

CONSOLIDATED NEWFOUNDLAND AND LABRADOR REGULATION 1080/96

Wooddale Agriculture Development Area Regulations

under the
Lands Act
(O.C. 96-250)

Amended by:

2001 c42 s45
21/05

CONSOLIDATED NEWFOUNDLAND AND LABRADOR REGULATION 1080/96

Wooddale Agriculture Development Area Regulations
under the
Lands Act
(O.C. 96-250)

Under the authority of section 59 of the Lands Act and the Subordinate Legislation Revision and Consolidation Act , the Lieutenant-Governor in Council makes the following regulations.

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Short title

1. These regulations may be cited as the Wooddale Agriculture Development Area Regulations .

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Definitions

2. In these regulations

(a) "access" means street, road, lane, driveway, path or other way, whether existing or proposed, intended for use by vehicles, farm implements, pedestrians or animals as a means of going from a road, street or highway to land adjacent to it;

(b) "Act" means the Lands Act ;

(c) "agriculture" means horticulture, fruit growing, grain growing, crop growing, seed growing, dairy farming, the breeding or rearing of livestock, including an animal kept for the production of food, wool, skins, or fur, or for the purpose of its use in the farming of land, the use of land as grazing land, meadow land, market gardens and nursery grounds and the use of lands for woodlands where that use is ancillary to the farming of land for another purpose;

(d) "ancillary building" means a building other than a residence;

(e) "animal unit" is a measurement based upon the amount of feed eaten, manure produced and means any one of the following animals or groups of animals

- (i) one bull,
- (ii) 1,000 broiler chicken or roasters, 1.8 to 2.3 kilograms each,
- (iii) one cow, including calf,
- (iv) 100 female mink, including associated males and kits and litter,
- (v) 4 goats,
- (vi) the number of hogs equivalent to 453.6 kilograms in weight,
- (vii) one horse, including foal,
- (viii) 125 laying hens,
- (ix) 4 sheep, including lambs,
- (x) the number of sows or breeding sows, including weaners and growers, equivalent to a weight of 453.6 kilograms, and
- (xi) the numbers of turkeys, ducks and geese equivalent to a weight of 2,268 kilograms;

(f) "area development plan" means a written agricultural development plan and related maps, approved by the department, providing for improvement in the development area so as to achieve the efficient and economic use of the land in the development area;

(g) "authority" means the authority established under section 3;

(h) "building" means a structure, excavation, alteration or improvement placed on, over or under the land, and includes mobile structures and vehicles adapted or constructed for residential, commercial, industrial and other like uses and every part of a building and another structure used in connection with a building and all equipment, apparatus, or appliance attached to or installed in a building;

(i) "commercial farming" means farming where at least one person spends more than 50% of his or her working time operating the farm and derives more than 50% of his or her income from the farm;

(j) "commercial use" means use for the purpose of selling or offering for sale, goods, wares, merchandise or services and includes the storage of these goods, wares or merchandise;

(k) "department" means the department presided over by the minister;

(l) "develop", "developed" or "development" means

(i) the erection, construction or placing of a building on, over or under land and includes the drainage and ditching of land in the development area,

(ii) the use of land for agricultural, commercial, industrial, recreational, residential or other purposes and includes land clearing, manure disposal, peat land uses, sod and topsoil removal, quarry uses, mine uses, road construction and silviculture, or

(iii) the change in use of land or buildings;

(m) "development area" means the Agriculture Development Area of Wooddale established under the Act and as described in the Schedule;

(n) "drilling" means the boring of holes for petroleum or natural gas exploration or production;

(o) "farm" means land which operates as a viable unit for agricultural purposes as of the date of designation of the development area or which subsequently becomes that;

(p) "farm building" means an ancillary building used for agricultural purposes;

(q) "farm development plan" means a written report, approved by the department, of the present and proposed future operations of the farm for not less than 5 years, describing the existing buildings and uses of the farm and proposed improvements and uses including location, estimated cost, time table and method of implementing it, together with related plans or drawings showing the location of all lands and buildings and noting the uses of these accesses, roads, fences, drainage, manure disposal and watercourses and containing an identification system to relate the plans or drawings to the written report;

(r) "highway" means a common or public highway or road, and includes a street or bridge which forms part of a highway, on, over, under or across which a highway passes, or another structure incidental to a highway or road, and includes also all land lying between the roadway and the boundaries of the highway;

(s) "industrial use" means a use for the purpose of manufacturing, processing, canning, preparing, assembling, repairing, reconditioning, breaking up, demolishing or treating of articles, a commodity or substance;

(t) "land" means a lot, plot, parcel or tract of land including land covered with water, buildings and structure on, over or under the soil and fixtures which form a part of these;

(u) "mineral exploration" means exploration for minerals under a licence issued in accordance with the Mineral Act ;

(v) "mining uses" means the extraction of minerals for commercial or industrial purposes;

(w) "minister" means the minister appointed under the Executive Council Act to administer the Act;

(x) "municipal council" means a council as defined in the Municipalities Act ;

(y) "non-conforming use" means a use of land or buildings which does not conform to a provision or requirement of the regulations but which was lawfully established before the coming into force of these regulations;

(z) "part-time farming" means farming where a person does not spend more than 50% of his or her working time operating the farm or does not derive more than 50% of his or her income from the farm and where it is not proposed that the farm become a commercial farm;

(aa) "permit" means a permit granted under these regulations;

(bb) "petroleum and natural gas exploration" means exploration for petroleum and natural gas under a permit or licence issued in accordance with the Petroleum and Natural Gas Act ;

(cc) "public utility" means a public utility as defined in the Public Utilities Act ;

(dd) "quarry use" means the extraction of quarry materials as defined in the Quarry Materials Act ;

(ee) "recreation use" means use for leisure time activities, rest, sports, outdoor games or other forms of relaxation that do not require permanent buildings or structures;

(ff) "residence" means a building or structure or part of a building or structure used or intended to be used for full-time human habitation and containing sleeping accommodations, cooking and toilet facilities and includes a mobile home;

(gg) "road" means a highway, road, street or way;

(hh) "Schedule" means the Schedule attached to the Wooddale Agriculture Development Area Order , being Consolidated Newfoundland and Labrador Regulation 1009/96;

(ii) "severance" means the granting, leasing or licensing of a part of land within the development area whether or not it is privately owned;

(jj) "silviculture" means the cultivating of trees and includes the planting, thinning, trimming and cutting of trees;

(kk) "sod removal" means the removal of that portion of the topsoil which contains grass and plants together with their matted roots;

(ll) "summer cottage" means a structure with or without cooking facilities which is primarily intended or designed for use or occupation for recreational purposes or occasional living whether privately or for rental; and

(mm) "topsoil" means the surface portion of the soil including the surface A and B soil horizons (pedon) down to the parent material, as defined by the Canadian System of Soil Classification, 1987.

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Application and authority

3. (1) A provision or regulation of the Urban and Rural Planning Act , the Lands Act , the Quarry Materials Act , the Mineral Act or the Municipalities Act , provisions of a building code, fire code, electrical code and other ancillary codes and building, health, waste disposal and other regulations controlling use of land, in force in the development area, apply to development permitted under these regulations.

(2) These regulations shall apply to the area described in the Wooddale Agriculture Development Order, and subsequent amendments and to the area shown as the Wooddale Agriculture Development Area in the Schedule.

(3) The minister shall appoint an authority consisting of at least 5 people which shall include a chairperson and a secretary, to carry out all powers and duties conferred and imposed upon the authority by these regulations.

(4) The authority may include representatives from the Agricultural Division of the department one of whom shall be the chairperson, a Department of Forest Resources and Agrifoods, Forest Resources Division, representative, officers or staff from other resource departments, and a member of the farming community appointed from suggested persons submitted by the Wooddale Agricultural Society.

(5) The authority shall consider applications under these regulations, approve and issue permits or notices of approval, refuse applications, cancel permits and exercise all other powers and duties conferred and imposed upon the authority under these regulations.

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Control of development

4. (1) A development shall not be carried out within the development area except in accordance with these regulations.

(2) A person shall not carry out a development within the development area unless a written permit or notice of approval for the development has been issued by the authority.

(3) A permit or notice of approval shall not be issued for development within the development area which in the opinion of the authority is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or which is beyond the natural growth of the area.

(4) A permit or notice of approval shall not be issued for development within the development area unless that development complies with

- (a) these regulations;
- (b) the standards of design, size and appearance required by the authority; and
- (c) a municipal, local area or area development plan in effect.

(5) The authority may defer consideration of an application for development for a period not exceeding 90 days from the date of a notice to the applicant informing the applicant of the authority's decision to defer consideration of the application.

(6) The authority may request additional information from the applicant and where the additional information is not provided within 30 days of the request, the application shall be considered to be refused.

(7) The authority shall act as a registry for requests to have areas included into or excluded from the Wooddale agriculture development area.

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Administration

5. (1) Application forms for development shall be made available through the department's regional office and through the offices of municipal councils whose planning area or area of operation is included within the development area.

(2) The authority shall consider applications for development provided a quorum of 3 members including the chairperson and secretary, or members assigned by the chairperson to act on behalf of a chairperson or secretary, are in attendance.

(3) The authority shall keep a public register of all applications for development and shall enter into the register the decision of the authority on each application and the result of an appeal of that decision.

(4) The authority may attach to a permit or notice of approval those conditions it considers necessary in order for the proposed development to meet the requirements of these regulations.

(5) A permit or notice of approval shall expire if not exercised within one year or another period that may be stated on that permit or notice and may be renewed upon application before expiration of the first permit year for a further period of one year, provided that construction or development is initiated before the expiration of the first permit year.

(6) Failure by the applicant to initiate construction before the expiration of the first permit year shall require re-application to the authority.

(7) Where the authority considers it necessary, permits or notices of approval may be issued on a temporary basis for a period not exceeding 2 years and if a temporary permit expires and it is not renewed, or if it is cancelled by the authority or if its use is discontinued, the authority may order the person carrying out the development, the occupier of the site, the owner or all of them to remove all buildings or erections above ground, to cover or fill all wells or excavations, landscape as may be necessary and to remove all accesses.

(8) The approval of an application and plans or drawings shall not prevent the authority from requiring a correction, or from ordering the cessation or removal of, or remedial work on a development being carried out in the event that the same is in violation of these or another

regulation or Act or in the event that the permit was issued as a result of or consequent upon a material misrepresentation by the applicant for the permit.

(9) A person shall not erase, alter or modify a plan or drawing or specifications upon which a permit or a notice of approval to develop has been issued by the authority.

(10) There shall be kept posted in a conspicuous place on the land or premises where any work, matter or thing is being done for which a permit has been issued, a copy of the permit or poster as supplied by the authority or local agency during the whole progress of that work, or the doing of that matter or thing until completion.

(11) The authority may require an applicant for a permit to give notice of the application by public advertisement in a newspaper circulating in the area or by another means considered necessary.

(12) The authority may cancel a permit or notice of approval for failure by the holder to comply with these regulations or a condition attached to the permit or notice of approval or an order made under the Act and the authority may order the developer or the owner to remove all buildings or erections above ground, to cover or fill all wells or excavations, landscape as may be necessary and to remove all accesses.

(13) The persons carrying out an order of the authority shall put the site in a clean and sanitary condition to the satisfaction of the authority.

(14) The authority, a member of the authority and officers and inspectors of the department authorized by the minister, may at all reasonable times enter upon public or private land and may at all reasonable times enter a development or building upon the land, excluding a private dwelling, to obtain information relative to a development which the authority is empowered to regulate.

(15) A person representing the authority shall keep a record of a violation of these regulations which comes to his or her knowledge and report that violation to the authority.

(16) Where a developer fails to obtain a permit or fails to comply with these regulations or with a condition of a permit or notice of approval, the authority may

(a) issue an order directing the developer to stop work on a development and that order shall state the nature of the infraction, prescribe remedial action and shall state the consequences of failure to comply with that order pending determination by the courts; and

(b) take legal action against that developer and shall notify that person of the nature of the infraction and prescribe remedial action.

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[Applications](#)

6. (1) An application for a permit for a development to be located outside the boundaries of a part of a municipal or local planning area shall be made to the authority on those forms that may

be required by the authority and an applicant for a permit shall provide with his or her application the plans, specifications, drawings and other documents that the authority may require.

(2) The authority shall on request supply to an applicant a copy of the application forms referred to in subsection (1) and a description of the plans, specifications and drawings required to be provided with that application.

(3) The authority shall issue a permit in writing for the proposed development if it is satisfied that the development conforms to these regulations and a plan or drawing which has been approved by the authority and which bears a mark or signature indicating approval together with a permit shall be considered to be permission to develop land in accordance with these regulations but shall not obviate the necessity to obtain permits or approvals under another regulation or Act.

(4) The authority shall issue a letter of refusal in writing if the development does not conform to these regulations.

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Applications

7. (1) An application for a permit for a development to be located within a municipal or local planning area and also within the development area shall be submitted to the appropriate municipal council on those forms required by the authority and an applicant shall provide with his or her application those plans, specifications, drawings and other documents that the authority may require.

(2) The municipal council shall refer the application for a permit to the authority.

(3) The authority shall consider an application referred to in subsection (1) and

(a) issue a notice of refusal; or

(b) issue a notice of approval, subject to the approval of the municipal council,

and in either case, the notice shall be sent to the appropriate municipal council.

(4) On receipt of a written notice of refusal from the authority, the municipal council shall issue a written notice of refusal to the applicant.

(5) On receipt of a copy of a written notice of approval of an application from the authority, the municipal council shall complete its consideration of the application and

(a) if the application meets the requirements of an applicable municipal or local area plan and regulations, the municipal council may issue a permit for the development to proceed, subject to conditions imposed by the authority or conditions under the local plan or regulations; or

(b) if the application does not meet with the requirements of an applicable municipal or local area plan or regulation, the appropriate municipal council shall issue a notice of refusal stating the reasons for refusal in the normal manner,

and in either case, the municipal council shall send a copy of the notice or permit to the authority.

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Appeal

8. (1) Where the authority has refused an application for a permit or has granted an application subject to conditions, the applicant may appeal in writing to the minister against that refusal or those conditions within 30 days after the applicant is notified of the decision by the authority.

(2) Where an appeal under subsection (1) in the opinion of the minister conforms to these regulations, the minister may direct the authority to issue a permit or notice of approval within 10 days and where that appealed application does not conform to these regulations, the minister shall direct the authority to notify the applicant in writing of the decision to refuse the appeal.

(3) Appeal decisions made by the minister shall be final and binding upon all parties.

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Controlled areas

9. Agriculture zones as indicated in the Schedule are controlled by these regulations.

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Access

10. Access shall not impair the convenience and safety of users of a highway, road or street.

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Public utilities

11. Buildings, underground installations or transmission lines shall not be constructed, erected, placed or installed by a public utility as defined in the Public Utilities Act without prior written permission from the authority.

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Road construction

12. Roads shall not be constructed or re-aligned without prior written permission of the authority.

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Sod removal

13. Sods shall not be removed, sold or otherwise disposed of except in conjunction with the excavation of a site for the purpose of a development approved by the authority, or sod farming on peat land, as approved by the authority.

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Topsoil removal

14. Topsoil shall not be removed, sold or otherwise disposed of except in conjunction with the excavation of a site for the purpose of a development approved by the authority.

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Ancillary buildings

15. An ancillary building shall not be permitted unless the building

- (a) conforms to a farm development plan approved by the authority; or
- (b) conforms to another development which has been approved by the authority.

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Expansion and replacement of buildings

16. (1) Expansion or replacement of farm buildings shall not be permitted unless in conformity with an approved farm development plan for the farm on which the building is situated.

(2) An ancillary building which is used continuously from September 9, 1983 until the date of application for a purpose not permissible by these regulations, shall not be enlarged, extended, altered structurally or replaced unless

- (a) that buildings is to be used for a purpose permitted by the regulations;
- (b) the reconstruction or alteration is confined to the interior of that building, in order to make it more convenient or commodious for the same purpose for which on September 9, 1983 that building was used;
- (c) that building suffers damage, at which time, the owner of the building may within one year of the damage taking place, make an application to the authority for a permit to restore or replace the building for the same purpose for which it was used at the date of its being damaged and the restoration or replacement shall not enlarge or extend the building unless prior written permission is obtained from the authority; or
- (d) that a building is removed, in which case the replacement building shall not be larger than the replaced building without prior written permission from the authority and shall be used for the same purpose for which the replaced building was used on September 9, 1983 .

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Residential buildings

17. (1) Residential buildings may be permitted in accordance with section 24.

(2) Replacement of a residence may be permitted and a person shall not occupy the replaced residence after occupation of the new residence and the replaced residence shall be either removed or altered to conform to another use permitted by these regulations.

(3) Expansion of a residence may be permitted provided the expanded residence does not contain additional dwelling units and is used for the same purpose for which it was used on September 9, 1983 .

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Commercial or industrial uses

18. Commercial or industrial development shall not be permitted unless the commercial or industrial use

(a) is directly related to agriculture or provides a service necessary to the betterment of the development area for agricultural purposes;

(b) shall not interfere with current or future agricultural use of the development area and is not incompatible with the area development plan; and

(c) is located on a minimum lot size of 2 hectares.

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Exploration use

19. Mineral, petroleum and natural gas exploration and the granting of permits and licences for that exploration are not subject to these regulations.

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Non-conforming uses

20. A non-conforming use made of buildings or land on November 14, 1978 may be continued, although not conforming to these regulations, excepting those continuing uses that degrade or destroy the soil resource, like sod or topsoil removal.

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Peat land uses

21. Peat land use, excluding peat quarry use, are not permitted unless it conforms to a farm development plan approved by the authority.

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Quarry, mining and drilling uses

22. Quarry, mining or drilling uses are not permitted unless

- (a) reclamation and rehabilitation is provided for; and
- (b) the quarry, mining or drilling use shall not interfere with a farm development plan or with current or future agricultural use of the remainder of the development area.

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Summer cottage and recreation use

23. (1) Summer cottages are not permitted.

(2) Recreation uses are not permitted unless the recreation use shall not interfere with current or future agricultural use of the development area and is not incompatible with a farm development plan or area development plan.

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Farm residential development

24. (1) Residential development shall not be permitted except where

(a) there is one residence for each commercial farm and that residence complies with a farm development plan approved by the authority for that farm; or

(b) it is necessary for the efficient operation of the farm, a second residence exists that complies with a farm development plan approved by the authority for that farm.

(2) Notwithstanding subsection (1), one residence for each actively farming son or daughter of persons who own and reside on land within the development area subject to conditions or restrictions contained in the owner's grant to the land may be permitted provided that

(a) the location and frontage of the lot are in conformity with the municipal plan approved by the authority; and

(b) proof of title to and residence on the land is supplied; and

(c) a statement is supplied by the owner listing all of his or her sons and daughters who are actively farming and stating which son or daughter is to construct the residence; and

(d) there is minimal agricultural impact from the proposed development as determined by the authority.

(3) A residence referred to in subsection (1) or (2) must be located so that it

(a) does not interfere with access to the remainder of the land on which the farm is located; and

(b) has at least 30 metres of frontage per residence on a publicly maintained highway.

(4) For the purpose of this section, a person shall be considered to be actively farming if he or she is engaged in commercial farming.

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Silviculture

25. Silviculture and the harvesting of trees are permitted.

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Commercial farming

26. Commercial farming is permitted.

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Part-time farming

27. Part-time farming shall not be permitted unless

(a) it conforms with the area development plan applicable to the land which is the subject of an application for a permit; and

(b) it shall not interfere with the existing or proposed use of land for a commercial farm.

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Non-interfering use

28. Notwithstanding another provision of these regulations, uses related to agriculture may be permitted by the authority where

(a) the use does not interfere with the existing or future use of the development area; and

(b) the use is not incompatible with a farm development proposal.

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Land severance

29. (1) Severance of a part of land shall not be permitted unless

(a) the remaining part is capable of becoming a viable commercial farm and meets minimum lot size requirements of 20 hectares and the severed part shall become part of other land which is or is capable of becoming a commercial farm along or in conjunction with the severed part; or

(b) the development and lot size is approved by the authority in accordance with these regulations.

(2) A person wishing to make a severance of land under subsection (1) shall submit an application for a permit to make that severance to the authority and the provisions of the Act and these regulations shall apply.

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Land transfer

30. (1) A grant, lease, licence, conveyance or other assurance executed or delivered after September 9, 1983 in relation to land located within the development area shall be registered, together with proof of the minister's permission to grant, lease, licence or convey that land by the grantee, lessee, licensee or other person in whose favour the grant, lease, licence, conveyance or other assurance is executed or delivered in the Registry of Deeds established under the Registration of Deeds Act, not later than 30 days after the execution or delivery of the grant, lease, licence, conveyance or other assurance.

(2) Application for permission to grant, lease, license or convey land within the development area shall be made to the authority on forms referred to in subsection 5(1).

(3) A grant, lease, licence, conveyance or other assurance

(a) executed or delivered contrary to these regulations;

(b) registered without the requisite proof of the minister's permission; or

(c) not registered as required by these regulations,

is void.

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Repeal

31. The Wooddale (Agriculture) Development Area Regulations, 1983, Newfoundland Regulation 199/83, are repealed.

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