

Town of Witless Bay  
Regulations Manual



June 9, 2020

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# Town of Witless Bay Regulations Manual

## PUBLISHED BY AUTHORITY

Pursuant to the powers conferred by Section 404, 408, 413, 414, 419 and 420 of the *Municipalities Act, 1999*, SLN 1999, Chapter M-24 and all other powers enabling it, the Town of Witless Bay has enacted the following Regulations, which were adopted at its regular Public Council meeting held on the 9<sup>th</sup> day of June, A.D. 2020.

Notice of Motion to adopt these Regulations was given at the Town's regular Public Council meeting held on the 19<sup>th</sup> day of May, A.D. 2020.

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Derm Moran  
Mayor

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Geraldine Caul  
Town Clerk/Manager

## BUILDING REGULATIONS 2019

1. These Regulations may be cited as the "Town of Witless Bay Building Regulations 2019"; hereinafter referred to as "the Regulations".

### **Definitions**

2. In these Regulations:
  - a) "Act" means the *Municipalities Act, 1999*, SLN 1999, Chapter M-24 as amended;
  - b) "applicant" means the property owner or his/her authorized representative;
  - c) "building" means a structure, erection, excavation, alteration, or improvements placed on, over or under land or attached, anchored or moored to land, and includes mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial, and other similar uses;
  - d) "Council" means the Council of the Town of Witless Bay as defined in the Act;
  - e) "dwelling" means a building used as a residence;
  - f) "Order" means an Order by Council which requires all actions as specified by the Town or other public Officials as deficiencies, including but not limited to documentation to be provided or work to be carried out, to be addressed to the satisfaction of the Town within the time period specified in the Order;
  - g) "owner" means the property owner as recorded on the assessment roll of the Town of Witless Bay;
  - h) "site" means the subject property which is the location of the development project;

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- i) "Stop Work Order" means an Order which requires all work as specified in the Order to cease at the site until such time as the Stop Work Order is lifted;
- j) "Service NL" means the Government of Newfoundland and Labrador Department of Service NL; and
- k) "Town" means the Town of Witless Bay

### Scope and Application

- 3. No building shall be constructed, placed, erected, changed, altered, extended, repaired, or demolished unless a permit for such use has been issued by the Town and in accordance with these Regulations.
- 4. Subject to any express provisions of any statute or regulation prohibiting the alteration, repair, placement, or change of use of any building, any existing building, which for any reason whatsoever requires alterations or repairs at any one time equal to or in excess of fifty percent (50%) of the cost of erecting a new building of the same character and dimensions, such cost being calculated without including the cost of constructing foundations, shall be made to conform to the requirements of these Regulations or shall be demolished.

### Permit Requirements

- 5. A Permit shall be obtained prior to the commencement of any activity regulated pursuant to these Regulations.
- 6. A Building Permit shall be required from the Town for:
  - a) all new construction and extensions, placement of buildings, additions, structural changes affecting load bearing members, floor layout changes, and relocation of existing buildings;
  - b) all repairs or renovations to existing buildings not covered by (a) above and that are not exempt from permitting;
  - c) the construction, alteration or repair of driveways, retaining walls, walkways, steps, parking areas or other areas for vehicular traffic and changes or alteration to landscaping, lot grading; and
  - d) service repairs on private property.
- 7. An Electrical Permit shall be required from Service NL prior to any electrical work commencing on the building.
- 8. An Occupancy Permit shall be required from the Town prior to occupancy:
  - a) of a new building;
  - b) of an existing building that has been altered, extended, or repaired;
  - c) for a change in use; and/or
  - d) for a change in tenant.
- 9. A Demolition Permit shall be required from the Town for the removal, destruction, or demolition of any building or part thereof.

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- 10.** The appropriate fees for a Building Permit, Occupancy Permit, and/or Demolition Permit shall be established by Council as part of the annual approval of the Schedule of Rates and Fees approved pursuant to the Act. The fee associated with an Electrical Permit shall be established by Service NL, the issuing agency.
- 11.** The applicant for a permit shall file with the Town a completed and signed application on the form as prescribed by the Town. The application for a permit shall include the following:

  - a.i.a) location of the project,
  - a.i.b) the name of the owner,
  - a.i.c) the name of the project engineer/architect, (if applicable),
  - a.i.d) the name of the contractor, (if applicable),
  - a.i.e) a description of the project,
  - a.i.f) a site grading plan if deemed by Council to be required,
  - a.i.g) the total estimated cost of the project and,
  - a.i.h) any other information as may be required by the Town.
- 12.** Complete plans and specifications outlining the project in clearly legible detail, and other such information as may be required by the Town, shall be submitted with the application, and may be required electronically in a file format that the Town may agree it is able to accept.
- 13.** When required by the National Building Code of Canada or the Town, plans and specifications submitted with an application shall bear the authorized seal and signature of a Professional Engineer or Architect registered in the Province of Newfoundland and Labrador.
- 14.** When required by the Town, work carried out under the provisions of Section 6 of these Regulations shall be inspected by a Professional Engineer or Architect registered in the Province of Newfoundland and Labrador who shall submit a declaration certifying that the work has been carried out in accordance with approved plans and specifications.
- 15.** The exterior wall of all residential buildings must be a minimum of one (1) metre above the grade of the road on which it is fronting.
- 16.** The Town may refer any application to such other agencies for review and approval as is deemed necessary or as required by law prior to granting a permit.
- 17.** The Town may require an applicant for a permit to give notice of the application by letter to any person or persons whose interest may be affected by the proposed work, or may require notice of such application to be given at the cost of the applicant by public advertisement in a newspaper circulated in the area.
- 18.** The application, plans, and supporting documents shall be reviewed by the Town and, if found to be in conformity with these Regulations and all other applicable legislation, the Town may issue a permit for the work proposed upon receipt of the appropriate permit fee.
- 18.** The Town may, upon granting a permit, impose such conditions as may be necessary to fulfill the requirements of these Regulations. Such conditions or requirements shall be outlined to the applicant in writing prior to, or upon the granting of, the permit.

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19. Council may reject any application for any building, the size, design, or appearance of which, or the location of which, or the use of which, is, in the Council's opinion, unsuitable for the locality in which it is proposed to be erected, or placed, or inferior in general character to other buildings in that locality or any application which does not comply with these Regulations, or any other applicable legislation
20. The Town, at its discretion, may issue a permit for an approved application for the construction of a portion of a building when plans for that portion have been submitted and approved, before the complete plans for the entire project have been reviewed and approved.
21. The applicant shall, at the request of the Town, provide a certification as to the total cost of construction, which certification must be signed by the owner.

### **Inspections/Progress of Work**

22. Applicants must ensure that all inspections are undertaken as required by the National Building Code and any other relevant legislation. The Town will not be responsible for undertaking any inspection or ensuring compliance with the National Building Code, any other legislation and compliance with Section 15.
23. A copy of the permit issued shall be kept posted in a conspicuous place at the location of the project for the duration of the work.
24. A copy of the approved plans shall be kept at the location of the project, available to the Town, for the duration of the work.
25. No person shall erase, alter, or modify any plans or specifications upon which a permit has been granted by the Town, unless the Town has approved such changes.
26. If, during the progress of work, the applicant wishes to deviate and/or revise the plan filed with the application for a permit in any manner affecting the construction or other essentials of the building, notice of such deviation and/or revision together with new plans and specifications shall first be given in writing to the Town, whose written approval shall be obtained prior to the deviation and/or revision being implemented.
27. All permits issued by the Town under the provisions of these Regulations shall expire twelve (12) months from the date of issue, unless otherwise noted on the permit, and may be extended in writing by the Town for further periods not exceeding two (2) years.
28. The Town may revoke any permit issued under the provisions of these Regulations for any of the following reasons:
  - a) construction activity has ceased for a period of twelve (12) months;

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- b) when, in the opinion of the Town, the construction is unduly delayed;
- c) there has been a violation of these Regulations or any legislation applicable thereto; or
- d) when, in the opinion of the Town, the continuance of the work becomes dangerous to life or property.

**29.** Notice of revocation of any permit shall be mailed or delivered to the applicant or posted upon the site by the Town. After such notice is received or posted, it shall be a violation of these Regulations to proceed with any work for which such permit was issued.

### **Demolition Requirements**

**30.** Prior to obtaining a Demolition Permit, an applicant shall:

- a) provide written confirmation from Newfoundland Power that the electrical supply to the building has been disconnected and that adequate safeguards have been taken for the protection of adjacent power lines or equipment, or that protection is not required;
- b) pay the demolition permit fee; and
- c) provide Hazardous Materials Report, if deemed necessary by the Town.

**31.** Work carried out under a Demolition Permit shall include:

- a) erection of security fencing or barriers surrounding the building to be demolished, in order to restrict public access to the site during the demolition of the building;
- b) removal of all foundation and footings if applicable;
- c) removal of any hazardous materials as per Provincial Government requirements;
  - d) removal of any fuel tanks, lines, and related equipment as per Provincial Government requirements; and
  - e) backfilling with suitable material, grading to match existing surrounding grades, and providing a suitable ground cover such as sodding or seeding, unless otherwise permitted by the Town.

**32.** Persons who demolish a building, which is attached to another building or buildings, shall ensure the attached building is made weathertight and structurally sound in the opinion of the Town.

### **Site Standards/Safety and Cleanliness**

**33.** The applicant shall keep the site in a reasonably clean condition and shall remove all rubbish and debris, failing which the Town may carry out the requirements of this section and levy all costs against the owner.

**34.** Immediately following the completion of any work under a permit, or the revocation or expiration of any permit, the applicant shall remove from the site all unused building materials, all construction trailers or buildings, and all debris and rubbish, and shall restore the site to a clean condition; failing which, the Town may carry out the requirements of this section and levy all costs against the owner.

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### Occupancy

- 35.** No building erected, constructed, changed, altered, extended, or repaired shall be occupied in whole or in part until an Occupancy Permit has been issued by the Town. Where the terms of a permit prescribe, notice in writing of the intent to occupy or use a building shall be given at least fourteen (14) days prior to the date proposed for occupancy.
- 36.** Unless otherwise stated by the Town, the following shall be required prior to the issuance of an Occupancy Permit:
- a) where required pursuant to section 14, a letter from the project engineer confirming that all electrical, structural, civil, architectural, and mechanical work was constructed in accordance with the National Building Code of Canada and associated ancillary codes including the National Fire Code and Life Safety Code as amended from time to time and to submitted plans;
  - b) a final electrical certificate if electrical work has been undertaken on the building;
  - c) a final plumbing certificate to be completed by a licensed plumbing contractor, if plumbing work has been undertaken on the building;
  - d) if required by the Town, a site grading certificate confirming that the elevation of the building is above the road grade or adequately manages storm water drainage;
  - e) the payment of the Occupancy Permit fee; and
  - f) other such plans, information, certifications and specifications as may be required by the Town.
- 37.** The Town may issue a Conditional Occupancy Permit provided there is no immediate life safety, accident, or health hazards present in the opinion of the Town.
- 38.** If required by the Town, the applicant will pay a deposit prior to the issuance of a Conditional Occupancy Permit. The deposit shall reflect the value of the remaining required work as determined by the Town.
- 39.** Should the work required to be completed pursuant to a Conditional Occupancy Permit not be carried out within the time prescribed in the permit, the Town may use the deposit obtained under Section 43 to complete the work.
- 40.** The Town may refuse to issue an Occupancy Permit if final approvals from other agencies, jurisdictions, or departments have not been obtained, if outstanding deficiencies are not corrected, if the building is insufficiently finished, whether for

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reasons of safety, appearance, water supply, sanitation, wind and water tightness, or for any other reason relevant to the degree of completion of construction which may render the building unsuitable for use or occupancy or applicable fees have not been paid. The Occupancy Permit may also be refused if the building is not constructed in accordance with the site grading plan submitted for Council approval or if the required measures have not been taken to manage storm water runoff designed to divert storm water away from the building.

41. No change shall be made in the use or occupancy of any building or any part thereof until the Town has issued a permit for the proposed occupancy.
42. An applicant, applying for a change of occupancy, shall file with the Town a completed application form detailing the intended use of the property and, if required by the Town, provide copies of complete floor plans electronically in a file format that the Town may agree it is able to accept.
43. A change of occupancy shall be subject to the requirements of these Regulations and any other applicable legislation.

### **Applicable Codes**

44. The National Building Code of Canada, 2015 Edition, and its supplements are hereby declared to be and shall be taken as part and parcel of these Regulations as if the same were repeated herein in full, as amended from time to time pursuant to the provisions of the Act. Successive future editions of the National Building Code shall replace the current code in effect as of the effective date of the issuance of the successive edition of the code.
45. The National Fire Code, 2015 Edition, and its supplements are hereby declared to be and shall be taken as part and parcel of these Regulations as if the same were repeated herein in full, as amended from time to time pursuant to the provisions of the Act. Successive future editions of the National Fire Code shall replace the current code in effect as of the effective date of the issuance of the successive edition of the code.
46. The Life Safety Code, 2018 Edition, being Document 101 of the National Fire Code Standards of the National Fire Protection Association (USA) is hereby declared to be and shall be taken as part and parcel of these Regulations as if the same were repeated herein in full, as amended from time to time pursuant to the provisions of the Act. Successive future editions of the Life Safety Code shall replace the current code in effect as of the effective date of the issuance of the successive edition of the Life Safety Code.



47. The National Plumbing Code of Canada, 2015 Edition, and its supplements are hereby declared to be and shall be taken as part and parcel of these Regulations as if the same were repeated herein in full, as amended from time to time pursuant to the provisions of the Act. Successive future editions of the National Plumbing Code shall replace the current code in effect as of the effective date of the issuance of the successive edition of the code.

### **Penalties and Enforcement**

48. The obligations and duties of the Town as contained in these Regulations shall be retroactive and where the existence or extent of such obligations and duties conflict with other obligations and duties contained in other legislation then the provisions of these Regulations shall prevail.

### **Removal of Building**

49. Where
- a) a building has been erected, started to be erected, or placed on a property;
  - b) an existing building is repaired, or an extension added to it; or
  - c) the use of an existing building is changed other than under and in accordance with the terms of a permit issued by the Council and the building Regulations adopted by Council;

the Council may order the owner or builder to stop construction, pull down, remove, fill in or otherwise destroy the building and restore the site to its original state, or make the disposition or alteration of the building that the order directs, within the time specified in the Order.

50. Where a building is in a dilapidated state, or is, in the opinion of the Council, unfit for human habitation, or the other use for which it is then being used, or is a public nuisance, the Council may order the owner or occupier to pull down, remove, fill in or otherwise destroy the building and return the site to its original state, or make the disposition or alteration of the building that the Order directs, within the time specified in the Order.
51. An Order made under this section shall be signed by the Town Clerk/Manager and shall be served upon the owner or builder of the building either personally or by registered mail, or by posting the notice on the building, where the owner or builder is not known.

### **Order not obeyed**

52. Where an Order made under Sections 54 or 55 of these Regulations is not complied within the time set out in the Order, and a period of 14 days has passed from the time of service or posting of the notice, and an appeal has not been started, heard or otherwise disposed of under section 408 of the Act, the Council may carry out the work required by the Order through its employees or agents and may recover the cost of carrying out the order as a civil debt from the person on whom the order was served.

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53. The Council or its employees or agents may take an action by way of prosecution or other legal proceeding including but not limited to an application for an injunction or declaratory relief which the Council or its employees or agents consider necessary to enforce Sections 54 or 55 of these Regulations or an order made under that section.

### **Appeal**

54. A person who feels aggrieved by an order made under Sections 54 or 55 of these Regulations may, within 14 days of the service or posting of the order, appeal to the Eastern Region Appeals Board established under the Urban and Rural Planning Act as provided for under section 408 of the Act.
55. Notwithstanding Sections 54 or 55 of these Regulations, a Stop Work Order remains in full effect and is subject to a penalty for a contravention under subsection 404 of the Act.
56. Notwithstanding Sections 54 or 55 of these Regulations, where a building poses an immediate threat to public health and safety, the Council may take those steps that it considers necessary to eliminate that threat and may collect the costs of eliminating the threat from the owner.
57. Any person who contravenes the provisions of these Regulations shall be guilty of an offence and liable upon summary conviction for a first offence to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not more than one month or to both the fine and imprisonment. Or for a subsequent offence to a fine of not less than \$500 and not more than \$1,000 or to a term of imprisonment of not more than 3 months or to both the fine and imprisonment as provided for under section 420 of the Act
58. Enforcement of these Regulations may be carried out through an application for injunctive or declaratory relief as provided for under Section 404 of the Act.

### **Coming into Effect**

59. These Regulations shall come into effect on the 9<sup>th</sup> day of June, A.D. 2020.

### **Publication**

60. The Notice of Adoption of these Regulations were published in the Newfoundland and Labrador Gazette on 31<sup>st</sup> day of July A.D., 2020 and on the Town's website on the 22<sup>nd</sup> day of July A.D., 2020.

### **Copy to Minister**

61. A copy of these Regulations was sent to the Minister of the Department of Municipal Affairs and Environment on the 22 day of July A.D. 2020.

### **Repeal of Previous Regulations and Amendments**

62. All previous Town of Witless Bay Building Regulations are hereby repealed.

# Town of Witless Bay Regulations Manual

## PUBLISHED BY AUTHORITY

Pursuant to the powers conferred by Section 404, 408, 413, 414, 419 and 420 of the *Municipalities Act, 1999*, SLN 1999, Chapter M-24 and all other powers enabling it, the Town of Witless Bay has enacted the following Regulations, which were adopted at its regular Public Council meeting held on the 9<sup>th</sup> day of June, A.D. 2020.

Notice of Motion to adopt these Regulations was given at the Town's regular Public Council meeting held on the 19<sup>th</sup> day of May, A.D., 2020.

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Derm Moran  
Mayor

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Geraldine Caul  
Town Clerk/Manager

## FENCE REGULATIONS 2020

### 1. Title

These Regulations may be cited as the "Town of Witless Bay Fence Regulations 2020"; hereinafter referred to as "the Regulations".

### 2. Interpretation

In these Regulations:

- a) "Act" means the *Municipalities Act, 1999*, SLN 1999, Chapter M-24 as amended;
- b) "Applicant" means the property owner or his/her authorized representative.
- c) "Building" means a structure, erection, excavation, alteration, or improvements placed on, over or under land or attached, anchored or moored to land, and includes mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial, and other similar uses;
- d) "Building Line" means a line established by the Council to set the horizontal distance between the closest point of a building and the street line;
- e) "Corner Lot" means a lot situated at the intersection of two (2) streets;
- f) "Council" means the Council of the Town of Witless Bay as defined in the Act;
- g) "Erect" means to alter, construct, reconstruct, plant, place, relocate and carry out any work preparatory to erection and "erection" has a corresponding meaning;
- h) "Fence" includes railing, wall, line of posts, wire, gate, boards or other similar substances used for the purpose of privacy and protection to separate or divide any parcel of land or part thereof from any other parcel of land or part thereof, immediately adjacent

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thereto or to establish a property boundary and shall include hedges, shrubs and landscaping features which are used for these purposes;

i) "Front Lot Line" means the street line on which a lot has its civic address, except where a lot has two (2) or more street lines, in which case the Council shall determine the front lot line;

j) "Front Yard" means a yard extending across the full width of the lot from the front lot line to the front wall of the main building on the lot;

k) "Grade" means the surface of the ground below a fence at each location where a structural support is embedded in the ground;

l) "Lot" means any plot, tract or parcel of land, which can be considered as a unit of land for a particular use or building;

m) "Lot Line" means any line defining the boundaries of a lot and shall include a front lot line, side lot line and rear lot line;

n) "Municipal Area" means the area of the Town of Witless Bay as defined in the Town of Witless Bay Order in the Consolidated Newfoundland and Labrador Regulation 496/96

o) "Order" means an Order by Council which requires all actions as specified by the Town or other public Officials as deficiencies, including but not limited to documentation to be provided or work to be carried out, to be addressed to the satisfaction of the Town within the time period specified in the Order;

p) "Owner" means the property owner as recorded on the assessment roll of the Town of Witless Bay;

q) "Rear Lot Line" means the lot line or lines opposite the front lot line;

r) "Rear Yard" means a yard extending across the full width of the lot between the rear lot line and the rear wall of the main building on the lot;

s) "Residential Lot" means a lot used exclusively or primarily for a dwelling or dwelling unit;

t) "Right of Way" means the area of land over which a public road or pathway exists, including the legal limits of the public road or pathway reservation;

u) "Service NL" means the Government of Newfoundland and Labrador office of Service NL;

v) "Side Lot Line" means the lot line or lines other than a front lot line or rear lot line;

w) "Snow Fence" means a light fence of lath and wire or constructed of polyethylene mesh that is erected for a temporary period;

x) "Stop Work Order" means an Order which requires all work as specified in the Order to cease at the site until such time as the Stop Work Order is lifted;

y) "Street" means any street, road or highway or any other way designed or intended for public use for the passage of vehicles and pedestrians, owned by the Town or other public agency and maintained at public expense, and is accessible to Fire Department vehicles and equipment;

z) "Street Line" means the edge of a street, road or highway reservation as defined by the authority having jurisdiction;

aa) "Town" means the Town of Witless Bay; and

ab) "Yard" means any open, uncovered, unoccupied space appurtenant to a building.

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### **3. Application**

These Regulations shall apply to the municipal area of the Town of Witless Bay.

### **4. Conformity with Regulations**

A Fence shall only be erected, maintained or repaired in accordance with these Regulations.

### **5. Permit Required**

A fence shall only be erected or repaired if the location and building plans of the fence are approved by Council and a permit for the erection or repair of the fence has been issued by the Town.

### **6. Form of Application**

An application to construct a fence shall be made only by the owner or by a person authorized by the owner to Council on such form as may be prescribed by Council, and every application shall include such plans, specifications and drawings Council may require, and be accompanied by the permit fee required by Council.

### **7. Clear View**

A fence may be permitted to be erected if it does not obscure a clear view of street intersections, pedestrian pathways, driveways or other points of access or egress of vehicles or pedestrian traffic.

### **8. Properties Abutting a Park, Public Walkway or Right of Way**

No building erected, constructed, changed, altered, extended, or repaired shall be occupied in whole or in part until an Occupancy Permit has been issued by the Town. Where the terms of a permit prescribe, notice in writing of the intent to occupy or use a building shall be given at least fourteen (14) days prior to the date proposed for occupancy.

### **9. Maintenance of Fences**

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The property owner(s) of a fence shall be responsible for maintaining such fence in a good state of repair. For the purpose of this section, “good state of repair” means the fence:

- a) Is complete, structurally sound, plumb, securely anchored, and independently constructed and not attached to another building for any type of support;
- b) Is protected by weather-resistant materials;
- c) Components are not broken, rusted, rotten, or in a hazardous condition; and
- d) Is maintained free of peeling/wear for structures that are stained or painted.

### **10. Construction Materials of a Fence**

The material(s) used in the erection and repair of a fence shall only be of a type which meet(s) the approval of Council.

### **11. Posts**

All posts required for the erection and construction of a fence shall be:

- a) Installed to a minimum depth of the frost line below grade.
- b) All wooden posts if not pressure treated at plant, shall be coated with a wood preserver for that portion of the fence post situated below grade.
- c) All wooden posts are to be anchored by means of a concrete pier footing or other methods approved by Council and the concrete footing or method approved by Council shall be covered by soil.
- d) All metal posts are to be anchored by a concrete pier footing.

### **12. Corner Lots**

A fence may be permitted to be erected on a corner lot no closer to the street than the building line setback established for the lot; and if, at the building line setback, the fence

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would create a visible obstruction at the intersection of the two (2) streets, an authorized person(s) by the Town will determine the height and location of the fence.

### 13. Residential Lot-Front Yard Fence

A fence may be permitted to be erected for residential purposes in the area of the lot between the building line and front lot line only in the following instances:

- 1) On boundaries bordering public walkways where a maximum one-metre high chain link fence will be permitted;
- 2) In areas of adjoining driveways, it will be permissible to:
  - a) Construct curbing to a height of 150 millimetres; or
  - b) To erect fencing to a maximum height of 600 millimeters (two feet) provide the fence:
    - b.i. Does not create a visual obstruction to vehicles entering or exiting the driveway;
    - b.ii. Does not create an obstruction to the adjoining driveway;
    - b.iii. Does not interfere with snow clearing operations; and
    - b.iv. is consistent and in line with other fences in the immediate neighbourhood.
- 3) On lots where the yard immediately behind the rear of the dwelling functions as a side yard and one of the side yards functions as the major private amenity space for the lot, a fence may be erected from the side of the dwelling to the front property line provided the fence:
  - a) Is not constructed in front of the dwelling,
  - b) Does not create a visual obstruction for vehicles entering or exiting the lot,
  - c) Does not create an obstruction to the travelling public,
  - d) Does not interfere with snow clearing operations, and
  - e) Is consistent and is in line with other fences in the immediate neighbourhood;
- 4) Where an established form of front yard fencing has been established along a street, a fence may be erected that is consistent with this form of front yard fencing provided the fence:
  - a) Does not create a visual obstruction for vehicles entering or exiting the lot,
  - b) Does not create an obstruction to the travelling public,
  - c) Does not interfere with snow clearing operations, and
  - d) Is consistent and is in line with other fences in the immediate neighbourhood.

### **14. Residential Lots – Rear Yard Fence**

Unless otherwise approved by Council, the maximum height of a fence erected for residential purposes shall be a maximum height of 1.83 meters (six feet) above grade. A rear yard fence constructed up to a maximum height of 2.44 meters (eight feet) may be considered at the discretion of Council based upon grading difference in the yard.

A person who feels aggrieved by an order made under Sections 54 or 55 of these Regulations may, within 14 days of the service or posting of the order, appeal to the Eastern Region Appeals Board established under the Urban and Rural Planning Act as provided for under section 408 of the Act.

### **15. Rear Yard Fence Abutting A Street**

A fence shall be permitted to be erected along the rear lot line of a lot which abuts a highway or street only if the fence is in accordance with a style, type and height of a fence as determined by Council.

### **16. Snow Fence**

A snow fence shall be permitted to be erected only for the period of October 31 to May 1 in any year on land used for residential purposes.

### **17. Swimming Pool Fence**

A fence of 1.83 metres (six feet) in height shall be required to be erected to surround the area of the lot in which a swimming pool is located. The fence shall be located to maintain, along the full perimeter of the swimming pool, a minimum separation distance of 1.83 metres (six feet) between the swimming pool and the fence.

### **18. Compliance with Regulations**

a) A fence that legally exists and is not in accordance with the provisions of these Regulations shall be considered a non-conforming fence which may continue to exist provided the fence is maintained in a good state of repair, is not deemed to be a safety hazard and/or is not deemed to be an obstruction by Council.

b) A non-conforming fence shall not be enlarged, extended, reconstructed, replace or altered structurally with a fence which differs in height, type, style or material used in the erection or construction of the existing fence.

c) A fence which requires repairs, alterations and/or replacement of more than 50 percent of its original supporting structure (i.e., posts, supporting rails, etc.) must be replaced with a fence that is constructed in accordance with these Regulations.

d) Any fence which is in the front yard of a property may only be replaced in accordance with Section 13 of these Regulations.



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### **19. Order to Remove, Replace or Repair**

When in the opinion of Council, a fence creates a safety hazard or obstruction due to its location, height or construction material, the Town may issue a Notice or an Order to the property owner stating that the fence or portions thereof be removed, reconstructed or repaired within a specified time in order to correct the safety hazard or obstruction and the cost to remove, reconstruct or repair said fence or part thereof will be at the property owners expense. In the event that the property owner does not remove the fence within the specified time as ordered, The Town may remove the fence and the cost to remove, reconstruct or repair said fence shall be the responsibility of and collected from, the property owner(s).

### **20. Authority to Remove**

The Council and/or Court have the power to make an Order for the immediate removal or disposal of fences that are erected contrary to these Regulations.

### **21. Responsibility for Damage**

Council shall not be liable for any damage for the repair of any fence whatsoever where the Town, its employees, agents or otherwise have acted without negligence. Council shall not be liable for any damage for the repair of any fence whatsoever during the normal operation of snow clearing on streets or sidewalks located within the municipal area.

### **22. Enforcement**

These Regulations may be enforced by the Royal Newfoundland Constabulary (RNC), Royal Canadian Mount Police (RCMP), Peace Officer, or any person authorized by Council.

### **23. Penalties**

Every person who is guilty of an offence under these Regulations or who acts in contravention of or fails to comply with any provision thereof, or neglects or refused to do shall be liable to penalties as contained in Section 420 of the Act.

### **24. Coming into Effect**

**25.** These Regulations shall come into effect on the 9<sup>th</sup> day of June. A.D. 2020.

### **Publication**

**26.** The Notice of Adoption of these Regulations were published in the Newfoundland and Labrador Gazette on the 31<sup>st</sup> day of July, A.D. 2020.

### **Copy to Minister**

**27.** A copy of these Regulations was sent to the Minister of the Department of Municipal Affairs and Environment on the 22 day of July A.D. 2020.

**Repeal of Previous Regulations and Amendments**

28. All previous Town of Witless Bay Fence Regulations and Amendments are hereby repealed.

OCCUPANCY AND MAINTENANCE REGULATIONS  
under the  
Urban and Rural Planning Act

**The following Provincial Regulations are in effect in the Town of Witless Bay**

**Short title**

1. These regulations may be cited as the *Occupancy and Maintenance Regulations*.

**Definitions**

2. In these regulations
- (a) "Act" means the *Urban and Rural Planning Act*;
  - (b) "building line" means a line established by the enforcement authority to set the horizontal distance between the closest point of a building and the street line;
  - (c) "composting" means the storage and controlled biochemical decomposition of vegetables, fruit or garden waste;
  - (d) "enforcement authority" means the authorized administrator or the municipal council having jurisdiction in the area designated by the minister; and
  - (e) "minister" means the minister appointed under the *Executive Council Act* to administer the Act.

**Application**

3. These regulations shall apply to those municipalities or municipal planning areas listed in the Schedule.

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### Occupancy

4. (1) A person shall not occupy for human habitation or otherwise, or be the owner of, permit to be occupied for human habitation or otherwise, a dwelling or structure which does not conform to the standards set out in these regulations.

(2) All new dwellings and structures, all existing vacant dwellings and structures and a dwelling or structure which becomes unoccupied and not maintained for a length of time, shall require an occupancy permit issued by the enforcement authority before the proposed occupancy occurs.

(3) Notwithstanding subsections (1) and (2), temporary departures from existing properties for annual vacation, work related purposes, education, health reasons, temporary duty elsewhere, or business trips, shall not be considered as vacancies under these regulations.

### Maintenance

5. All properties in the areas listed in the Schedule including land, buildings, structures, dwellings, fences, sheds, garages, parking lots, driveways, landscaping and all appurtenances shall be maintained in a state of good condition and repair in accordance with the standards set out in these regulations and as otherwise ordered by the enforcement authority.

### Structural soundness

6. Structural components of all buildings and dwellings shall be

(a) free from deterioration, loose jointing, sagging, bulging and excessive deflection; and

(b) capable of sustaining safely the weight of the structure or dwelling and a load to which it may be normally subjected.

### Property drainage

7. All occupied land shall be provided with adequate surface water drainage over the whole area of the property to prevent ponding and to prevent run-off to adjacent properties with suitable arrangements for the disposal of surface water without eroding or flooding.

### Fire prevention

8. (1) All buildings and dwellings shall meet the requirements of those local, provincial and national fire regulations that may be applicable.

(2) A building or dwelling shall not be permitted to be occupied if it is a potential fire hazard due to its location, construction, contents or another reason and all those structures or dwellings shall be made to conform to the appropriate codes and standards as adopted by the enforcement authority before occupancy is permitted.

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(3) An occupied structure that is considered a fire hazard may be ordered vacated by the enforcement authority until the applicable deficiencies have been corrected by the owner.

(4) Smoke alarms conforming to the standards set out in the National Building Code shall be installed in every dwelling unit and in accordance with the requirements of the National Building Code, in all other buildings

### **Pest control**

9. (1) Every structure and dwelling shall be kept free of rodents, vermin and insects and appropriate extermination measures shall be taken when ordered by the enforcement authority.
- (2) Extermination measures ordered under subsection (1) shall be at the owner's expense.

### **Dampness**

10. The basement, attic space, floors, ceilings, crawl space and cellar of every building and dwelling unit shall be kept free from dampness, moisture, condensation and interior sweat so as to prevent rot and the development of mildew or other health hazard.

### **Basement habitable rooms**

11. A room in the basement of a building or dwelling shall not be used as a habitable room unless
- (a) the finished floor of that room is not more than an average depth of 1,143 millimetres below the finished grade of the property;
  - (b) the room is ventilated;
  - (c) all walls below grade are effectively damp-proof resulting in a dry interior condition; and
  - (d) the interior of the basement wall is properly insulated and finished.

### **Exterior walls**

12. (1) Exterior walls and their components shall be adequate to support loads upon them and shall be maintained to prevent their deterioration from any cause.
- (2) Exterior cladding or covering must be reasonably durable and be maintained in accordance with the standards set out in these regulations and as otherwise determined by the enforcement authority.

### **Exits**

13. (1) A single exit is permitted from the ground floor of a dwelling unit provided
- (a) the exit is to the exterior at or near ground level; and
  - (b) it provides a safe, continuous and unobstructed means of egress.
- (2) Dwelling units which do not meet the requirements of subsection (1) shall have 2 exits.
- (3) Buildings other than dwelling units shall comply with the building code with respect to exit provisions.

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### Exterior doors

14. (1) Existing doors and frames shall be in sound condition, well fitted and operate satisfactorily.
- (2) At least one entrance door in every unit shall be capable of being locked from both inside and outside.
- (3) All exterior doors shall be weather-stripped or have an appropriate combination of storm and screen door suitable for all year use.

### Porches and stairs

15. All porches, balconies, landings, stairs and handrails shall be well constructed and free from defects which may constitute a safety hazard.

### Roofs

16. (1) All roof construction components shall provide adequate support for all probable loads and form a suitable base for the roof covering.
- (2) A roof including the fascia board, soffit, cornice and flashing shall be maintained in a watertight condition so as to prevent leakage of water into the dwelling.

### Fireplaces

17. All fireplaces, fuel burning equipment and chimneys shall be maintained in a safe, efficient condition.

### Floors

18. (1) All floors shall be constructed and maintained so as to adequately accept the applied loads without undue deflection and damage.
- (2) Defective or excessively worn, deteriorated, cracked, or torn finishes shall not be permitted by the enforcement authority.

### Interior walls and ceilings

19. (1) Every wall and ceiling finish shall be maintained free from holes, loose or deteriorated coverings or other defects which may increase the spread of fire.
- (2) Where fire resistant walls exist between separate dwelling units, they shall be maintained in a condition which retains their fire-resistant quality.

### Heating and weatherproofing

20. (1) All buildings and dwelling units shall be weatherproof and insulated so as to be capable of being adequately heated with a reasonable consumption of fuel.
- (2) Heating equipment in every building and dwelling shall be in good working order and in good repair, free from fuel leaks and other defects and shall be non-hazardous to the occupants, in the opinion of the enforcement authority.

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(3) Fuel storage equipment supports, and piping shall meet the requirements of the applicable regulations.

### Plumbing

21. (1) All plumbing, drainpipes, water pipes, water closets, sinks and other plumbing fixtures in a building or dwelling shall be maintained in good order and repair in accordance with the requirements of the enforcement authority.
- (2) Where necessary due to the nature of the construction of the unit, all water pipes subject to the possibility of freezing shall be insulated, heated or otherwise protected.
- (3) All plumbing fixtures shall have suitable traps installed and all plumbing systems shall be properly vented to the outdoors.

### Electrical

22. (1) The electrical service, distribution equipment, wiring, equipment and appliances used in a building or dwelling unit shall be installed and maintained in accordance with the requirements of the Newfoundland and Labrador Hydro Corporation.
- (2) Exposed, loose wiring, broken or damaged switches or outlet covers, or damaged fixtures shall not be permitted by the enforcement authority.

### Washroom facilities

23. (1) Every dwelling unit shall be provided with at least one kitchen sink, washbasin, water closet and bathtub or shower which
- (a) is in good working order;
  - (b) is connected to a piped water supply; and
  - (c) has an acceptable means of sewage disposal.
- (2) Every dwelling unit shall have provisions for a constant supply of both hot and cold water.
- (3) Hot water tanks shall be insulated and equipped with automatic temperature control.
- (4) All plumbing fixtures shall operate properly and shall be free from leaks.

### Kitchen facilities

24. (1) Every dwelling unit shall contain a kitchen area equipped with a sink, served with hot and cold running water, storage facilities and a countertop work area.
- (2) Each kitchen or working area shall be provided with at least one operable window or skylight opening to the external air and having an area of not less than 10% of the net floor area of the room, or with a mechanical system of ventilation satisfactory to the enforcement authority.

### Washrooms

25. (1) All washrooms, including toilets and bathrooms, shall be
- (a) located within and shall be accessible from within the building; and
  - (b) fully enclosed and in the case of a public building, have a lockable door to provide privacy.

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- (2) Every washroom, toilet and bathroom shall be provided with
  - (a) at least one operable window or skylight opening to the external air and having an area of not less than 10% of the floor area of the room; or
  - (b) a mechanical system of ventilation satisfactory to the enforcement authority.

### **Lighting and ventilation of habitable rooms.**

26. (1) Every habitable room in a dwelling unit shall contain one or more operable windows.
- (2) Windows required under subsection (1) shall open directly to the outside air and the total area of window or windows in every habitable room shall not be less than 10% of the floor area of that room.
- (3) All window sashes shall be glazed and provided with suitable hardware.

### **Sleeping rooms**

27. (1) A room shall not be used for sleeping purposes unless it has a floor area of at least 6 square metres.
- (2) Where more than one individual at least 12 years of age uses a room for sleeping purposes, it shall have at least 12 cubic metres of air space and 5 square metres of floor space.
- (3) Where an individual less than 12 years of age uses a room for sleeping purposes, it shall have at least 6 cubic metres of air space and 3 square metres of floor space.

### **Cooking prohibited in sleeping rooms**

28. Where more than 2 persons occupy a dwelling unit, food shall not be prepared in a room used for sleeping purposes.

### **Overcrowding**

29. The number of persons in a building or part of a building shall not exceed the numbers permitted under the Fire and Life Safety Code or another code or standard adopted by the enforcement authority.

### **Storage space**

30. Every dwelling unit shall have general storage and closet space as required by applicable housing regulations or as determined by the enforcement authority.

### **Enclosed space access**

31. (1) An access opening of at least 600 millimetres by 750 millimetres shall be provided when required to attics, crawl spaces and other enclosed spaces.
- (2) Where mechanical equipment is enclosed, the access opening shall be sufficiently large to permit the removal and replacement of the equipment.
- (3) Enclosed attic, roof and crawl spaces shall be vented to the exterior of the structure.

### **Walkways, driveways**

32. Steps, walks, driveways, parking spaces and similar areas of a yard shall be adequately lit and maintained to afford safe passage under normal use and weather conditions.

### **Fences**

33. (1) A fence shall not extend in front of the building line where it would reduce the visibility of vehicles entering or exiting a street or intersection.  
(2) Fences, barriers and retaining walls shall be kept in good repair and free from accident hazards.  
(3) Subsection (1) does not apply to hedges, walls or ornamental fences not exceeding 750 millimetres in height.

### **On site storage**

34. (1) The storage of materials or equipment on the site of a building or dwelling unit shall be at the rear of the lot.  
(2) All items shall be neatly arranged and shall not cause inconvenience or imposition to adjoining properties.  
(3) Storage space on corner lots shall be screened.

### **Debris prohibited**

35. Land shall be free from debris including a vehicle, trailer or object which is in a wrecked, discarded or abandoned condition.

### **Landscaping**

- (1) Landscaping must be carried out to ensure that it does not impact in any fashion upon adjacent lots.  
(2) Land shall be protected by suitable ground cover which prevents erosion of the soil.  
(3) Plants and vegetation shall be kept trimmed so as not to be unsightly to neighbouring property.

### **Rubbish disposal**

37. (1) All garbage, rubbish, waste and other debris from residential properties shall be  
(a) promptly stored in regulation receptacles; and  
(b) made available for removal in accordance with the standards approved by the enforcement authority.  
(2) Subsection (1) does not apply to composting.



### **Composting container**

- 38.** All composting must be carried out in a suitably maintained container which
- (a) may be commercially or owner constructed;
  - (b) must be rodent proof; and
  - (c) must be properly vented.

### **Manner of composting**

- 39.** All composting shall be carried out in a manner that neither attracts rodents, flies or animals nor causes an unpleasant odour and shall be maintained so as not to be a nuisance to neighbouring properties.

### **Container location**

- 40.** Composting containers shall be located in the rear yard no closer than one metre to a lot line.

### **Powers of enforcement authority**

- 41.** (1) The enforcement authority may direct the owner of a dwelling unit or building which does not conform to the standard
- (a) to undertake work to make the dwelling unit or building conform to the standard;
  - (b) to demolish all or part of a building or dwelling or structure or erection forming a part of the building or dwelling; or
  - (c) to clean and paint as required to provide a satisfactory condition of appearance and cleanliness,
- within the time that the enforcement authority may specify.
- (2) Every owner shall carry out the directions of the enforcement authority referred to in subsection (1).

### **Failure to comply**

- 42.** (1) If an owner does not comply with the directions of the enforcement authority, the enforcement authority may
- (a) order the necessary work to be done to make the dwelling or building conform to the standards and recover the cost from the owner; or
  - (b) order the demolition of the building.
- (2) The owner shall carry out the demolition referred to in paragraph (1)(b) but if the owner does not comply with the order, the enforcement authority may carry out the demolition through its officers, agents, employees or contractors and recover the cost of so doing as a civil debt from the owner.

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### **Conflict**

- 43.** Where a provision of this regulation conflicts with a provision of another Act or regulation in force in the planning area concerned, the provisions that established the higher standard to protect the health, safety and welfare of the general public shall prevail.

### **Penalty**

- 44.** A person who contravenes a provision of this regulation shall, upon conviction, be liable to the penalties imposed by section 106 of the *Urban and Rural Planning Act, 2000*