

## **CONSOLIDATED NEWFOUNDLAND AND LABRADOR REGULATION 1083/96**

### **Benton Development Control Regulations under the Urban and Rural Planning Act (O.C. 96-219)**

Under the authority of section 63 of the Urban and Rural Planning Act and the Subordinate Legislation Revision and Consolidation Act , the Lieutenant-Governor in Council makes the following regulations.

#### REGULATIONS

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##### Schedule

##### Short title

1. These regulations may be cited as the Benton Development Control Regulations .

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#### Definitions

##### 2. In these regulations

(a) "appeal board" means the appropriate regional appeal board established under section 7 of the Urban and Rural Planning Act ;

(b) "authority" means the minister or another authorized administrator assigned by the minister to administer these regulations;

(c) "development" means development as defined in the Urban and Rural Planning Act ;

(d) "local area plan" means the Benton Local Area Plan , approved by the Minister of Municipal and Provincial Affairs together with any amendments made and approved by the minister; and

(e) "local planning area" means the area defined as the Benton Local Planning Area by the Minister of Municipal and Provincial Affairs.

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#### Development prohibited

3. A person, corporation, partnership, association or other organization shall not carry out any development in the local planning area unless a permit for the development has first been issued in writing by the authority.

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#### Application to develop

4. An application for a permit to develop shall be made to the authority on the forms that he or she prescribes, and every applicant shall furnish with an application those plans and specifications as the authority requires.

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#### Copies

5. The authority shall, on request, supply to every applicant a copy of the application form referred to in section 4, and a description of the plans, specifications and drawings required to be furnished with his or her application.

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#### Factors to be considered

6. (1) The authority shall, when considering an application for a permit to develop, be guided in his or her decision by the local area plan and shall consider

(a) the topography, physical condition and natural features of the land;

(b) the use or the proposed use of the land, and the use of the land in the immediate vicinity;

(c) the number, location, safety and convenience of accesses;

(d) the design, location and construction of the proposed development;

(e) the adequacy of the method and the suitability of the land for the type of water and sewage disposal required;

(f) the adequacy and suitability of the methods proposed for the disposal of waste material; and

(g) the shape and size of each lot or parcel of land.

(2) The authority shall consult with all government departments, agencies, officials and persons considered necessary with respect to the considerations referred to in subsection (1).

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#### Requirements

7. A permit shall not be issued for development in the local planning area unless that development conforms with

- (a) the policies and objectives for development as described in the local area plan; and
- (b) the National Building Code of Canada and ancillary codes.

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#### Conditions

8. The authority may

- (a) attach to a permit those conditions required to ensure the proposed development, or use of land or building, shall be made suitable for the purpose it is intended to serve; and
- (b) permit development for a limited time as considered necessary.

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#### Duration of permit

9. (1) A permit for a development is valid for a period of one year and may be renewed twice for a maximum duration of 3 years, provided construction of the development is initiated prior to expiration of the first permit year.

(2) Notwithstanding subsection (1), failure by the applicant to initiate construction prior to the expiration of the first permit year shall require reapplication to the authority.

221/93 ss9&10

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#### Development only as approved

10. (1) Development shall be carried out in accordance with the plans approved by the authority and all conditions attached to them.

(2) A person shall not erase, alter or modify a drawing or specification for which a permit to develop has been issued, unless the modification has been approved by the authority.

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#### Failure to fulfil conditions

11. The authority may, where all conditions imposed under these regulations have not been fulfilled, order the development to be discontinued and the land in respect of which the conditional or temporary permission was given to be restored to its former state.

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#### Permit card

12. (1) In approving an application to develop, the authority may issue a permit card to a successful applicant.

(2) The permit card referred to in subsection (1) shall be displayed in a conspicuous place in or upon the development during the entire course of construction.

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#### Entry permitted

13. The authority, or an inspector designated by the authority, may enter upon any public or private land, and may at all reasonable times enter a building upon the land, for the purpose of making surveys or inspections or obtaining information relative to the carrying out of works applicable under these regulations.

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#### Non-application

14. Nothing in these regulations shall apply

(a) to prevent the use of any land, building or structure for any purpose provided by the local area plan if the land, building or structure was lawfully used for that purpose on the day these regulations came into force so long as it continues to be used for that purpose;

(b) to prevent the completion of a structure or the use of land prohibited by the local area plan provided the development was lawfully commenced prior to the coming into force of these regulations and provided the development is completed within a reasonable time after commencement;

(c) to prevent the rebuilding of a structure, prohibited by the local area plan, if that structure suffers damage to an extent greater than 50% of its replacement value, provided that

(i) the owner of the structure submits an application for a permit to reconstruct within one year of that damage taking place,

(ii) the reconstruction referred to in subparagraph (i) is for the same purpose as its original use at the date of the coming into force of these regulations, and

(iii) the applicant initiates construction of the building within the first year of the permit life;

and

(d) to prevent the extension of any non-conforming use by an amount not exceeding 50% of the existing floor area provided the authority is satisfied that appropriate yard space will be maintained and that there will be no adverse effect on adjoining properties.

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#### Presumed refusal

15. Applications properly submitted in accordance with these regulations and which have not been determined by the authority and returned to the applicant within 3 months after their receipt by the authority shall be presumed to be refused unless an extension of time has been requested by the authority and agreed upon in writing by the applicant.

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#### Appeal

16. (1) The appropriate regional appeal board shall determine an appeal from the decision of the authority with respect to the application of these regulations.

(2) A person intending to appeal to an appeal board shall deposit with the secretary of the board, within 30 days after the date of the decision of the authority, a notice of appeal indicating the grounds of the appeal and stating the name and address of the appellant and including 3 copies of a plan of the land or buildings concerned.

(3) The appeal board shall notify the appellant and the authority of the time and place for the hearing of the appeal.

(4) The decision of the appeal board shall be communicated, in writing, to the appellant and the authority and is final and binding upon all parties, subject only to appeal to the Court of Appeal in accordance with section 122 of the Urban and Rural Planning Act .

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#### Use classes, standards, conditions described

17. (1) For the purpose of these regulations, those use classes which may be permitted or treated as discretionary are described in the Schedule.

(2) The Schedule referred to in subsection (1) describes the required development standards and conditions affecting use classes.

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#### Repeal

18. The Benton Development Control Regulations, 1993, Newfoundland Regulation 221/93, are repealed.

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Schedule  
USE ZONE TABLE

ZONE TITLE  
MIXED DEVELOPMENT  
( BENTON )

PERMITTED USE CLASSES: Single dwelling

DISCRETIONARY USE CLASSES: Row dwelling, double dwelling, apartment building, cultural and civic, general assembly, place of worship, catering, funeral home, child care, amusement, outdoor assembly, mobile home, convenience store, medical and professional, personal services, office, general service, take-out, food service, ship, general industrial, service station, light industrial, recreational open space, cemetery and antenna.

Standards

Where permitted

Apartment Building

Single  
Dwelling

Double  
Dwelling

Row  
Dwelling

1  
Bedroom

Apt.  
2

Bedroom  
Apt.

3  
Bedroom

Apt.  
4

Bedroom  
Apt.

Lot area (m2 )  
(minimum)

450

390

\*

350

\*

(Average)

200

\*

250

\*

280

\*

300

\*

Floor area (m2 )  
(minimum)

80

80

\*

65

\*

40

\*

50

\*

60

\*

70

\*

Frontage (m)

(minimum)

15

26

12

\*

(Average)

36

Building Line

Setback (m)

(minimum)

6

6

8

8

Building Line

Setback (m)

(maximum)

30

30

30

30

Sideyard Width

(m)

(minimum)

1

1

1

5

Rearyard

Depth (m)

(minimum)

14

14

14

14

Lot Coverage

(%)

(maximum)

33

33

33

33

Height (m)

(maximum)

8

8

10

10

(See Conditions)

\* per dwelling unit

Conditions for Mixed Development Zone

Discretionary uses - site standards

1. Where permitted, non-residential discretionary use classes involving buildings shall conform to the following development standards:

Minimum Building Line Setback

The greater of 8 metres or as required by the Department of Works, Services and Transportation

Minimum Sideyards

5 metres

Minimum Rearyard

10 metres

Maximum Height

10 metres

Accessory buildings

2. Accessory buildings shall have a lot coverage no greater than 7% or a height of no more than 3 metres.

#### Buffer - non-residential uses

3. Where a non-residential use abuts an existing or proposed residential zone, the owner of the site of the non-residential development may be required to provide a buffer strip between a non-residential building or activity and the residential area or use. The buffer shall include the provision of grass strips, hedges, trees or shrubs or structural barrier as may be required by the authority and shall be maintained by the owner or occupier to the satisfaction of the authority.

#### Open storage

4. The authority may permit open storage of materials, goods and machinery, provided the following conditions are met:

(a) open storage shall not occupy more than 50% of the site area and shall not be located in the front yard or in required buffer areas;

(b) open storage areas shall be enclosed by a wall or fence not less than 2 metres in height constructed of uniform materials approved by the authority;

(c) open storage areas shall be maintained with a stable surface to prevent raising or movement of dust, clay, mud and loose particles;

(d) open storage of vehicles and equipment shall not be permitted except that transport vehicles may be parked in the open.

#### Advertisement re: onsite uses

5. The conditions which shall apply to the erection or display of an advertisement on a lot or site in this zone occupied by a use permitted or existing as a legal non-conforming use in this use zone, shall be as follows:

(a) the size, shape, illumination and material construction of the advertisement shall meet the requirements of the authority having regard to the safety and convenience of users of adjacent streets and sidewalks and the general amenities of the surrounding area;

(b) an advertisement shall not exceed 5 square metres in area.

#### Advertisement re: offsite uses

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

(a) each advertisement shall not exceed 3 square metres in area;

(b) when the advertisements relate to a specific land use, they shall be located within a reasonable distance of, and only show on them the name and nature of the distance or direction to the premises to which they relate;

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

#### ZONE TITLE

#### FUTURE RESIDENTIAL

( BENTON )

PERMITTED USE CLASSES: Conservation

DISCRETIONARY USE CLASSES: Agriculture, forestry and antenna

#### CONDITIONS

##### Future residential area

1. Development will not be permitted in the future residential area until water and sewer services and roads are built to proper standards and most infill sites have been substantially developed.

##### Plan for subdivision

2. Once the future residential areas are ripe for development, the authority will have prepared a plan of subdivision for the entire area.

##### Interference with other uses

3. The discretionary use classes listed in this table may be permitted at the discretion of the authority provided that their development will not inhibit or prejudice the existence or the development of residential uses and permanent structures shall not be permitted.

##### Conditions

4. Discretionary uses shall be subject to the appropriate conditions set out for the rural zone.

ZONE TITLE  
CONSERVATION  
( BENTON )

PERMITTED USE CLASSES: Conservation  
DISCRETIONARY USE CLASSES: Agriculture and forestry  
CONDITIONS

Discretionary use classes

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

Fish habitat

2. Development, removal of vegetation or alteration of topography shall not be permitted within 15 metres from the shoreline of Soulis Pond and Soulis Brook until a proposal is referred to the Habitat Section of Fisheries and Oceans Canada for advice regarding impact on fish habitat.

ZONE TITLE  
WATERSHED  
( BENTON )

PERMITTED USE CLASSES: Conservation  
DISCRETIONARY USE CLASSES: Agriculture, forestry and antenna  
CONDITIONS

Discretionary use classes

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

Forestry and agriculture

2. Selective forestry activities and agriculture may be permitted provided they cause no detrimental effect on water quality.

ZONE TITLE  
RURAL  
( BENTON )

PERMITTED USE CLASSES: Agriculture, forestry, recreational open space, conservation  
DISCRETIONARY USE CLASSES: Cemetery, rural industry, mineral working, solid waste, antenna  
CONDITIONS

Rural industry

1. The authority may permit rural industrial uses in rural areas provided the uses are agriculture or forestry related that no municipal services are needed and approval is obtained from the Department of Environment and Labour.

Mineral workings and solid wastes

2. (1) Development associated with mineral extraction, solid waste storage or disposal may be permitted in rural areas.

(2) Developments described in subsection (1) shall be maintained at a minimum distance of 50 metres from a public highway or street and shall be screened from view to the satisfaction of the authority.

(3) Development may not take place within 300 metres of a quarry or 1,600 metres of a solid waste storage or disposal site or vice versa except where infilling has been provided for in the plan nor may those developments take place within 50 metres of a pond or stream.

(4) In the case of a mineral working, stockpiling of topsoil shall take place at least 5 metres from an active quarry.

(5) Upon conclusion of operations, all refuse shall be removed and the landscape restored.

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