natural feature:

From:	Minimum Distance of Pit and Quarry Workings
Existing or proposed Residential Development	
- where no blasting is involved	300 metres
- where blasting is involved	1000 metres
Any other developed area or area likely to be developed during the life of the pit or quarry working.	150 metres
Public highway or street	50 metres
Protected Road	90 metres
Waterbody or watercourse	50 metres

2. Screening

A mineral working shall be screened in the following manner where it is visible from a public street or highway, developed area, or area likely to be developed during the life of the use:

- (a) Where tree screens exist between the mineral working and adjacent public highways and streets or other land uses (excepting forestry and agriculture), the tree screens shall be retained in a 30-metre wide strip of vegetation so that visibility of any part of the use from the surrounding uses or streets will be prevented. The tree screens must be maintained by the owner or occupier of the use to retain 30 metres in a forested appearance. Where vegetation dies or is removed from the 30-metre strip, the Authority may require new trees of a minimum height of 1 metre be planted to fill in the areas affected to the satisfaction of the Authority or, at the discretion of the Authority, condition 4(b) must be undertaken.

- (b) Where no tree screens exist of sufficient width and density to constitute a visual screen, earthen berms shall be constructed to a height sufficient to prevent visibility of any part of the mineral working from adjacent uses (excepting forestry and agriculture), or adjacent public highways and streets. The berms shall be landscaped to the Authority's satisfaction.
- (c) Where natural topography creates a visual screen between mineral workings and adjacent public highways and streets or other land uses (excepting forestry and agriculture), additional screening may not be required.
- (d) Where effective screening for any mineral working or associated processing or manufacturing use cannot be installed or located as required in (a) - (c) above, the Authority may refuse to permit the use or associated activity.

3. Fencing

The Authority may require the mineral working site or excavated areas of a pit or quarry working to be enclosed by a fence designed and constructed to its specifications and no less than 1.8 metres in height.

4. Water Pollution

No mineral working or associated storm or sanitary drainage shall unacceptably reduce the quality of water in any waterbody or watercourse. Any access road to a pit or quarry working which crosses a brook or stream shall be bridged or culverted at the crossing in accordance with the Regulations of the Department of Environment and Conservation.

5. Water Ponding

No mineral working or associated storm or sanitary drainage shall unacceptably reduce the quality of water in any waterbody or watercourse. Any access road to a pit or quarry working which crosses a brook or stream shall be bridged or culverted at the crossing in accordance with the Regulations of the Department of Environment and Conservation.

6. Erosion Control

No mineral working shall be carried out in a manner so as to cause erosion of adjacent land.

7. Site Maintenance

The mineral working shall be kept clean of refuse, abandoned vehicles, and abandoned equipment and any derelict buildings.

8. Access Roads

During extended periods of shutdown, access roads to a mineral working shall be ditched or barred to the satisfaction of the Authority.

9. Stockpiling Cover Material

All stumps, organic material and topsoil, including the rusty coloured and iron stained layer, shall be stripped and stockpiled at least 5 metres from active quarry or stockpile areas. The owner or operator shall ensure that the quality of the topsoil is not affected by dilution with other materials.

Termination and Site Rehabilitation

10. Upon completion of the mineral working, the following work shall be carried out by the operation:

- (a) All buildings, machinery and equipment shall be removed.
- (b) All pit and quarry slopes shall be graded to slopes less than 20° or to the slope conforming to that existing prior to the mineral working.
- (c) Topsoil and any organic materials shall be re-spread over the entire quarried area.
- (d) The access road to the working shall be ditched or barred to the satisfaction of the Authority.

11. If the mineral working contains reserves of material sufficient to support further extraction operations, the Authority may require the work described above to be carried out only in areas of the site where extraction has depleted aggregate reserves.

12. Short-term Mineral Workings

The following conditions shall apply to a Mineral Working which is subject to a Department of Mines and Energy Quarry Permit or which is proposed for a duration of less than five years. The Authority may require an applicant for a development permit under this condition to meet the stipulations set out in condition 18 below, if the Authority determines that the size of the parcel or of the proposed mineral working, or the size of the aggregate resource in the surrounding area is sufficiently large or the duration is sufficiently long to warrant the application of condition 18.

- (a) An application for a development permit for the proposed Mineral Working use shall be accompanied by a detailed sketch or sketches satisfactory to the Authority which shall show the location of physical site features and extraction and processing features required by the Authority, including but not limited to:
 - (i) the general area of the location of the mineral working;
 - (ii) boundaries of the parcel to be mined (ie. land covered by the development application);
 - (iii) extent of the site area to be mined;
 - (iv) roads, parking and loading areas and entrance and exit to the site;
 - (v) waterbodies within the boundaries;
 - (vi) waterbodies within 250 metre radius of the boundary;
 - (vii) channels or ponds to be removed, shifted and created; and
 - (viii) the location of any building or structure and equipment which will be located on the site.
- (b) Upon completion of the mineral working operations on the site, the developer shall meet the conditions set out above and any other condition(s) stated in the development permit that the Authority deems necessary for restoration of the site.
- (c) A temporary development permit may be issued for a maximum of one year and may not be renewed after five consecutive years. Upon expiry of the development permit the Authority shall inspect the site to confirm compliance with the development permit and development regulations.

16. Long-term Mineral Workings

The following conditions shall apply to a Mineral Working subject to a Department of Mines and Energy Quarry Lease or of a duration of 5 years or greater.

- (a) An application for a development permit shall include a Mineral Working Development Plan satisfactory to the Authority for the proposed Mineral Working use, which shall include a site plan showing the location of physical site features and extraction and processing features required by the Authority including but not limited to:
 - (i) boundaries of the parcel to be mined;
 - (ii) extent of site area(s) to be mined;
 - (iii) buildings and structures on the site;
 - (iv) roads, parking and loading areas and entrance and exit to the site;
 - (v) fences, berms and landscaping provided for screening;
 - (vi) waterbodies and channels to be removed, shifted and created;
 - (vii) location and expected maximum height of stockpiles of mined ores, sand and gravel;
 - (viii) location of major machinery and conveyors for receiving and processing raw ores including machinery for sifting, washing and grading ores, and the manufacturing of concrete and stone products;
 - (ix) the probable location of storage piles of topsoil and overburden removed from earlier phases of mined areas and temporarily being stored for replacement under the Reclamation plan; and
 - (x) intended phases of mining operations to be carried out over all portions of the site.
- (b) An application for a development permit shall include a Mineral Working Reclamation Plan satisfactory to the Authority for the proposed mineral working use which shall explain, illustrate and show to the satisfaction of the Authority a plan for restoration of the site which includes final ground contours, slopes, depth of topsoil, and vegetation and a phasing plan if necessary in the form of a grading and landscape plan or plans.

17. Financial Guarantee

- (a) The developer shall provide a financial guarantee in the form of a performance bond or unconditional and irrevocable letter of credit or other form acceptable to the Authority.

- (b) The financial guarantee shall be the greater of (a) \$5,000 per hectare, prorated on the basis of area to a minimum of \$500, or (b) an amount to cover the costs of restoring or landscaping the site after the quarry operations have ended or the site is abandoned by the applicant.
- (c) The financial guarantee shall be returned when the Reclamation Plan has been carried out or the development terminated and any conditions attached to the development permit have been met to the satisfaction of the Authority."

18. Permit Fee

The development permit fee for a Mineral Working use shall be determined by the Authority in an amount sufficient to cover the review of the Development and Reclamation Plans or the detailed sketch as required above, and determination of the amount of the financial guarantee described in section 19 above by a professional engineer, ongoing inspection of the site for conformity with the named Plans or sketches and with the conditions of the development permit, and inspection of the site to determine acceptable reclamation for purposes of return or cancellation of the financial guarantee.

OFF-STREET PARKING REQUIREMENTS

CLASS ASSEMBLY USES	
(a) Theatre	Two spaces for every 5 seats
(b) Cultural and Civic	One space for every 50m ² of gross floor area
(c) Educational	K - 12 - 3 spaces for every classroom. Other facilities - 1 space for every 5 persons using the facilities (students, faculty and staff)
(d) Place of Worship	Two spaces for every 5 seats
(e) Passenger Assembly	As specified by the Council
(f) Private Club	One space for every 3 persons that may be accommodated at one time
(g) Catering	One space for every 3 persons that may be accommodated at one time
(h) Lounges and Bars	One space for every 3 persons that may be accommodated at one time
(i) Funeral Home	One space for every 10m ² of gross floor area
(j) Child Care	One space for every 20m ² of gross floor area
(k) Amusement	One space for every 10m ² of gross floor area
(l) Indoor Assembly	One space for every 10 persons that may be accommodated at one time
(m) Outdoor Assembly	As specified by the Council

CLASS INSTITUTIONAL USES	
(a) Detention Centre	As specified by the Council.
(b) Medical Treatment and Special Care	One space for every 20m ² of gross floor area
(c) Special Care	One space for every bed
(d) Collective Residential	As specified by the Council

CLASS RESIDENTIAL USES	
(a) Single Dwelling	Two spaces for every dwelling unit
(b) Double Dwelling	Two spaces for every dwelling unit
(c) Row Dwelling	Two spaces for every dwelling unit
(d) Apartment Building	Three spaces for every 2-dwelling units
(e) Subsidiary Apartment	One space for every apartment unit
(f) Hospitality Home	As specified by the Council
(g) Boarding House Residential	One space for every residential unit
(h) Mobile Home	Two spaces for every residential unit

CLASS BUSINESS AND PERSONAL SERVICES	
(a) Office	One space for every 20m ² of gross floor area
(b) Professional Service	One space for every 20m ² of gross floor area
(c) Personal Service	One space for every 20m ² of gross floor area
(d) General Service	One space for every 20m ² of gross floor area
(e) Communications	As specified by the Council
(f) Home Occupation	Minimum of 1 space per non-resident employee

CLASS COMMERCIAL USES	
(a) Shopping Centre	One space for every 20m ² of gross floor area
(b) Shop	Min. of 2 spaces plus one space for every 20m ² of gross floor area
(c) Convenience Store	Min. of 2 spaces plus one space for every 20m ² of gross floor area
(d) Take-Out Food	Min. of 2 spaces plus one space for every 15m ² of gross floor area
(e) Vending Stand	Minimum of 2 spaces plus additional as specified by the Council
(f) Indoor Market	As specified by the Council
(g) Outdoor Market	As specified by the Council
(h) Service Station	One space for every 20m ² of gross floor area
(i) Commercial Residential	One space for every rental room

CLASS INDUSTRIAL USES	
(a) Hazardous Industry	One space for every employee, plus 3
(b) General Industry	One space for every employee, plus 3
(c) Light Industry	One space for every employee, plus 3

CLASS NON-BUILDING USES	
(a) Outdoor Recreation	As specified by the Council
(b) Conservation	As specified by the Council
(c) Cemetery	As specified by the Council
(d) Scrap Yard	As specified by the Council
(e) Animal	Min. of 2 spaces plus one space for every 20m ² of gross floor area
(f) Transportation	As specified by the Council

NEWFOUNDLAND REGULATION 3/01
Development Regulations under the Urban and Rural Planning Act, 2000.

(Filed January 2, 2001)

Under the authority of section 36 of the Urban and Rural Planning Act, 2000, I make the following regulations.

Dated at St. John's, January 2, 2001.

Minister of Municipal and Provincial Affairs

REGULATIONS

Analysis

1. Short title
2. Definitions
3. Application
4. Interpretation
5. Notice of right to appeal
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17. Discontinuance of non-conforming use
18. Delegation of powers
19. Commencement

1. Short title

These regulations may be cited as the Development Regulations.

2. Definitions

In these regulations,

- (a) "Act", unless the context indicate otherwise, means the Urban and Rural Planning Act, 2000;
- (b) "applicant" means a person who has applied to an authority for an approval or permit to carry out a development;
- (c) "authority" means a council, authorized administrator or regional authority; and
- (d) "development regulations" means these regulations and regulations and by-laws respecting development that have been enacted by the relevant authority.

3. Application

- (1) These regulations shall be included in the development regulations of an authority and shall apply to all planning areas.
- (2) Where there is a conflict between these regulations and development regulations or other regulations of an authority, these regulations shall apply.
- (3) Where another Act of the province provides a right of appeal to the board, these regulations shall apply to that appeal.

4. Interpretation

- (1) In development regulations and other regulations made with respect to a planning area the following terms shall have the meanings indicated in this section
 - (a) "access" means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street;
 - (b) "accessory building" includes
 - (i) a detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory and which has a use that is customarily incidental or complementary to the main use of the building or land,

- (ii) for residential uses, domestic garages, carports, ramps, sheds, swimming pools, greenhouses, cold frames, fuel sheds, vegetables storage cellars, shelters for domestic pets or radio and television antennae,
 - (iii) for commercial uses, workshops or garages, and
 - (iv) for industrial uses, garages, offices, raised ramps and docks;
- (c) "accessory use" means a use that is subsidiary to a permitted or discretionary use and that is customarily expected to occur with the permitted or discretionary use;
- (d) "building height" means the vertical distance, measured in metres from the established grade to the
 - (i) highest point of the roof surface of a flat roof,
 - (ii) deck line of a mansard roof, and
 - (iii) mean height level between the eave and the ridge of a gable, hip or gambrel roof, and in any case, a building height shall not include mechanical structure, smokestacks, steeples and purely ornamental structures above a roof;
- (e) "building line" means a line established by an authority that runs parallel to a street line and is set at the closest point to a street that a building may be placed;
- (f) "discretionary use" means a use that is listed within the discretionary use classes established in the use zone tables of an authority's development regulations;
- (g) "established grade" means,
 - (i) where used in reference to a building, the average elevation of the finished surface of the ground where it meets the exterior or the front of that building exclusive of any artificial embankment or entrenchment, or
 - (ii) where used in reference to a structure that is not a building, the average elevation of the finished grade of the ground immediately surrounding the structure, exclusive of any artificial embankment or entrenchment;
- (h) "floor area" means the total area of all floors in a building measured to the outside face of exterior walls;
- (i) "frontage" means the horizontal distance between side lot lines measured at the building line;
- (j) "lot" means a plot, tract or parcel of land which can be considered as a unit of land for a particular use or building;

- (k) "lot area" means the total horizontal area within the lines of the lot;
- (l) "lot coverage" means the combined area of all building on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot;
- (m) "non-conforming use" means a legally existing use that is not listed as a permitted or discretionary use for the use zone in which it is located or which does not meet the development standards for that use zone;
- (n) "owner" means a person or an organization of persons owning or having the legal right to use the land under consideration;
- (o) "permitted use" means a use that is listed within the permitted use classes set out in the use zone tables of an authority's development regulations;
- (p) "prohibited use" means a use that is not listed in a use zone within the permitted use classes or discretionary use classes or a use that an authority specifies as not permitted within a use zone;
- (q) "sign" means a word, letter, model, placard, board, device or representation, whether illuminated or not, in the nature of or employed wholly or in part for the purpose of advertisement, announcement or direction and excludes those things employed wholly as a memorial, advertisements of local government, utilities and boarding or similar structures used for the display of advertisements;
- (r) "rear yard depth" means the distance between the rear lot line and the rear wall of the main building on a lot;
- (s) "side yard depth" means the distance between the side lot line and the nearest side wall of a building on the lot;
- (t) "street" means a street, road, highway or other way designed for the passage of vehicles and pedestrians and which is accessible by fire department and other emergency vehicles;
- (u) "street line" means the edge of a street reservation as defined by the authority having jurisdiction;
- (v) "use" means a building or activity situated on a lot or a development permitted on a lot;
- (w) "use zone" or "zone" means an area of land including buildings and water designated on the zoning map to which the uses, standards and conditions of a particular use zone table apply;
- (x) "variance" means a departure, to a maximum of 10% from the yard, area, lot coverage, setback, size, height, frontage or any other numeric requirement of the applicable Use Zone Table of the authority's regulations; and

- (y) "zoning map" means the map or maps attached to and forming a part of the authority's regulations.
- (2) An authority 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 authority's regulations as discretionary, permitted or prohibited uses for that area.

5. Notice of right to appeal

Where an authority makes a decision that may be appealed under section 42 of the Act, that authority shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the

- (y) 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.

6. Appeal requirements

- (1) The secretary of the 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 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 board.
- (2) Notwithstanding subsection (1), where the City of Corner Brook, City of Mount Pearl or City of St. John's appoints an appeal board under subsection 40(2) of the Act, an appeal shall be filed with the secretary of that appointed board.
- (3) The fee required under section 44 of the Act shall be paid to the 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.
- (4) The board that hears the decision being appealed shall, subject to subsection 44(3) of the Act, retain the fee paid to the board.
- (5) Where an appeal of a decision and the required fee is not received by a 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.

7. Appeal registration

- (1) Upon receipt of an appeal and fee as required under the Act and these regulations, the secretary of the board as referred to in subsections 6(1) and (2), shall immediately register the appeal.
- (2) Where an appeal has been registered the secretary of the board shall notify the appropriate authority of the appeal and shall provide to the authority a copy of the appeal and the documentation related to the appeal.
- (3) Where an authority has been notified of an appeal that authority shall 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 authority 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 authority, 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.

8. Development prohibited

- (1) Immediately upon notice of the registration of an appeal the appropriate authority 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 an authority 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, an authority shall not carry out work related to the matter being appealed.

9. Hearing notice and meetings

- (1) A board shall notify the appellant, applicant, authority 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) A board may meet as often as is necessary to conduct its work in an expeditious manner.

10. Hearing of evidence

- (1) A board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under subsection 9(1) or their representative may appear before the board and make representations with respect to the matter being appealed.
- (2) A 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 board.
- (4) In the conduct of an appeal hearing, the board is not bound by the rules of evidence.

11. Board decision

A decision of the board must comply with the plan, scheme or development regulations that apply to the matter that has been appealed to that board.

12. Variances

- (1) Where an approval or permit cannot be given by an authority because a proposed development does not comply with development standards set out in development regulations, an authority may, in its discretion, vary the applicable development standards to a maximum of 10% if, in the authority'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) An authority 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) An authority shall not permit a variance from development standards where the proposed development would increase the non conformity of an existing development.

13. Notice of variance

Where an authority is to consider a proposed variance, that authority 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.

14. Residential non conformity

A residential building or structure referred to in paragraph 108(3)(g) of the Act must, where being repaired or rebuilt, be repaired or rebuilt in accordance with the plan and development regulations applicable to that building or structure.

15. Notice and hearings on change of use

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, an authority, 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.

16. Non-conformance with standards

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.

17. Discontinuance of non-conforming use

An authority may make development regulations providing for a greater period of time than is provided under subsection 108(2) of the Act with respect to the time by which a discontinued non-conforming use may resume operation.

18. Delegation of powers

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

19. Commencement

These regulations shall be considered to have come into force on January 1, 2001.

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