

# DEVELOPMENT REGULATIONS 2014-2024

TOWN OF PORTUGAL COVE-ST. PHILIP'S

| SEPTEMBER 2014 |



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# TABLE OF CONTENTS

<b>OVERVIEW OF DEVELOPMENT REGULATIONS .....</b>	<b>6</b>
<b>URBAN AND RURAL PLANNING ACT (2000) RESOLUTION TO ADOPT.....</b>	<b>1</b>
<b>CANADIAN INSTITUTE OF PLANNERS (CIP) CERTIFICATION .....</b>	<b>2</b>
<b>MINISTER’S REGULATIONS .....</b>	<b>4</b>
Short title.....	5
Definitions .....	5
Application .....	5
Interpretation.....	5
Notice of right to appeal .....	8
Appeal requirements .....	8
Appeal registration.....	9
Development prohibited.....	10
Hearing notice and meetings .....	10
Hearing of evidence .....	10
Board decision.....	11
Variances .....	11
Notice of variance .....	11
Residential non-conformity.....	12
Notice and hearings on change of use .....	12
Non-conformance with standards .....	12
Discontinuance of non-conforming use .....	12
Delegation of powers .....	13
Commencement.....	13

**TOWN OF PORTUGAL COVE-ST. PHILIP’S LAND USE, ZONING, SUBDIVISION AND  
ADVERTISEMENT REGULATIONS (DEVELOPMENT REGULATIONS (2014-2024))..... 14**

1. Short Title..... 14  
2. Interpretation ..... 14  
3. Commencement ..... 14  
4. Municipal Code and Regulations ..... 14  
5. Council..... 14

**PART I - GENERAL REGULATIONS ..... 15**

6. Compliance with Regulations ..... 15  
7. Permit Required..... 15  
8. Permit to be Issued ..... 15  
9. Permit Not to be Issued in Certain Cases..... 15  
10. Discretionary Powers of Council ..... 16  
11. Variances (Refer to Minister’s Development Regulations, Section 12, January 2, 2001)16  
12. Notice of Variance (Refer to Minister’s Development Regulations, Section 13, January  
2, 2001) ..... 17  
13. Service Levy..... 17  
14. Financial Guarantees by Developer ..... 18  
15. Dedication of Land for Public Use..... 18  
16. Reinstatement of Land..... 18  
17. Form of Application ..... 18  
18. Register of Application..... 19  
19. Deferment of Application ..... 19  
20. Approval in Principle ..... 19  
21. Development Permit..... 19  
22. Compliance with Legislation ..... 20  
23. Reasons for Refusing Permit..... 21  
24. Notice of Right to Appeal (Refer to Minister’s Development Regulations, Section 5,  
January 2, 2001)..... 21  
25. Appeal Requirements (Refer to Minister’s Development Regulations, Section 6,  
January 2, 2001)..... 21  
26. Appeal Registration (Refer to Minister’s Development Regulations, Section 7, January  
2, 2001) ..... 22  
27. Development Prohibited (Refer to Minister’s Development Regulations, Section 8,  
January 2, 2001)..... 23

28.	Appeal Board.....	23
29.	Appeals.....	23
30.	Hearing Notice and Meetings (Refer to Minister’s Development Regulations, Section 9, January 2, 2001) .....	24
31.	Hearing of Evidence (Refer to Minister’s Development Regulations, Section 10, January 2, 2001).....	25
32.	Return of Appeal Fee .....	25
33.	Notice of Application (Refer to Minister’s Development Regulations, Section 13 and 15, January 2, 2001).....	25
34.	Right of Entry .....	25
35.	Record of Violations.....	26
36.	Stop Work Order and Prosecution.....	26
37.	Delegation of Powers (Refer to Minister’s Development Regulations, Section 18, January 2, 2001 .....	26
<b>PART II – GENERAL DEVELOPMENT STANDARDS .....</b>		<b>27</b>
38.	Accesses and Service Streets .....	27
39.	Accessory Buildings.....	27
40.	Advertisements.....	28
41.	Buffer Strips .....	28
42.	Building Line and Setback .....	28
43.	Group Home.....	29
44.	Height Exceptions .....	29
45.	Minimum Distance Separations for Commercial Livestock Facilities .....	29
46.	Lot Area.....	30
47.	Lot Frontage.....	30
48.	Existing Lot Area and Size Exceptions .....	30
49.	Non-Conforming Use (Refer to Minister’s Development Regulations, Section 14, 15, 16, 17, January 2, 2001).....	31
50.	Offensive and Dangerous Uses .....	32
51.	Off-Street Parking Requirements.....	32
52.	Off-Street Loading Requirements.....	34
53.	Public Parks and Playgrounds, and Conservation Uses .....	34
54.	Screening and Landscaping.....	35
55.	Services and Municipal Infrastructure .....	35
56.	Mineral Exploration .....	35

57.	Service Stations.....	35
58.	Side Yards.....	36
59.	Street Construction Standards.....	36
60.	Subsidiary Apartments.....	36
61.	Zero Lot Line and Other Comprehensive Development .....	36
62.	Multiple Uses on One Lot .....	36
63.	Vehicle Bodies.....	37
64.	Site Suitability .....	37
65.	Environmental Protection.....	37
66.	Aircraft Noise Exposure Corridor .....	37
67.	Stormwater Management .....	38
68.	Line of Vision at Intersections.....	38
69.	Development in the Vicinity of a Public Right-of-Way .....	39
70.	Soil Removal and Deposit and Site Grading.....	39
71.	Wind Turbines.....	40
<b>PART III - ADVERTISEMENTS.....</b>		<b>42</b>
72.	Permit Required.....	42
73.	Form of Application .....	42
74.	Advertisements Prohibited in Street Reservation .....	42
75.	Permit Valid for Limited Period.....	42
76.	Removal of Advertisements.....	42
77.	Advertisements Exempt from Control.....	42
78.	Approval Subject to Conditions .....	43
79.	Non-Conforming Uses.....	43
<b>PART IV - SUBDIVISION OF LAND .....</b>		<b>44</b>
80.	Permit to Subdivide Required.....	44
81.	Services to be Provided.....	44
82.	Payment of Service Levies and Other Charges .....	44
83.	Permit to Subdivide Subject to Considerations .....	44
84.	Building Permits Required .....	46
85.	No Permit Required .....	46
86.	Form of Application .....	46
87.	Subdivision Subject to Zoning.....	46
88.	Land for Public Open Space .....	47

89.	Structure in Street Reservation.....	48
90.	Subdivision Design Standards .....	48
91.	Engineer to Design Works and Certify Construction Layout .....	50
92.	Developer to Pay Engineer's Fees and Charges .....	50
93.	Street Works May Be Deferred.....	50
94.	Transfer of Streets and Infrastructure Works to Council.....	51
95.	Restriction on Sale of Lots.....	51
96.	Grouping of Buildings and Landscaping.....	52
97.	Groundwater Supply Assessment and Reporting .....	52
<b>PART V - USE ZONES.....</b>		<b>53</b>
98.	Use Zones.....	53
99.	Map Interpretation .....	53
100.	Use Classes.....	54
101.	Permitted Uses.....	54
102.	Discretionary Uses .....	54
103.	Uses Not Permitted.....	54
<b>SCHEDULE A - DEFINITIONS.....</b>		<b>55</b>
<b>SCHEDULE B - CLASSIFICATION OF USES OF LAND AND BUILDINGS.....</b>		<b>82</b>
<b>SCHEDULE C - USE ZONES.....</b>		<b>87</b>
<b>SCHEDULE D - OFF-STREET PARKING REQUIREMENTS.....</b>		<b>145</b>
<b>SCHEDULE E - ENVIRONMENTAL PROTECTION OVERLAY.....</b>		<b>147</b>

## MAPS

**Map 2** - Zoning Map

**Schedule E** - Environmental Protection Overlay Map

## OVERVIEW OF DEVELOPMENT REGULATIONS

The Development Regulations represent the companion community planning document to the Town of Portugal Cove – St. Philip’s Municipal Plan (2014-2024). While the Municipal Plan provides for varied land use classes and policy statements of Town Council to guide and manage growth and development within the community over the next ten year period, the Development Regulations detail the regulatory approach and requirements for implementing the Municipal Plan policies with regard to land use, density and terms, conditions and development standards for land and building proposals.

The Development Regulations like the Town’s Municipal Plan are authorized through the provisions of the Newfoundland and Labrador Urban and Rural Planning Act (2000), and as approved by the Department of Municipal Affairs and Town Council of Portugal Cove-St. Philip’s. The Development Regulations apply to entirety of the Town’s designated planning area, which coincides with the Town’s municipal boundary area.

The primary components of the Development Regulations include the following:

- Mandatory inclusion of the Ministerial Regulations from the Province that serve as the template for the Town’s Development Regulations;
- General Regulations;
- General Development Standards;
- Regulations pertaining to Signs and Advertisements;
- Regulations for Subdivision of Land; and,
- The permitted/discretionary uses, and terms, conditions and requirements for their use within the eleven specific use zones applicable to the Town’s land base and bodies of water.

The document also provides for a number of information Schedules that form an integral part of the Development Regulations document, including definitions of planning terms, a classification listing of indicative uses of land and buildings, detail for the distinct use zones, off-street parking requirements and provisions for environmental protection.

Similar to the Municipal Plan, the Development Regulations additionally have a primary companion map, namely the Zoning Map. The Development Regulations provide for an additional map, Schedule E – Environmental Protection Overlay.

The Development Regulations represent a comprehensive local government management approach for regulating current and future land use development within the community. Users of the document will benefit from reading and comprehending the entirety of the Development Regulations to ascertain which aspects of the Regulations apply to a specific property or to a proposed land use development. The Planning & Development Department staff of the Town are available to assist as much as possible in interpretation of the Development Regulations.



# URBAN AND RURAL PLANNING ACT (2000) RESOLUTION TO ADOPT

## Town of Portugal Cove – St. Philip’s Development Regulations (2014-2024)

Under the authority of Section 16 of the Urban and Rural Planning Act (2000), the Town Council of Portugal Cove- St. Philip’s adopts the Portugal Cove-St. Philip’s Development Regulations (2014-2024).

The Development Regulations (2014-2024) were adopted by the Town Council of Portugal Cove- St. Philip’s on the \_\_\_\_ day of \_\_\_\_\_, 2014.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 2014.

Mayor Moses G. Tucker: \_\_\_\_\_

Municipal Clerk (Judy Squires): \_\_\_\_\_

\_\_\_\_\_

Town of Portugal Cove- St. Philip’s seal

# CANADIAN INSTITUTE OF PLANNERS (CIP) CERTIFICATION

I certify that the Town of Portugal Cove – St. Philip’s Development Regulations (2014-2024) have been prepared in accordance with the requirements of the Urban and Rural Planning Act (2000) of the Province of Newfoundland and Labrador.

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Member of Canadian Institute of Planners (MCIP) signature

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MCIP seal

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Date signed and sealed

# NEWFOUNDLAND AND LABRADOR 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.

Joan Marie Aylward  
Minister of Municipal Affairs and Provincial Affairs

# MINISTER'S 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

## SHORT TITLE

1. These regulations may be cited as the *Development Regulations*.

## DEFINITIONS

2. In these regulations,
  - a) "Act," unless the context indicates 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.

## APPLICATION

3.
  - (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.

## INTERPRETATION

4.
  - (1) In development regulations and other regulations made with respect to a planning area the following terms shall have the meanings indicated in this section.
    - (a) "access" means a way used or intended to be used by vehicles, pedestrians or animals in order to go from a street to adjacent or nearby land or to go from that land to the street;

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

- (i) "frontage" means the horizontal distance between side lot lines measured at the building line;
- (j) "lot" means a plot, tract or parcel of land which can be considered as a unit of land for a particular use or building;
- (k) "lot area" means the total horizontal area within the lines of the lot;
- (l) "lot coverage" means the combined area of all buildings on a lot measured at the level of the lowest floor above the established grade and expressed as a percentage of the total area of the lot;
- (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 (Land Use Zoning Map).

- (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.

## **NOTICE OF RIGHT TO APPEAL**

### **5.**

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:

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

## **APPEAL REQUIREMENTS**

### **6.**

- (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, NL, 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 Regulation 42(4) of the Act shall be considered to have been filed with the appropriate board.
- (2) Notwithstanding Regulation (1), where the City of Corner Brook, City of Mount Pearl or City of St. John's may appoint an appeal board under Regulation 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 Regulation (1) or (2) within the 14 days referred to in Regulation 42(4) of the Act.
- (4) The board that hears the decision being appealed shall, subject to Regulation 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.

## **APPEAL REGISTRATION**

### **7.**

- (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 Regulations 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 Regulation (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 Regulation (4) shall be published not fewer than 2 weeks before the date upon which the appeal is to be heard by the board.

## **DEVELOPMENT PROHIBITED**

### **8.**

- (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 Regulation (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.

## **HEARING NOTICE AND MEETINGS**

### **9.**

- (1) A board shall notify the appellant, applicant, authority and other persons affected by
  - (a) 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.

## **HEARING OF EVIDENCE**

### **10.**

- (1) A board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under Regulation 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 Regulation 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.

## **BOARD DECISION**

### **11.**

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.

## **VARIANCES**

### **12.**

- (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.

## **NOTICE OF VARIANCE**

### **13.**

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.

## **RESIDENTIAL NON-CONFORMITY**

### **14.**

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.

## **NOTICE AND HEARINGS ON CHANGE OF USE**

### **15.**

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.

## **NON-CONFORMANCE WITH STANDARDS**

### **16.**

Where a building, structure or development does not meet the development standards that are included within the 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.

## **DISCONTINUANCE OF NON-CONFORMING USE**

### **17.**

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

## **DELEGATION OF POWERS**

**18.**

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

## **COMMENCEMENT**

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

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# TOWN OF PORTUGAL COVE-ST. PHILIP'S LAND USE, ZONING, SUBDIVISION AND ADVERTISEMENT REGULATIONS (DEVELOPMENT REGULATIONS (2014-2024))

## APPLICATION

### 1. SHORT TITLE

These Regulations may be cited as the Town of Portugal Cove-St. Philip's Development Regulations (2014-2024).

### 2. INTERPRETATION

- (1) Words and phrases used in these Regulations shall have the meanings ascribed to them in Schedule A. No definitions provided within Schedule A are intended to contravene parallel definitions included within the Urban and Rural Planning Act (2000).
- (2) Words and phrases not defined in Schedule A shall have the meanings and interpretation which are commonly assigned to them in the context in which they are used in the Regulations.

### 3. COMMENCEMENT

These Regulations come into effect throughout the Portugal Cove-St. Philip's Municipal Planning Area, hereinafter referred to as the Planning Area, on the date of publication of a notice to that effect in the *Newfoundland and Labrador Gazette*.

### 4. MUNICIPAL CODE AND REGULATIONS

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

### 5. COUNCIL

In these Regulations, "Council" means the Council of the Town of Portugal Cove-St. Philip's.

# PART I - GENERAL REGULATIONS

## 6. COMPLIANCE WITH REGULATIONS

No development shall be carried out within the Planning Area except in accordance with the Portugal Cove-St. Philip's Municipal Plan (2014-2024) and these Regulations.

## 7. PERMIT REQUIRED

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

## 8. PERMIT TO BE ISSUED

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

- (1) the General Development Standards outlined in Part II of these Regulations, the requirements of Part V of these Regulations, and the use classes, standards, requirements, and conditions prescribed in Schedule C of these Regulations for the use zone in which the proposed development is located;
- (2) the applicable standards specified within the Building Code and/or other ancillary codes, and any Building Regulations, Waste Disposal Regulations, and/or any other municipal regulation in force in the Planning Area regulating or controlling development, conservation and use of land and buildings;
- (3) the standards identified in Part III of these Regulations in the case of advertisement;
- (4) the standards contained in Part IV of these Regulations in the case of subdivision;
- (5) the standards of design and appearance established by Council;
- (6) the provisions of the St. John's Urban Region Regional Plan; and,
- (7) the applicable approval requirements from the Province.

## 9. PERMIT NOT TO BE ISSUED IN CERTAIN CASES

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

- (2) A permit shall not be issued for development within the Planning Area unless the owner of the property which is subject of the application remits payment of any and all outstanding taxes for the previous calendar year, and any and all other fees, or charges owed by the owner, whether or not the said taxes, fees or charges pertain to the property which is the subject of the application. Council may, in its sole discretion, waive this requirement upon the owner making satisfactory payment arrangements for such taxes, fees or charges.

**(Development Regulations Amendment No. 2, 2015)**

## **10. DISCRETIONARY POWERS OF COUNCIL**

- (1) In considering an application for a permit or for approval in principle to carry out development, Council shall take into account the policies expressed in the Municipal Plan and any further scheme, plan or regulations pursuant thereto, shall consider any applicable report and recommendation submissions from a qualified consultant, shall further consider recommendations from the Town Engineer, and shall assess the general appearance of the development of the area, the amenity of the surroundings, potential environmental effects, availability of municipal services and utilities, public safety and convenience, and any other considerations which are, in its opinion, material. Notwithstanding the conformity of the application with the requirements of these Regulations, Council may as a result of its consideration of the matters set out in this Regulation, conditionally approve or refuse the application.
- (2) Council will determine the uses that may or may not be developed in a use zone and those uses shall be listed in the Development Regulations as discretionary, permitted or prohibited uses for that area.
- (3) When approving or rejecting an application for a discretionary use, Council shall state in writing the basis for its decision.

## **11. VARIANCES (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 12, JANUARY 2, 2001)**

- (1) Where an approval or permit cannot be given by Council because a proposed development does not comply with the development standards identified within the development regulations, Council may vary the applicable development standards to a maximum of 10% if, in Council's opinion, compliance with the development standards would prejudice the proper development of the land, building or structure in question or would be contrary to public interest.



- (2) Council shall not allow a variance from development standards set out in development regulations if that variance, when considered together with other variances made or to be made with respect to the same land, building or structure, would have a cumulative effect that is greater than a 10% variance even though the individual variances are separately no more than 10%.
- (3) Council shall not permit a variance from development standards where the proposed development would increase the non-conformity of an existing development.

## **12. NOTICE OF VARIANCE (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 13, JANUARY 2, 2001)**

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

## **13. SERVICE LEVY**

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

#### **14. FINANCIAL GUARANTEES BY DEVELOPER**

- (1) Council may require a developer before commencing a development to make such financial provisions and/or enter into such agreements as may be required to guarantee the payment of service levies, ensure site reinstatement, and to enforce the carrying out of any other condition attached to a permit or licence.
- (2) The financial provisions pursuant to Regulation 14(1) may be made in the form of:
  - (a) a cash deposit from the developer, to be held by Council; or,
  - (b) a guarantee by a bank, or other institution acceptable to the Minister, for expenditures by the developer; or,
  - (c) a performance bond provided by an insurance company or a bank; or,
  - (d) an annual contribution to a sinking fund held by Council; or,
  - (e) another form of financial guarantee that Council may approve.

#### **15. DEDICATION OF LAND FOR PUBLIC USE**

In addition to the requirements for conveyance and dedication of land under Regulation 90 (Subdivision Design Standards), Council may require the dedication of a percentage of the land area of any subdivision or other development for public use under Regulation 88 (Land for Public Open Space), and such land shall be conveyed to Council in accordance with the provisions of the Act.

#### **16. REINSTATEMENT OF LAND**

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

#### **17. FORM OF APPLICATION**

- (1) An application for a development permit or for approval in principle shall be made to Council only by the owner or by a person authorized by the owner on such form as may be prescribed by Council, and every application shall include such plans, specifications and drawings as Council may require, and be accompanied by the permit fee required by Council.

- (2) Council shall supply to every applicant a copy of the application forms referred to in Regulation 17(1) and a description of the plans, specifications and drawings required to be provided with the application and any information or requirements applicable to the application.

## **18. REGISTER OF APPLICATION**

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

## **19. DEFERMENT OF APPLICATION**

- (1) Council may, with the written agreement of the applicant, defer consideration of an application.
- (2) Applications properly submitted in accordance with these Regulations which have not been determined by Council and on which a decision has not been communicated to the applicant within eight weeks of the receipt thereof by Council, and on which consideration has not been deferred in accordance with Regulation 19(1), shall be deemed to be refused.

## **20. APPROVAL IN PRINCIPLE**

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

## **21. DEVELOPMENT PERMIT**

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

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

## **22. COMPLIANCE WITH LEGISLATION**

- (1) New development will comply with applicable acts and regulations including, but not limited to, the provincial *Water Resources Act*, *Environmental Assessment Act*, *Lands Act*, *Health and Community Services Act*, and *Building Near Highways Regulation*, as well as the federal *Fisheries Act of Canada*, *Environmental Protection Act of Canada*, and *Canadian Migratory Bird Act*.

- (2) Prior to issuing a development permit, Council shall require the applicant to provide confirmation that necessary provincial and federal approvals have been obtained.
- (3) If Council feels that a proposed development may trigger the requirements of the *Environmental Assessment Act*, the proponent will be advised to consult with the Department of Environment and Conservation before a development permit will be issued.
- (4) A development permit will not be issued if Council is aware that the proposed development would not comply with a particular provincial or federal act or regulation.
- (5) Where these Regulations are more stringent than a provincial or federal act of regulation, these Regulations will apply.

### **23. REASONS FOR REFUSING PERMIT**

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

### **24. NOTICE OF RIGHT TO APPEAL (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 5, JANUARY 2, 2001)**

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

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

### **25. APPEAL REQUIREMENTS (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 6, JANUARY 2, 2001)**

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

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

**26. APPEAL REGISTRATION (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 7, JANUARY 2, 2001)**

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

**27. DEVELOPMENT PROHIBITED (REFER TO MINISTER’S DEVELOPMENT REGULATIONS, SECTION 8, JANUARY 2, 2001)**

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

**28. APPEAL BOARD**

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

**29. APPEALS**

- (1) A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate Appeal Board where the decision is with respect to:
  - (a) an application to undertake a development;
  - (b) a revocation of an approval or a permit to undertake a development;
  - (c) the issuance of a stop work order; and,
  - (d) a decision permitted under the Act or another Act to be appealed to the board.
- (2) A decision of Council to adopt, approve or proceed with a municipal plan, a scheme, development regulations and amendments and revisions of them is final and not subject to an appeal.
- (3) An Appeal Board shall not make a decision that does not comply with the municipal plan, a scheme and development regulations that apply to the matter being appealed.
- (4) An appeal shall be filed with the Appeal Board not more than 14 days after the person who made the original application has received the decision being appealed.
- (5) An appeal shall be made in writing and shall include:

- (a) a summary of the decision appealed from;
- (b) the grounds for the appeal; and,
- (c) the required fee.

(6) A person or group of persons affected by the subject of an appeal or their representatives may appear before an Appeal Board and make representations concerning the matter under appeal.

(7) An Appeal Board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.

(8) An Appeal Board shall consider and determine appeals in accordance with the Act and the municipal plan, scheme and regulations that have been registered under Section 24, of the Act, and having regard to the circumstances and merits of the case.

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

(10) In determining an appeal, an Appeal Board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct Council to carry out its decision or make the necessary order to have its decision implemented.

(11) Notwithstanding Regulation (10), where Council may, in its discretion, make a decision, an Appeal Board shall not make another decision that overrules the discretionary decision.

(12) The decision of a majority of the members of an Appeal Board present at the hearing of an appeal shall be the decision of the Appeal Board.

(13) An Appeal Board shall, in writing notify the appellant and Council of the decision of the Appeal Board.

### **30. HEARING NOTICE AND MEETINGS (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 9, JANUARY 2, 2001)**

(1) An Appeal Board shall notify the appellant, applicant, Council and other persons affected by the subject of an appeal of the date, time and place for the appeal not fewer than 7 days before the date scheduled for the hearing of the appeal.



(2) An Appeal Board may meet as often as is necessary to conduct its work in an expeditious manner.

**31. HEARING OF EVIDENCE (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 10, JANUARY 2, 2001)**

(1) An Appeal Board shall meet at a place within the area under its jurisdiction and the appellant and other persons notified under Regulation 30(1) or their representative may appear before the Appeal Board and make representations with respect to the matter being appealed.

(2) An Appeal Board shall hear an appeal in accordance with Section 43 of the Act and these regulations.

(3) A written report submitted under Regulation 43(2) of the Act respecting a visit to and viewing of a property shall be considered to have been provided in the same manner as evidence directly provided at the hearing of the Appeal Board.

(4) In the conduct of an appeal hearing, the Appeal Board is not bound by the rules of evidence.

**32. RETURN OF APPEAL FEE**

Where an appeal made by an appellant under Section 42 of the Act is successful, an amount of money equal to the fee paid by that appellant under regulation 25(2) shall be paid to him or her by Council.

**33. NOTICE OF APPLICATION (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 13 AND 15, JANUARY 2, 2001)**

When a change in non-conforming use is to be considered under Regulation 49, or when the development proposed is listed as a discretionary use in Schedule C of the Development Regulations, Council shall, at the expense of the applicant, give notice of an application for a permit or for approval in principle, by public advertisement in a newspaper circulating in the area, and allow a minimum period of seven (7) days for response.

**34. RIGHT OF ENTRY**

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

### **35. RECORD OF VIOLATIONS**

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

### **36. STOP WORK ORDER AND PROSECUTION**

- (1) Where a person begins a development contrary or apparently contrary to these Regulations, Council may order that person to stop the development or work connected therewith.
- (2) A person who does not comply with an order made under Regulation 36(1) is guilty of an offence under the provisions of the Act.

### **37. DELEGATION OF POWERS (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 18, JANUARY 2, 2001)**

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

## PART II – GENERAL DEVELOPMENT STANDARDS

### 38. ACCESSES AND SERVICE STREETS

- (1) Access shall be located to the specification of Council so as to ensure the greatest possible convenience and safety of the road network system and Council may prescribe the construction of service streets to reduce the number of accesses to collector and arterial streets.
- (2) No driveway or other entryway to a parcel of land shall be closer than ten (10) metres (32.8 feet) to the street line of any street intersection.

### 39. ACCESSORY BUILDINGS

- (1) Accessory buildings shall be clearly incidental and complementary to the use of the main buildings in character, use and size, and shall be contained on the same lot. Accessory buildings, except for a temporary building for on-site construction drawings, equipment and tools storage as approved by Council, shall not be erected on a property before the principal building is constructed.
- (2) No accessory building or part thereof shall project in front of any building line.
- (3) Council may approve a location of an accessory building closer to the **building** line than the main dwelling where:
  - (a) **Council** considers that the proposed location complements the historical development pattern in the surrounding area, such as the heritage homes near the harbour areas that have reduced setbacks;
  - (b) **Council** considers that the location as required would pose a threat to road safety;
  - (c) **Council** finds that the physical limitations of the property would not allow for the development of an accessory building as required;
  - (d) **Council** considers that the proposed location as required would adversely affect the view from neighbouring homes, **and**
  - (e) **At Council's discretion, when the property has a minimum lot area of 4,000 m<sup>2</sup> and a front yard that is sufficient enough so that the proposed location will not have an adverse effect on the enjoyment of surrounding properties or pose a threat to road safety.**

**(Development Regulations Amendment No. 2, 2015)**

- (4) Council will give written notice to all persons whose land is in the immediate vicinity of the proposed development, and allow a minimum period of seven (7) days for response before approving an accessory building in a location other than is required in Regulation 39(2).
- (5) The following accessory building types do not require permit approval (except where located within an environmentally sensitive area identified in Schedule E) but must comply with all applicable external Provincial approvals, as required:
  - (a) Accessory Buildings measuring 2.3 m<sup>2</sup> (25 ft<sup>2</sup>) or less; and
  - (b) Greenhouses for residential purposes measuring 14 m<sup>2</sup> (150 ft<sup>2</sup>) or less that are temporary in nature and are constructed using wood or metal framing, plastic sheeting, and has no constructed flooring.

**(Development Regulations Amendment No. 3, 2019)**

#### **40. ADVERTISEMENTS**

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

#### **41. BUFFER STRIPS**

- (1) Where any industrial, commercial or institutional development permitted in any Use Zone abuts an existing or proposed residential area, or is separated from it by a road only, the owner of the site of the development shall provide a buffer strip not less than ten (10) metres (32.8 feet) wide between any residential activity and the industrial, commercial, or institutional area. The buffer shall include the provision of such natural or structural barrier as may be required by Council and shall be constructed and maintained by the owner or occupier to the satisfaction of Council.
- (2) Where any new residential subdivision is permitted to abut the rear or side property boundaries of an existing residential lot, a natural vegetation buffer or other structural barrier such as privacy fence will be required by Council and shall be constructed and maintained by the owner or occupier to the satisfaction of Council.

#### **42. BUILDING LINE AND SETBACK**

- (1) Council, by resolution, may establish a building line on a public street and may require new buildings to be located on that building line, whether or not the building line conforms to the standards set out in Schedule C of these Regulations.

- (2) Council may exempt an individual building from having to locate on the building line if physical, heritage or other conditions make this location unsafe or impractical, or more in keeping with the character of the immediate neighbourhood.

#### **43. GROUP HOME**

A group home centre is permitted on approval by Council as a discretionary use in any single unit residential dwelling; the group home is to be adequate in size based upon the number of bedrooms to accommodate the number of persons living in the group, inclusive of staff, and provided that in the opinion of Council and from local residents' comments, the use of the dwelling does not materially differ from, nor adversely affect, the amenities of the adjacent residences, or the neighbourhood in which it is located. Council may require special access and safety features to be provided for the occupants before occupancy is permitted.

#### **44. HEIGHT EXCEPTIONS**

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

#### **45. MINIMUM DISTANCE SEPARATIONS FOR COMMERCIAL LIVESTOCK FACILITIES**

- (1) No new livestock (including poultry) facility, planned to accommodate more than ten (10) animal units, shall be located within:
- (a) 300.0 metres (984.2 feet) of a public building, commercial building, or a dwelling other than a commercial building or dwelling located on the same lot as the livestock operation,
  - (b) 300.0 metres (984.2 feet) of the boundary of any zone other than the Agriculture, Rural, and Protected Watershed zones,
  - (c) 70.0 metres (229.7 feet) of the boundary of the property on which it is to be erected, and
  - (d) 90.0 metres (295.3 feet) of the centre line of a public street.
- (2) Regulation 45(1) does not apply to the expansion, conversion, or replacement of a livestock facility existing on the registration date of this Municipal Plan as long as the expansion, conversion, replacement, or addition does not reduce the existing separation distance between

the livestock facility and the subject dwelling, public building, commercial building, property boundary, or public street.

- (3) No new public building, commercial building, or dwelling, except a dwelling or commercial building located on the same lot as the livestock operation, may be located within 300.0 metres (984.2 feet) of an existing livestock facility that accommodates more than ten (10) animal units.
- (4) The construction of new dwellings on lots in existence on the date of the registration of this Municipal Plan, which cannot meet the required minimum distance separation, will be permitted where they meet all other provisions of this Municipal Plan and Development Regulations.
- (5) In addition to the above requirements, new livestock facilities are subject to applicable Provincial acts and regulations.

#### **46. LOT AREA**

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

#### **47. LOT FRONTAGE**

No new residential, commercial, public building or other primary use building shall be erected on a lot that does not front directly on a public road or street, except for historic existing lots that in the opinion of the Town Engineer and through approval of the Province where applicable, are able to otherwise provide access to a public street to the satisfaction of Council.

#### **48. EXISTING LOT AREA AND SIZE EXCEPTIONS**

Where, at the time of the coming into effect of **these Regulations**, a lot existed, **which had a legal land survey**, but which does not comply with the lot area and lot frontage requirements, then these

Regulations shall not prevent the issuing of a permit by Council for the erection of a building thereon, provided that:

- (a) the area of the lot is not less than seventy-five percent (75%) of the lot area standard set out in these Regulations,
- (b) the lot frontage is not less than seventy-five percent (75%) of the lot frontage standard set out in these Regulations,
- (c) the yards, floor area, and lot coverage of the proposed building are not less than the standards set out in these Regulations,
- (d) the setback of the proposed building from a watercourse or wetland is not less than the required setbacks in these Regulations, and
- (e) all necessary approvals have been acquired from the Services NL and other applicable Provincial or Federal agencies.

**(Development Regulations Amendment No. 2, 2015)**

**49. NON-CONFORMING USE (REFER TO MINISTER'S DEVELOPMENT REGULATIONS, SECTION 14, 15, 16, 17, JANUARY 2, 2001)**

- (1) Notwithstanding the Municipal Plan, scheme or regulations made under the *Urban and Rural Planning Act, 2000*, Council shall, in accordance with regulations made under this *Act*, allow a development or use of land to continue in a manner that does not conform with a regulation, scheme, or plan that applies to that land provided that the non-conforming use legally existed before the registration under Section 24 of the *Act*, scheme or regulations made with respect to that kind of development or use.
- (2) Notwithstanding Regulation 49(1), a right to resume a discontinued non-conforming use of land shall not exceed 12 months after that discontinuance.
- (3) A non-conforming building, structure or development under the *Act* that is allowed to continue under Regulation 49(1):
  - (a) shall not be internally or externally varied, extended or expanded unless otherwise approved by Council;
  - (b) shall not be structurally modified except as required for the safety of the building, structure or development;
  - (c) shall not be reconstructed or repaired for use in the same non-conforming manner where 50% or more of the value of that building, structure or development has been destroyed, except as provided for in Regulation 49(3)(h);

- (d) may have the existing use for that building, structure or development varied by Council to a use that is, in Council's opinion, more compatible with the plan and regulations applicable to it;
- (e) may have the existing building extended by approval of Council where, in Council's opinion, the extension is not more than 50% of the existing building;
- (f) where the non-conformance is with respect to the standards included in these Regulations, shall not be expanded if the expansion would increase the non-conformity;
- (g) where a building, structure or development does not meet the development standards included in development regulations, the building, structure or development shall not be expanded if the expansion would increase the non-conformity, and an expansion must comply with the development standards applicable to that building, structure or development; and,
- (h) where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the municipal plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed.

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

## **50. OFFENSIVE AND DANGEROUS USES**

No building or land shall be used for any purpose which may be dangerous by causing or promoting fires or other hazards or which may emit noxious, offensive or dangerous fumes, smoke, gases, radiation, smells, ash, dust or grit, excessive noise or vibration, or create any nuisance that has an unpleasant effect on the senses unless its use is authorized by Council through consideration of the land uses of Schedule C, and Council's potential consideration of a report and recommendations on the proposed use prepared by a qualified consultant engaged by the development applicant, and such use is allowed by any other authority having jurisdiction.

## **51. OFF-STREET PARKING REQUIREMENTS**

- (1) For every building, structure or use to be erected, enlarged or established, there shall be provided and maintained a quantity of off-street parking spaces sufficient to accommodate the



proposed use and /or building, and to ensure that the flow of traffic on adjacent streets is not impeded by the on-street parking of vehicles associated with that building, structure or use.

- (2) The number of parking spaces to be provided for any building, structure, use of occupancy shall conform to the standards outlined in Schedule D - Off-Street Parking Requirements of these Regulations.
- (3) Each parking space, except in the case of single or double dwellings, shall be made accessible by means of a hard surfaced right-of-way at least three (3) metres (9.8 feet) in width. Parking for residential single and double dwellings shall be provided in the driveway area on the same lot as the dwelling; no parking in the front yard lawn areas shall be permitted. Parking space for apartments shall be provided in the rear yard where possible.
- (4) Parking facilities shall, except in the case of single and attached double dwellings, be arranged so that it is not necessary for any vehicle to reverse onto or from a street.
- (5) Where, in these Regulations, parking facilities for more than eight vehicles are required or permitted:
  - (a) a parking space shall mean an area of land, not less than 15 m<sup>2</sup> (161.5 square feet) in size, capable of being used for the parking of a vehicle without the need to move other vehicles on adjacent areas;
  - (b) the parking area shall be constructed and maintained to the specifications and terms and conditions of the development permit approval by Council;
  - (c) the lights used for illumination of the parking area shall be so arranged as to divert the light away from adjacent development;
  - (d) a structure, not more than 3 metres in height and more than 5 m<sup>2</sup> ( 53.8 square feet) in area may be erected in the parking area for the use of attendants in the area;
  - (e) except in zones that permit a service station, no gasoline pump or other service station equipment shall be located or maintained on a parking area;
  - (f) no part of an off-street parking area shall be closer than 1.5 metres (4.9 feet) to the front lot line in any zone;
  - (g) access to parking areas in non-residential zones shall not be by way of a residential zone;
  - (h) the driving surface of a driveway access to a parking area from a public street shall not be less than 6 metres (19.7 feet) in width;

- (i) where a parking area is located within or abuts a residential zone, a natural or structural barrier at least 1.5 metres (4.9 feet) high shall be erected and maintained along all lot lines between the parking area and the adjacent residential property; and,
- (j) where strict application of the above parking requirements is impractical or undesirable, Council may require the developer to pay a service levy in accordance with these Regulations in lieu of the provision of a parking area, and the full amount of the levy shall be used by Council for the provision and upkeep of alternative parking facilities within the vicinity of the development.

## **52. OFF-STREET LOADING REQUIREMENTS**

- (1) For every building, structure or use to be erected, enlarged or established requiring the shipping, loading or unloading of animals, goods, wares or merchandise, there shall be provided and maintained for the premises loading facilities on land that is not part of a street comprised of one or more loading spaces, 15 metres (49.2 feet) long, 4 metres (13.1 feet) wide, and having a vertical clearance of at least 4 metres (13.1 feet) with direct access to a street or with access by a driveway of a minimum width of 6 metres (19.7 feet) to a street.
- (2) The number of loading spaces to be provided shall be determined on the basis of the size of the proposed building on the development site where one loading space is to be provided for development sites with building floor area space greater than 500 square metres (5,382.1 square feet), and two loading spaces to be provided for buildings with a floor area space greater than 2000 square metres (21,528.5 square feet).
- (3) The loading facilities required by this Regulation shall be so arranged that trucks or loading vehicles can manoeuvre clear of any street and so that it is not necessary for any loading vehicle to reverse onto or from a street.

## **53. PUBLIC PARKS AND PLAYGROUNDS, AND CONSERVATION USES**

Nothing in these Regulations shall prevent the designation of conservation areas or the establishment of public parks and playgrounds in any zones provided that such parks and playgrounds are not located in areas which may be unsafe and hazardous to their use, are not operated for commercial purposes, and are within the financial resource capacity of the Town for any future potential ongoing maintenance costs.

#### **54. SCREENING AND LANDSCAPING**

Council may, in the case of existing unsightly development, order the owner or occupier to provide adequate and suitable landscaping or screening; and for this purpose may require the submission of an application giving details of the landscaping or screening, and these Regulations shall then apply to that application. The provision of adequate and suitable landscaping or screening may be made a condition of any development permit where, in the opinion of Council, the landscaping or screening is desirable to preserve amenity, or protect the environment. Where a property owner of an unsightly property or premises does not comply to remedy the deficiency, Council may proceed to take other action, including upon failure of the property owner to comply with further notice from the Town, Council may enter the site and clean up the property and place the cost of such municipal work on the annual taxation levy for the property and/or building.

#### **55. SERVICES AND MUNICIPAL INFRASTRUCTURE**

Within any zone, the provision of public or municipal services, infrastructure and utilities are permitted, subject to Regulation 89. This applies to electrical services, light standards, traffic control devices, utility poles, highways and municipal directional signage, municipal water, sewer and storm water systems and associated underground utilities and pump houses, group mail boxes, roads and highways, and similar such infrastructure, services and utilities required to service a growing community. The proposed design of the works and landscaping of any development of any land so used shall be reviewed by the municipality for its adequacy to protect the character and appearance of the area where the works are to be installed. Private utilities such as major pipelines and transmission lines should be discussed with local authorities early in the planning stages; fibre optic services are similarly to be communicated to the local authority, prior to Council consideration of support for installation of these utilities.

#### **56. MINERAL EXPLORATION**

Mineral exploration and staking are permitted in any zone subject to applicable provincial acts and regulations. Mineral exploration is not supported by the Town however in the more urban and built up areas of the community.

#### **57. SERVICE STATIONS**

The following requirements shall apply to all proposed service stations:

- (a) All gasoline pumps shall be located on pump islands designed for such purpose, and to which automobiles may gain access from either side.
- (b) Pump islands shall be set back at least 4 metres (13.1 feet) from the front lot line.

- (c) Accesses shall not be less than 7 metres (22.9 feet) wide and shall be clearly marked, and where a service station is located on a corner lot, the minimum distance between an access and the intersection of street lines at the junction shall be 10 metres (32.8 feet) and the lot line between entrances shall be clearly indicated.

## **58. SIDE YARDS**

Except for comprehensively designed site developments, a side yard, which shall be kept clear of obstruction, shall be provided on the exposed sides of every building in every use zone in order to provide access for the maintenance of that building, and to provide separation distance to an adjacent property.

## **59. STREET CONSTRUCTION STANDARDS**

A new street may not be constructed except in accordance with the road design, specifications and standards adopted by Council.

## **60. SUBSIDIARY APARTMENTS**

Subsidiary apartments, as defined by Schedule A, may be permitted upon Council approval as a discretionary use in single unit residential dwellings, and within a permitted commercial use only, and for the purposes of calculating lot area and yard requirements, shall be considered part of the self-contained dwelling. Council may also consider a granny suite as a form of a subsidiary apartment to help meet the emerging housing needs of seniors.

## **61. ZERO LOT LINE AND OTHER COMPREHENSIVE DEVELOPMENT**

The erection of dwellings which are designed to form part of a zero lot line development or other comprehensive development site layout which does not, with the exception of dwelling unit floor area, meet all of the requirements of the Use Zone Table in Schedule C, will be considered on the basis that the dwellings are designed to provide both privacy and reasonable access to natural daylight and the overall density within the proposed development conforms to these Development Regulations. The standards outlined in the Use Zone Table will additionally apply where the proposed layout adjoins other development.

## **62. MULTIPLE USES ON ONE LOT**

Where a single lot contains more than one permitted use, each specific use shall conform to the provisions of these Development Regulations that are applicable to that use.

### **63. VEHICLE BODIES**

No truck, bus, semi-trailer, freight container, other vehicle body, or a structure of any similar nature, or a tent or similar use, shall be used as a residential dwelling unit for human habitation in any zone. This provision does not apply to recreational vehicles or trailers or tents and similar used for camping purposes on a temporary and interim seasonal basis.

### **64. SITE SUITABILITY**

No building or structure or other development of land will be permitted on a site where it otherwise would be permitted under these Development Regulations where the proposed site is marshy, geologically unstable, excessively steep, or otherwise unsuitable for a proposed purpose by virtue of its soil, topography or environmental sensitivity, as identified by Schedule E – Environmental Protection Overlay of the these Development Regulations, or as assessed by a qualified consultant, or as otherwise determined by Council .

### **65. ENVIRONMENTAL PROTECTION**

- (1) Land located within fifteen (15.0) metres (49.2 feet) of watercourses; thirty (30.0) metres (98.4 feet) of bodies of water and coastlines; designated flood risk areas; wetlands; and steep slopes shall be indicated on the map contained in Schedule E: Environmental Protection Overlay.
- (2) Any development that may permitted on lands indicated by the Environmental Protection Overlay schedule will only be permitted subject to the terms and conditions stated in Schedule E of these Development Regulations.

### **66. AIRCRAFT NOISE EXPOSURE CORRIDOR**

- (1) No new residential development shall be permitted above the 35 Noise Exposure Forecast (NEF) Contour of the St. John’s Airport, the bounds of which are delineated on the Zoning Map as part of these Development Regulations.
- (2) All residential development located between the 30 NEF and 35 NEF Contours shall-comply with Canada Mortgage and Housing Corporation (CMHC) acoustic insulation requirements. All building permit applications for this area must include drawings stamped and certified by a qualified engineer or architect that indicates these requirements are incorporated into the building design.

- (3) A seller of land above the 30 NEF contour is required to issue a notice to prospective purchasers concerning the restrictions on development in these areas. Council will not approve a subdivision of land in any area above the 30 NEF contour unless it receives a written undertaking from the owner that prospective purchasers will be notified of these development restrictions by way of a Notice placed upon the title of the subject properties.

## **67. STORMWATER MANAGEMENT**

- (1) Land development and the erection of buildings and structures will not be permitted on any site where it would otherwise be permitted under these Regulations, when in the opinion of the Town engineer, the development will create or aggravate adverse stormwater impacts, for example, excessive run-off onto adjacent properties, soil erosion, scouring and silt deposition of streams, or reduction of surface or groundwater quality. The development applicant may be required to engage a qualified consultant engineer with expertise in hydrology and storm water management design to address these site development issues to the satisfaction of the Town engineer and Town Council.
- (2) New development may be required to implement storm water detention measures to manage and control stormwater runoff so that there is “no net increase” in storm water runoff as a result of the proposed development.
- (3) Each development shall be provided with a drainage system that is adequate to prevent the retention of surface water on the development site; Council may require a retention pond or similar engineering approach be incorporated into storm drainage systems.
- (4) The grading of land, excavation of ditches, and erection of buildings or structures will not be undertaken in a manner that significantly increases stormwater runoff and erosion onto adjacent properties or into nearby watercourses.

## **68. LINE OF VISION AT INTERSECTIONS**

So as to not obstruct the view of motorists and pedestrians:

- (a) All occupied and existing lands located within 7.0 metres (22.9 feet) of a street intersection shall be kept free of any shrubs, plants, and any trees that will impede the line of vision to be clear for motorists and pedestrians; and,
- (b) No building or structure shall be permitted to be erected, moved, enlarged, or reconstructed on any land that is within 7.0 metres (22.9 feet) of a street intersection.

## **69. DEVELOPMENT IN THE VICINITY OF A PUBLIC RIGHT-OF-WAY**

- (1) Land development and the erection of buildings and structures will not be permitted on any site where it would otherwise be permitted under these development regulations, when upon the review by the Town's Engineer, the development would impede public passage on a public right-of-way or interfere with any legal right of Council to develop or improve the right-of-way for public access and recreation.
- (2) A minimum setback or set other terms and conditions may be required for a proposed development in the vicinity of a public right-of-way to ensure the development will not obstruct or otherwise impede public passage along the right-of-way.

## **70. SOIL REMOVAL AND DEPOSIT AND SITE GRADING**

- (1) A development permit is not required for removal, deposit, or grading of soil, sand, gravel, rock, or other aggregate material if the activity is part of an approved development project or affects less than 125 cubic metres of material.
- (2) No other excavation, removal, or depositing of material, or site grading, shall be carried out unless a development permit under these Regulations has been issued by Council.
- (3) Any excavation, removal and depositing of soil, sand, gravel, and rock, that requires a development permit may be issued a temporary permit provided the work is based on a grading plan, will result in an improved site for permitted uses, while retaining as much of the natural features of the land as possible. The following conditions shall be met:
  - (a) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of neighbouring developed areas;
  - (b) Land intended for the activity or grading has a slope of less than 25%. Lands with a slope greater than 25% over a distance of five (5) or more metres, shall be protected and shall not be developed except for infill residential single dwelling development proposals as a discretionary use within the Traditional Community zone, and except on the further conditions that such proposals are accompanied and supported by a qualified geotechnical or other engineering certified and stamped report and recommendations, such land is not designated by the St. John's Urban Region Regional Plan as 'Restricted', and all such proposals are approved by Council;

- (c) Resulting slopes are verified by a geotechnical or similar qualified engineer as being stable and without hazards;
- (d) When the work is completed, areas in which natural vegetation has been removed shall be covered with topsoil and other necessary material for vigorous plant growth and planted with appropriate vegetation;
- (e) Storm water management and drainage is provided to a standard appropriate to the site, and as approved by the Town Engineer, so as to not impair existing surface drainage or create erosion either on the site or on adjacent sites; and
- (f) Council may, at its discretion, allow activity or grading on land with a slope greater than 25% when the property was developed prior to the registration of these Regulations and when such work is required for the safety and protection of the existing property to prevent such things as erosion, instability, etc.

**(Development Regulations Amendment No. 3, 2019)**

## 71. WIND TURBINES

### (1) Private Wind Turbines

Where permitted as a discretionary use by Council, the development of a private wind turbine (see definition in Schedule A) shall conform to the following standards and conditions:

Wind Turbine Development Standards				
STANDARDS	Lot Size (m <sup>2</sup> )			
	<2000	2000	4000	>8000
Maximum number of wind turbine(s)	1	1	1	2
Maximum power generating capacity of wind turbine(s) (kilowatts –KW)	15KW	20KW	40KW	100KW (total collective)
Maximum tower height (metres)	10.25	12.25	18.5	30.5
Minimum separation distance from Tower and neighbouring residence (metres)	25	50	100	250
Minimum separation distance of the swept arc of the blade from residence on same lot (metres)	1	3	5	5
Minimum distance of the swept arc of the blade from side yard (metres)	Side yard requirements as in land use zone			
Separation distance between towers (metres)	Not Applicable			10
Lowest point of sweep area of rotor blade to finish grade (metres)	5	5	6	7

- (a) The development of a private wind turbine(s) on a lot shall be for the primary use of the property owner. Electricity produced shall address the consumption needs of buildings and facilities located on the subject property. Surplus electricity shall be secondary in nature to



- the primary use and may be connected to the local power grid for the purpose of selling surplus power.
- (b) All development shall meet applicable Federal and Provincial regulatory requirements, in particular those applying to safety and environmental concerns.
  - (c) The development of the wind turbine(s) shall not create hazards or negative impacts on neighbouring properties. In cases where there are potential conflicts or impacts between a proposed development and neighbouring property, the turbine developer may be required to provide to Council a qualified consultant report with recommendations to ensure that adequate buffers or screening are maintained to reduce the potential impacts on adjoining properties, and to provide for other mitigation measures that may be necessary to reduce the impacts.
  - (d) Wind turbine tower(s) shall be located on a lot with minimum visual impacts on neighbouring properties.
  - (e) The sweep area of the rotor blades on a wind turbine shall not cross over property lines.
  - (f) Wind turbine(s) shall not be permitted in front of the building line.
  - (g) Wind turbine tower(s) shall be designed and constructed to meet design loads for operational requirements including ice build-up. The blades shall either have de-icing capabilities or be constructed of a material (ex. poly carbonate composite) that resists ice build-up.
  - (h) Should the wind turbine cease operations for a period longer than 2 years, the turbine, towers, and any related infrastructure shall be removed from the property.

## **(2) Commercial Wind Turbines**

Where permitted by Council as a discretionary use, the development of a commercial wind turbine (see definition in Schedule A) shall meet applicable Federal and Provincial regulatory requirements, the provisions of this Regulation 71, and all other terms and conditions determined as required by Council in consideration of the proposal, the proposed site and location, adjacent land uses, scenic views, rural character of the community and other factors relevant to such site approval consideration.

## **PART III - ADVERTISEMENTS**

### **72. PERMIT REQUIRED**

- (1) No advertisement, as defined by Schedule A, shall be erected or displayed on land, or upon or within water, in the Planning Area unless a permit for the advertisement is first obtained from Council.
- (2) In addition to meeting the requirement of Regulation 72(1), no advertisement shall be erected or displayed along the visual corridor of a Provincial Road unless a permit has also been obtained from the appropriate Provincial authority.

### **73. FORM OF APPLICATION**

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

### **74. ADVERTISEMENTS PROHIBITED IN STREET RESERVATION**

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

### **75. PERMIT VALID FOR LIMITED PERIOD**

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

### **76. REMOVAL OF ADVERTISEMENTS**

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

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

### **77. ADVERTISEMENTS EXEMPT FROM CONTROL**

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

- (a) on a single residential dwelling or within the courtyard of a dwelling, one nameplate not exceeding 0.2 m<sup>2</sup>(2.1 square feet) in area size;

- (b) on an agricultural holding or farm, a notice board not exceeding 1.0 m<sup>2</sup> (10.76 square feet) in area size and relating to the operations being conducted on the land;
- (c) on land used for forestry purposes, signs or notices not exceeding 1.0 m<sup>2</sup> (10.76 square feet) in area size and relating to forestry operations or the location of logging operations conducted on the land;
- (d) on land used for mining or quarrying operations, a notice board not exceeding 1.0 m<sup>2</sup> (10.76 square feet) in area size relating to the operation conducted on the land;
- (e) on a dwelling or within the yard of a dwelling, one nameplate not exceeding 0.2 m<sup>2</sup> (2.1 square feet) in area size in connection with the practice of a professional person carried on in the premises;
- (f) on any site occupied by a church, school, library, art gallery, museum, institution or cemetery, one notice board not exceeding 1.0 m<sup>2</sup> (10.76 square feet) in area size;
- (g) on the principal facade of any commercial, industrial or public building, the name of the building or the name of the occupants of the building, in letters not exceeding one-tenth of the height of that facade or 3.0 m (32.28 square feet), whichever is the lesser;
- (h) on any parking lot directional signs and one sign not exceeding 1.0 m<sup>2</sup> (10.76 square feet) in size, identifying the parking lot.

## **78. APPROVAL SUBJECT TO CONDITIONS**

A permit may only be issued for the erection or display of advertisements which comply with the appropriate conditions and specifications set out in the applicable Use Zone Tables in Schedule C of these Regulations.

## **79. NON-CONFORMING USES**

Notwithstanding other provisions of Part III, the erection or display of advertisements is permitted on a building or within the courtyard of a building or on a parcel of land, the use of which is a nonconforming use, provided that the advertisement does not exceed the size and type of advertisement which could be permitted if the development was in a Use Zone appropriate to its use, and in accordance with other conditions determined upon review of the application for the subject non-conforming site.

## **PART IV - SUBDIVISION OF LAND**

### **80. PERMIT TO SUBDIVIDE REQUIRED**

No land in the Planning Area shall be subdivided unless a permit for the development of the subdivision is first made by application, the proposal is reviewed and considered by the Town, external agency comments and approvals are provided, the terms, conditions and requirements for the subdivision development are addressed, and subdivision approval is obtained from Council.

### **81. SERVICES TO BE PROVIDED**

- (1) No permit shall be issued for the development of subdivided land unless provisions satisfactory to Council have been made in the application for connection to municipal services, or for verification of a safe supply of drinking water of sufficient quantity, a properly designed sewage disposal system as approved by Services NL, and a properly designed storm drainage system.
- (2) Where the land to be subdivided is for the purpose of a residential subdivision to be serviced by individual wells, no permit shall be issued until a groundwater assessment report has been submitted as required under Regulation 97 of these Development Regulations.
- (3) No permit shall be issued for the development of subdivided land of six (6) or more lots located less than 500.0 metres (1,640.4 ft) from existing water and/or sewer mains unless provision has been made to connect the development to these piped services at the expense of the developer, and the land is appropriately zoned for serviced or semi-serviced development. The installation, construction materials, system design, and other requirements must meet the approval of the Town's engineer.

### **82. PAYMENT OF SERVICE LEVIES AND OTHER CHARGES**

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

### **83. PERMIT TO SUBDIVIDE SUBJECT TO CONSIDERATIONS**

A permit to subdivide land will not be issued when the development of the subdivided land will not contribute to the orderly and sustainable growth of the municipality, will not demonstrate sound design principles, will cause undue environmental harm, or will result in an undue cost burden for the provision

of municipal services. When reviewing and evaluating a subdivision application, Council shall, without limiting the generality of the foregoing, consider:

- (a) the location of the land and the proposed number of lots to be subdivided;
- (b) the availability of and the demand created for municipal infrastructure, municipal services, and utilities;
- (c) the provisions of the Municipal Plan and Development Regulations (2014-2024) affecting the site;
- (d) the land use, physical form and character of the proposed site and the adjacent neighbourhood;
- (e) the resulting traffic densities to be generated from the site development, the proposed subdivision road network, the potential need for off-site transportation improvements and how the subdivision will address pedestrian mobility, including the provision of right-of-way connections to existing and adjacent trail systems;
- (f) the relationship of the project to existing or potential sources of nuisance;
- (g) soil and subsoil characteristics of the parent property;
- (h) the topography of the site and its drainage, and proposed storm water management;
- (i) natural features on or adjacent to the site such as ponds, streams, rivers, wetlands, topsoil, trees and other vegetation, and any walkway or trail provision for continued public access to ponds;
- (j) prevailing winds;
- (k) visual quality and scenic views;
- (l) availability of community facilities and schools to service the site;
- (m) energy conservation and other sustainable planning initiatives;
- (n) environmental impacts of the proposed subdivision development with respect to watercourses, wetlands, steep slopes, drainage patterns, coastal resources, protected species and loss or fragmentation of natural habitat, and proposed environmental management approach to the site to address potential impacts;
- (o) assessment of ongoing capital and municipal financial costs related to the provision and maintenance of roads, other infrastructure, and services resulting from the subdivision;
- (p) probable effects on the sustainability of important resource lands, particularly agricultural land, forestland, and aggregate resources;
- (q) proposed open space provision; and,
- (r) such other matters as may affect the proposed development.

#### **84. BUILDING PERMITS REQUIRED**

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

#### **85. NO PERMIT REQUIRED**

The following land uses do not require development permit approval, but must comply with all applicable provisions and requirements of the Development Regulations and policies of the Municipal Plan (2014-2024), and with all applicable external Provincial approvals, as required:

- (a) the removal of trees and other vegetation (not including trees and vegetation located within an environmental setback area and where any tree removal is to be in compliance with Regulation 90 (q));
- (b) the grubbing of soil, placing of fill, and other altering of the landscape (in accordance with Regulation 70);
- (c) a passive recreational use such as a walking trail or picnic area (as discussed and approved by the municipal Department of Recreation and Community Services);
- (d) the clearing and development of agricultural land (as approved by the Province for Agricultural Development Area lands) a forestry use for personal cutting of fuel wood, Christmas trees and similar domestic uses;
- (e) construction and installation of a driveway with access to a municipal street (in accordance with engineering standards);
- (f) construction and installation of a septic system, as approved by Services NL; and,
- (g) a conservation use to preserve natural areas.

#### **86. FORM OF APPLICATION**

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

#### **87. SUBDIVISION SUBJECT TO ZONING**

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

## 88. LAND FOR PUBLIC OPEN SPACE

- (1) Where a parcel of land is proposed to be subdivided into four (4) lots or more, the developer shall dedicate to Council, at no cost to Council, a useable area of land equivalent to not more than 10% of the gross area of the subdivision or 25.0 m<sup>2</sup> (269 square feet) for every dwelling unit permitted in the subdivision, whichever is the greater, for public open space, provided that:
  - (a) where land is subdivided for any purpose other than residential use, Council shall determine the percentage of land to be dedicated;
  - (b) if, in the opinion of Council, no public open space is required, the land may be used for such other public use as Council may determine;
  - (c) the location and suitability of any land dedicated under the provisions of this Regulation shall be subject to the approval of Council but in any case, Council shall not accept land which, in its opinion, is incapable of development for any purpose;
  - (d) Council may accept from the developer in lieu of such area or areas of land the payment of a sum of money equal to the value of the land which would otherwise be required to be dedicated;
  - (e) financial contributions received by Council in accordance with Regulation 88(1)(d) shall be reserved by Council for the purpose of the acquisition or development of land for public open space or other public purpose.

**(Development Regulations Amendment No. 2, 2015)**

- (2) Land dedicated for public use in accordance with this Regulation shall be conveyed to Council and may be sold or leased by Council for the purposes of any development that conforms with the requirements of these Regulations, and the proceeds of any sale or other disposition of land shall be applied against the cost of acquisition or development of any other land for the purposes of public open space or other public purposes.
- (3) Council may require a strip of land to be reserved and remain undeveloped along the banks of any watercourse, and this land may, at the discretion of Council, constitute the requirement of land for public use under Regulation 88(1).
- (4) Before approving an application to subdivide land abutting or in the vicinity of a pond, Council will consider the effect of the proposed subdivision on public access to the pond. If there is concern that the development may impede public access to the pond, no permit will be issued for the development unless provision has been made for a public right-of-way to the pond and for the transfer of ownership of the right-of-way to the Town.

- (5) Before approving an application to subdivide land abutting or in the vicinity of a trail system, Council will consider the effect of the proposed subdivision on the connectivity of the trail network. No permit will be issued for the development unless provision has been made for a public right-of-way and for the transfer of ownership of the right-of-way to the Town.

## **89. STRUCTURE IN STREET RESERVATION**

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

## **90. SUBDIVISION DESIGN STANDARDS**

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

- (a) The finished grade of streets shall not exceed 12 percent;
  - (b) Cul de sacs shall have a turning circle with a driving surface diameter of not less than 30.0 metres (98.4 feet);
  - (c) The maximum length of any cul de sac shall be:
    - i) **450.0m (1476.38 feet)** in areas served by or planned to be served by municipal piped water and sewer services, as shown in the map and letter of agreement signed by the Municipality and the Minister in connection with municipal five-year capital works program eligibility;
    - ii) **450.0m (1476.38 feet)** in areas not served by or planned to be served by municipal piped water and sewer services; and
    - iii) greater in length as described in Regulation **90(C)(ii)** where it can be determined that the cul de sac will round out an existing subdivision only and where no alternative means of access can be acquired;
    - iv) determined at the discretion of Council to a maximum of **450.0m (1476.38 feet)** in areas served by or planned to be served by only one municipal service (semi-serviced development).
- (Development Regulations Amendment No. 9, 2018)**
- (d) An emergency access for a cul de sac:
    - i) shall be located at the midway point of the cul de sac;
    - ii) have a right-of-way width of not less than six (6.0) metres (19.68 feet);
    - iii) shall connect directly with an adjacent public street;



- iv) shall be no longer than the total length of the cul de sac;
  - v) shall be constructed to a standard specified by the Town Engineer and approved
  - vi) by Council; and
  - vii) shall be conveyed to the ownership of Council;
- (e) No cul de sac shall be located so as to appear to terminate a collector street;
  - (f) A new subdivision shall have street connections with an existing public street(s);
  - (g) Every street intersection shall be constructed within 5 degrees of a right angle and this alignment shall be maintained for at least 30.0 metres (98.4 feet) from the intersection;
  - (h) No street intersection shall be closer than 60.0 metres (196.8 feet) to any other street intersection;
  - (i) No more than four streets shall join at any street intersection;
  - (j) No residential street block shall be longer than 450.0 metres (1,476.8 feet) between street intersections;
  - (k) Required public street reservations shall be conveyed to the ownership of Council;
  - (l) New residential streets shall be designed in accordance with the approved standards of Council, but in the absence of such standards, shall conform to the following minimum and maximum standards:

### Street Design Standards

Type of Street	Street Reservation	Pavement Width	Sidewalk Width	Sidewalk Number
Arterial Streets	30 m	15 m	1.5 m	Minimum of 1 Maximum of 2
Collector Streets	20 m	15 m	1.5 m	2
Local Residential Streets: where more than 50% of the units are single or double dwellings;	15 m	9 m	1.5 m	1
where 50% or more of the units are townhouses or apartments.	20 m	9 m	1.5 m	2
Service Streets	15 m	9 m	1.5 m	Minimum of 0 Maximum of 2

- (m) No residential lot shall have a depth exceeding four times the frontage, except where existing subdivision patterns and lot configurations in the immediate neighbourhood area do not provide any alternative options for subdivision of land;
- (n) No residential lot shall abut a local street at both front and rear lot lines;
- (o) All designated archaeological sites on a property proposed to be subdivided shall be protected in accordance to the requirements of the Provincial Archaeological Office;

- (p) Council may require any existing natural, historical or architectural feature or part thereof to be retained when a subdivision is developed;
- (q) Council will require new subdivision lots to maintain existing trees and vegetation in the rear yard at a depth of 6.0 metres from the rear property line. Removal of trees and natural vegetation, or the development of an alternative landscape within this natural buffer, will require the approval of Council; and,
- (r) Land shall not be subdivided in such a manner as to prejudice the development of adjoining land.

## **91. ENGINEER TO DESIGN WORKS AND CERTIFY CONSTRUCTION LAYOUT**

- (1) Plans and specifications for all water mains, hydrants, sanitary sewers, storm sewers, on-site storm water management works and all appurtenances thereto and all streets, paving, curbs, gutters and catch basins and all other utilities and works deemed necessary by Council to service the area proposed to be developed or subdivided shall be designed, prepared by, and approved by the Engineer. Such designs and specifications shall, upon approval by Council, be incorporated in the plan of subdivision.
- (2) Upon approval by Council of the proposed subdivision, the Engineer shall certify all work of the construction layout prior to the construction of the said works; upon such certification, the developer shall proceed to the construction and installation of the works, at his own cost and in accordance with the approved designs and specifications and the construction layout certified by the Engineer, including all such water mains, hydrants, sanitary sewers, storm water management systems and all appurtenances and of all such streets and other utilities and works deemed necessary by Council to service the said area.

## **92. DEVELOPER TO PAY ENGINEER'S FEES AND CHARGES**

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

## **93. STREET WORKS MAY BE DEFERRED**

The construction and installation of all curbs and gutters, catch basins, sidewalks and paving specified by Council as being necessary, may be deferred upon approval by Council until a later stage of the work on the development of the subdivision, but if such deferment is granted, the developer shall deposit with

Council before approval of his application, an amount estimated by the Engineer as reasonably sufficient to cover the cost of construction and installation of the works. In the later stage of the work of development, Council shall call for tenders for the work of construction and installation of the works, and the amount so deposited by the developer shall be applied towards payment of the contract cost. If the contract cost exceeds the deposit, the developer shall pay to Council the amount of the excess. If the contract price is less than the deposit, Council shall refund the amount by which the deposit exceeds the contract price. Any amount so deposited with Council by the developer shall be placed in a separate account in a bank and all interest earned thereon shall be credited to the developer.

#### **94. TRANSFER OF STREETS AND INFRASTRUCTURE WORKS TO COUNCIL**

- (1) The developer, following the approval of the subdivision of land and upon request of Council, shall transfer to Council by formal written agreement, at no cost to Council, and clear of all liens and encumbrances:
  - (a) all lands in the area proposed to be developed or subdivided which are approved and designated by Council for public uses as public streets, future public street reservations, public right-of-ways, or for other public use;
  - (b) all infrastructure services or public works, including streets, water supply and distribution, sanitary sewers, and storm drainage systems installed in the dedicated public areas of the subdivision, which are normally owned and operated by Council.
- (2) Before Council shall accept the transfer of lands, infrastructure services, or public works of any subdivision, the Engineer shall, at the cost to the developer, test the streets, services and public works installed in the subdivision and certify his satisfaction with their installation.
- (3) Council shall not provide maintenance for any street, service or public work in any subdivision until such time as such street, service or public work has been transferred to and accepted by Council.

#### **95. RESTRICTION ON SALE OF LOTS**

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

- (a) the lot can be served with satisfactory water supply and an approved sewage disposal system; and
- (b) safe and engineered access to a public street is provided for the lots.

## 96. GROUPING OF BUILDINGS AND LANDSCAPING

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

## 97. GROUNDWATER SUPPLY ASSESSMENT AND REPORTING

A groundwater assessment report shall be required to be completed and submitted by the subdivision applicant to the Town as part of the subdivision approval process where a minimum sized subdivision is to be serviced by individual wells. The Groundwater Assessment Report must be prepared in accordance with the Department of Environment and Conservation's *Groundwater Supply Assessment and Reporting Guidelines for Subdivisions Serviced by Individual Private Wells*. Requirements to complete a Groundwater Assessment Report shall be based upon the following criterion:

- (1) A groundwater assessment study will not be required for subdivisions less than five (5) lots, each having a minimum 2,203m<sup>2</sup> (1/2 acre) size, unless the area has documented drinking-water quality and/or quantity problems.
- (2) A proposed subdivision from five (5) to fifteen (15) lots will require a Level I assessment, as defined in the *Groundwater Supply Assessment and Reporting Guidelines*.
- (3) A proposed subdivision greater than fifteen (15) lots will require a Level II assessment, as defined in the *Groundwater Supply Assessment and Reporting Guidelines*.

The following table shows the assessment requirements based on the number of lots:

Number of Lots	Level I Required	Level II Required	Number of Test Wells
2-4	No (may be required*)	No	0
5-15	Yes	(may be required**)	(may be required**)
16-30	Yes	Yes	1
31-45	Yes	Yes	2
46-60	Yes	Yes	3
61-75	Yes	Yes	4
75-90	Yes	Yes	5
91-105	Yes	Yes	6
* a Level I study and/or a test well may be required if it has been determined that the location has a history of groundwater quantity/quality issues.			
** a Level II study and/or a test well may be required if it has been determined that the location has a history of groundwater quantity/quality issues.			

## PART V - USE ZONES

### 98. USE ZONES

- (1) For the purpose of these Regulations, the Planning Area is divided into Use Zones which are shown on the Zoning Map attached to and forming part of these Regulations.
- (2) Subject to Regulation 98 (3), the permitted use classes, discretionary use classes, standards and development requirements, and terms and conditions, applicable to each Use Zone are identified in the Use Zone Tables in Schedule C of these Regulations.
- (3) If ambiguity arises concerning the context, application or interpretation of the use, standards, requirements and conditions applicable in a Use Zone, or where such specific information is not included within the Use Zone Tables in Schedule C, Town staff, where necessary, shall interpret the Use Zone Tables to address an inquiry based upon the intent of meaning within Schedules A, B, C, D and E as applicable, and if such interpretation is not accepted, Town staff shall provide the relevant background information and their interpretation in a recommendation for Town Council. Council shall consider the findings and interpretation of Town staff and render a final decision and interpretation on the matter.
- (4) Where there is a conflict between these Development Regulations and the NL Ministerial Regulations, the Ministerial Regulations shall apply.

### 99. MAP INTERPRETATION

- (1) The boundaries of the Use Zones shown on the land use Zoning Maps are general only and, except where they coincide with roads, shorelines, or other prominent physical features, are not intended to define exact limits. No zoning amendment shall be required to allow minor adjustments of the Use Zone boundaries. Other than such minor boundary adjustments, no development shall be permitted that does not conform to the Use Zone delineated on the land use Zoning Map.
- (2) Where a lot is divided into more than one zone on the land use Zoning Map, each such portion of the lot shall be used in accordance with the zoning provisions of the applicable use zone established in Schedule C of these Development Regulations. Where a zone boundary is shown approximately at a lot line, it shall be deemed to be at the boundary of the lot line unless the

location of the zone can be justified otherwise (such as a portion of a property running into a watershed boundary).

## **100. USE CLASSES**

The specific uses included in each Use Class as identified in the Use Zone Tables in Schedule C shall be determined in accordance with the definitions of varied land use planning terms provided within Schedule A, as well as reference where necessary to the classification of uses of land and buildings and examples outlined in Schedule B.

## **101. PERMITTED USES**

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

## **102. DISCRETIONARY USES**

Subject to these Regulations, the uses that fall within the Discretionary Use Classes identified in the appropriate Use Zone Table in Schedule C may be permitted in that Use Zone if Council is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest, and if Council has given notice of the application in accordance with Regulation 33 and has considered any objections or representations which may have been received on the matter.

## **103. USES NOT PERMITTED**

Uses that do not fall within the Permitted Use Classes or Discretionary Use Classes identified within the appropriate Use Zone Tables in Schedule C shall generally not be permitted in that Use Zone, unless a proposed use is very similar in meaning and intent with the listed permitted and discretionary uses. Use zone interpretation issues shall be addressed through adherence to Regulation 98(3).