
TOWN OF WITLESS BAY MUNICIPAL PLAN 2013-2023



JUN 08 2016

COR/2016/01617

Mayor Sébastien Després and Council
Town of Witless Bay
P.O. Box 130
Witless Bay, NL A0K 4K0

Dear Mayor Després and Council:

RE: Witless Bay Municipal Plan

Further to our meeting on April 19, 2016, I am writing to advise Council that I have approved and registered the May 2013 Witless Bay Municipal Plan and Development Regulations under authority of sections 23, 24 and 26 of the *Urban and Rural Planning Act, 2000*.

As you are aware, the May 2013 version of the Witless Bay Municipal Plan was chosen by the majority of Town residents that voted in the September 2015 plebiscite on this matter. I also considered submissions to the department and Commissioner Thistle, along with the comments and the five recommendations that Commissioner Thistle provided as a result of his Public Hearing on the matter in October 2015.

In relation to the Commissioner's recommendations, I have determined that recommendations numbered one, four and five are already included in the May 2013 Witless Bay Municipal Plan that was adopted and presented at the Public Hearing and therefore do not require any changes. With respect to recommendations numbered two and three, both require consideration of matters that fall under the authority of the *Lands Act*. Specifically, recommendation 2 relates to Crown grants and recommendation 3 relates to the reservation of Crown lands. As such, these matters are separate from the process for registering the Municipal Plan and Development Regulations under the *Urban and Rural Planning Act, 2000* and must be considered in accordance with the *Lands Act* and associated policies. As per the discussion at the April 19, 2016 meeting, should Council wish these recommendations to be considered, I refer you to information provided by Jamie Chippett, Deputy Minister, on April 21, 2016, or please contact Darren Moore, Director of Land Management with the Lands Branch, for information regarding the application for grants and reserves.

Based on the above, I have decided to approve the May 2013 Witless Bay Municipal Plan as it was adopted by my predecessor. In order to comply with subsection 35(1) of the *Urban and Rural Planning Act, 2000*, I have also approved changes to the Development Regulations associated with the May 2013 Witless Bay Municipal Plan by removing instances where those

regulations would allow land uses that are not contemplated in the policies of the Municipal Plan. A listing of the modifications to the Development Regulations is appended to this letter.

Council should also take note that the policies articulated in the May 2013 Municipal Plan may include land uses that are not contemplated in the accompanying Development Regulations. Council has authority, subject to the requirements of the *Urban and Rural Planning Act, 2000*, to amend the Development Regulations to allow uses that are provided by the May 2013 Witless Bay Municipal Plan. Similarly, Council also has authority, subject to the requirements of the *Urban and Rural Planning Act, 2000*, to amend the May 2013 Witless Bay Municipal Plan for issues that are not currently captured by the policies of the Municipal Plan.

You should be aware that the May 2013 Witless Bay Municipal Plan will come into legal effect upon publication of a notice in the Newfoundland and Labrador Gazette that the plan has been registered. A similar notice will also be published in *The Telegram*. The Manager of Land Use Planning will advise the Council of the publication dates when those are confirmed.

As I stated in the meeting on April 19, 2016, this concludes the department's involvement in this exercise of approving and registering the Witless Bay Municipal Plan and Development Regulations. Should Council wish to make amendments to the Plan, I refer you to the process set out in section 25 of the *Urban and Rural Planning Act, 2000*.

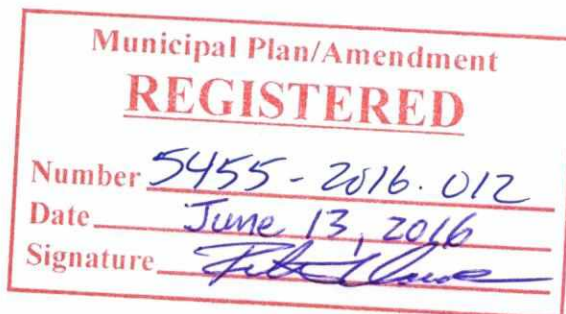
Sincerely,



EDDIE JOYCE, MHA
District of Humber – Bay of Islands
Minister of Municipal Affairs

cc: Mr. Keith Hutchings, MHA

Attachments



Annex:

Modifications to ‘Schedule C’ of the Development Regulations accompanying the May 2013 Witless Bay Municipal Plan

Residential Land Use Zone

- “Double Dwelling” deleted from the list of “Permitted Uses”
- “Medical” deleted from the list of “Discretionary Uses”

Residential Rural Land Use Zone

- “Antenna” deleted from the list of “Discretionary Uses”

Residential Subdivision Area Land Use Zone

- “Forestry” deleted from the list of “Discretionary Uses”

Mixed Development Land Use Zone

- All uses other than “Single Dwelling” deleted from the list of “Permitted Uses”
- “General industry” deleted from the list of “Discretionary Uses”

Commercial Local Land Use Zone

- “Group child care” deleted from the list of “Permitted Uses”
- “Apartment building”, general assembly”, “medical treatment”, and “agriculture” deleted from the list of “Discretionary Uses”

Commercial Highway Land Use Zone

- “Indoor assembly” deleted from the list of “Permitted Uses”
- “general assembly” deleted from the list of “Discretionary Uses”

Industrial Light Land Use Zone

- “Transportation” deleted from the list of “Permitted Uses”
- “Professional and personal service” and “recreational open space” deleted from the list of “Discretionary Uses”

Public Buildings Land Use Zone

- “Medical treatment and special care”, “recreational open space” and “police station” deleted from the list of “Permitted Uses”
- “Cemetery”, “shop”, and “club and lodge” deleted from the list of “Discretionary Uses”

Watershed Land Use Zone

- “Antenna” deleted from the list of “Discretionary Uses”

Rural Land Use Zone

- “Office”, “light industry” and “transportation” deleted from the list of “Discretionary Uses”

OCT 05 2015

COR/2015/04433-03

Town Council of Witless Bay
P.O. Box 130
Witless Bay, NL A0A 4K0

Dear Mayor and Councillors:

I write further to my correspondence of September 18, 2015 regarding the adoption of the Version A - May 2013 municipal plan (Plan), which was required by 12:00 pm on Friday, October 2, 2015. This deadline has passed and we have been advised that the Witless Bay Town Council ("Council") has not adopted the Plan.

In accordance with my authority under section 103(2) and section 16 of the *Urban and Rural Planning Act, 2000* ("Act"), for and in the name of the Council, I have adopted the Plan. A copy of the Plan is enclosed.

Going forward, I consider it necessary to proceed in accordance with section 26 of the Act, and carry out the duties under sections 17 to 25 of the Act as if I were Council. A Notice of Adoption and Notice of Public Hearing will be posted in *The Telegram* on October 6, 2015 and in the *Irish Loop Post* on October 7, 2015, advising that the Plan has been adopted and announcing the Public Hearing. An additional notice will be published in *The Telegram* prior to the hearing, in accordance with the Act.

The Public Hearing will be conducted by an external commissioner and is scheduled for October 20, 2015 at 7:00 pm to hear submissions related to the Plan at the Knights of Columbus Hall, The Avenue, Witless Bay. If additional time is required, the Public Hearing may reconvene at 7:00 pm on October 21, 2015 at the same location. Please note that departmental officials will advise Council of the name of the commissioner prior to the Public Hearing, once the terms of the appointment are confirmed.

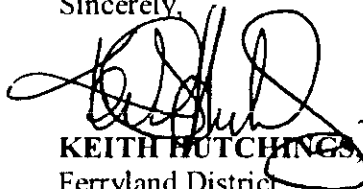
The Plan may be viewed at the Department of Municipal and Intergovernmental Affairs Office, First Floor, West Block, Confederation Building, St. John's from 8:30 am to 3:30 pm on weekdays from October 6 to 20, 2015 (excluding October 12). It may also be viewed online at <http://www.miga.gov.nl.ca/consultations/witlessbay/index.html>. In addition, the Department would like to make a copy available to residents for viewing at the Town Council office. I would appreciate your consideration of this request, as an added convenience for the residents.

Written statements relating to the Plan must be received by the Department of Municipal and Intergovernmental Affairs by October 18, 2015. Persons or associations submitting written statements are required to provide two copies of their signed statements by October 18, 2015 to:

Department of Municipal and Intergovernmental Affairs
P.O. Box 8700, St. John's, NL, A1B 4J6
Telephone: 1-709-729-3090
Email: CarolHanlon@gov.nl.ca with a copy to AshleyGushue@gov.nl.ca

In addition, submissions may be made at the hearing on October 20, 2015 and October 21, 2015
(if a second hearing day is necessary).

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Hutchings', written over a printed name.

KEITH HUTCHINGS, MHA
Ferryland District

Minister of Municipal and Intergovernmental Affairs

TABLE OF CONTENTS

| | Page |
|---|------------|
| 1.0 INTRODUCTION | 1 |
| 1.1 Municipal Plan Preparation | 1 |
| 1.2 Plan Approval..... | 2 |
| 1.3 Plan Review and Amendment | 2 |
| 1.4 Plan Administration | 3 |
| 1.5 Witless Bay Municipal Plan Review..... | 3 |
| 1.6 Community Profile..... | 6 |
| 1.7 St. John's Urban Region Regional Plan | 11 |
| 1.8 Interpretation | 13 |
| 2.0 GOALS AND OBJECTIVES..... | 14 |
| 2.1 Physical Structure | 14 |
| 2.2 Economic Opportunities | 15 |
| 2.3 Housing..... | 16 |
| 2.4 Transportation..... | 17 |
| 2.6 Community and Social Services..... | 17 |
| 2.7 Environment..... | 18 |
| 2.8 Municipal Finance | 19 |
| 2.9 Recreation and Tourism | 19 |
| 2.10 Sustainable Development | 20 |
| 3.0 THE LAND USE PLAN..... | 201 |
| 3.1 General Land Use Policies | 21 |
| 3.1.1 General Policies..... | 21 |
| 3.1.2 Servicing Policies | 28 |
| 3.1.3 Environmental Policies..... | 29 |
| 3.2 Specific Policies - Land Use Designations | 31 |
| 3.2.1 Residential | 31 |
| 3.2.2 Mixed Use | 38 |
| 3.2.3 Commercial..... | 42 |
| 3.2.4 Industrial..... | 45 |
| 3.2.5 Public Use | 48 |
| 3.2.6 Conservation | 50 |
| 3.2.7 Open Space Recreation..... | 53 |
| 3.2.8 Watershed..... | 54 |
| 3.2.9 Rural | 55 |

TABLE OF CONTENTS (cont'd)

| | Page |
|--|------|
| 4.0 IMPLEMENTATION | 58 |
| 4.1 Plan Administration | 58 |
| 4.2 Plan Implementation..... | 59 |
| 4.3 Development Regulations | 60 |
| 4.4 Development Control..... | 60 |
| 4.5 Public Works and Municipal Services..... | 61 |

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 2013-2023. 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 2013 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 sewer. 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 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 Puffins

Around late summer to early fall, young puffins from the Witless Bay Ecological Reserve leave their burrows. The young birds are often lured toward land instead of out to sea by lights on the shore and have a hard time finding their way back to the ocean.

As an increasing attraction, local residents have been collecting stray puffins and releasing them back onto the water. Up to 500 young birds have been rescued so far this year. This phenomenon is gaining attention from wildlife scientists and levels of Government. When possible, the stray puffins are tagged and released back into the wild.

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 environmentally 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.

The Town also is home to the Witless Bay Festival, 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 - 2012 | |
|--|----|
| 2006 | 11 |
| 2007 | 1 |
| 2008 | 11 |
| 2009 | 18 |
| 2010 | 38 |
| 2011 | 44 |
| 2012 (to date) | 20 |

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, 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 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 AND TOURISM

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.

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, 2013-2023. 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 (2013-2023) 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

A minimum of 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.

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 this should occur in the main part 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 dwellings shall be permitted. Complementary uses such as double dwelling, row dwelling, apartment building, child care, office, home office, boarding house residential (bed and breakfast), place of worship, education, education, agriculture (hobby farming), cultural and civic, personal and 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.

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 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 as approved by Council, which accounts for the development of lands abutting the site;
- 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;

- Extension and development of municipal piped services for new subdivision;
- 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 a minimum of 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.

3.2.2.1. 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 Polices:

1. Land Use

Within the Mixed Use area, single dwellings, recreation open space and conservation shall be permitted. Other uses may be permitted such as double dwelling, row dwelling, apartment building, boarding house residential, collective residential, commercial residential, cultural and civic, child care, home based business, home for the aged, medical, personal and professional services, office, general assembly, passenger assembly, club and lodge, funeral home, place of worship, education, indoor assembly, communications, taxi stand, police station, antenna, convenience store, shop, outdoor market, catering (restaurant and take-out food service), general service, service station and light industry may be permitted throughout the area 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, office, medical and professional, personal service, shop, and convenience store passenger assembly (all use classes), business and personal service (all use classes),

commercial residential, service station, cultural civic and shop, outdoor assembly, mercantile (all use classes), light industry, and general industry. Other compatible uses that may be permitted include clubs and lodges, amusement, taxi stand, police station, funeral home, indoor market, office, general services, veterinary, 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, general services, antenna, shop 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 complementary 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 and 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, places of worship, child care, government offices, municipal buildings, recreation buildings, and their accessory uses.

Complementary 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 complementary uses may include recreational open space such as parks and playing fields, office, indoor assembly, outdoor assembly, catering, and homes for the aged.

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 locate in the central part of 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 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.

Certain lands should be preserved from development because of dangerous or unstable surface conditions, or to provide for recreational and conservation purposes. Scenic areas, landmarks and historic sites 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.

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.

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 may 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.

Other uses that may be included within this designation are outdoor assembly; cultural and civic, catering (take-out food service); child care, agriculture; forestry; general industry, light industry, 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, mineral working, 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. Rural Industry

Rural industry 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 the Plan, the Future Land Use Maps shall be read only in conjunction with the Goals, Objectives and Policies outlined in this document. All development applications will be carefully evaluated as to their conformity to the Plan. 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.

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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
6. Appeal requirements
7. Appeal registration
8. Development prohibited
9. Hearing notice and meetings
10. Hearing of evidence
11. Board decision
12. Variances
13. Notice of variance
14. Residential non conformity
15. Notice and hearings on change of use
16. Non-conformance with standards
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,

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- (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;

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- (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.