

BEFORE THE ISLAND REGULATORY AND APPEALS COMMISSION

IN THE MATTER OF an appeal pursuant to s.28 of the *Planning Act*, RSPEI 1988 c P-8 by Betty Ann Bryanton with respect to the denial of three applications for development and building permits at PID 931741 located at 158 Paradise Drive, Little Pond, PE

SUBMISSIONS OF THE RESPONDENT

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Introduction

1. These submissions are provided on behalf of the Minister of Housing, Land and Communities, formerly the Minister of Agriculture and Land (the “Minister”), in response to the submissions filed by Betty Ann Bryanton (the “Appellant”) on October 15, 2024 (the “Appellant’s Submissions”).
2. The appeal is in relation to the denial of three applications for Building and Development Permits at PID #931741 located at 158 Paradise Drive, Little Pond, Prince Edward Island (the “Subject Property”) (the “Appeal”).¹
3. The Minister’s Record of Decision was filed on March 1, 2022 (the “Record”).

Background and Decision

4. The background of the Appeal filed by the Appellant is as set out below. While the Appeal was filed on January 4, 2023, the Subject Property has a lengthy history before the Commission having been subject to previous appeals commenced by both the Appellant and an adjacent property owner.
5. The Subject Property is located in a “summer cottage use only” subdivision.²
6. On August 19, 2015, the Appellant’s neighbour, Donna Stringer (“Ms. Stringer”), filed an appeal with the Island Regulatory and Appeals Commission (the “Commission”) under section 28 of the *Planning Act*, RSPEI 1988, Cap P-8, (the “Act”).³
7. Ms. Stringer first appealed an August 12, 2015, decision of the Minister granting Development Permit No. M-2015-0087 (“Permit 87”) and Development Permit No. M-2015-0088 (“Permit 88”) to the Appellant and Gareth Llewellyn to change the permitted use of an existing non-commercial storage building to a summer cottage (Permit 87) and to relocate three non-commercial storage buildings, including structures “A2” and “A3”, (Permit 88) on the Subject Property (“Appeal LA15010”).
8. Appeal LA15010 resulted in the Commission’s Order LA17-06.⁴ Order LA17-06 allowed Ms. Stringer’s appeal and quashed Permit 87 and Permit 88.
9. Following Order LA17-06, the Appellant applied to the Minister for permits in relation to the same structures on the Subject Property, twice. These applications resulted in two decisions of the Minister, which were subsequently both appealed to the Commission. The Appellant filed an appeal to the Commission on November 11, 2017 (“Appeal LA17008”),

¹ Record Tab B.

² Record Tab A.

³ *Planning Act*, RSPEI 1988, Cap P-8, s 28 [Act].

⁴ *Stringer (Re), Donna Stringer v Minister of Communities, Land and Environment*, Order LA17-06 [Stringer].

and Ms. Stringer filed an appeal to the Commission on August 10, 2018 (“Appeal LA18014”). Both the Appellant’s and Ms. Stringer’s appeals were held in abeyance to allow the parties to reach a resolution on the cottage and accessory buildings.

10. This brief review of the protracted history of the Subject Property brings us to the subject appeal. On June 15, 2022, the Appellant submitted the following Building and Development Permit applications:

- a. Building and Development Permit Application M-2022-0160 for structure “A2” (the “A2 Application”);⁵
- b. Building and Development Permit Application M-2022-0161 for structure “A3” (the “A3 Application”);⁶ and
- c. Building and Development Permit Application M-2022-0162 for structure “A4” (the “A4 Application”) (A2 Application, A3 Application, and A4 Application, collectively referred to as the “Applications”).⁷

11. The A2 Application was for a Development Permit for a new, detached structure with the use checked as single-unit residential. In detail, the stated use of the proposed structure was as an already existing accessory building for storage. The total area for structure “A2” was 160 square feet with the structure being located 180 feet from Paradise Drive.

12. The A3 Application was for a Development Permit for a new, detached structure with the use checked as single-unit residential. In detail, the stated use of the proposed structure was as an already existing accessory building for storage. The total area for structure “A3” was 160 square feet with the structure being located 249 feet from Paradise Drive.

13. The A4 Application was for a Development Permit for a new, detached structure with the use checked as single-unit residential. In detail, the stated use of the proposed structure was as an already existing accessory building for storage. The total area for structure “A4” was 84 square feet with the structure being located 110 feet from Paradise Drive. At the time of the A4 Application, the structure housed toilet facilities. Pursuant to Permit No. M-2022-0158 issued by the Minister on December 13, 2022, toilet facilities were to be installed within the cottage.

14. On August 16, 2022, two employees of the Minister, Eleanor Mohammed, RPP, MCIP, EP (“Ms. Mohammed”), and Alex O’Hara, RPP, MCIP, MRTPI, MIPI, AssocRICS, CAHP-Intern, EPt, MSci (“Mr. O’Hara”), conducted a site visit of the Subject Property. Ms. Mohammed and Mr. O’Hara observed that two of the structures were being used as sleeping quarters or “bunkies”, with no toilets or running water, as opposed to the stated use of storage.

⁵ Record Tab C1.

⁶ Record Tab C2.

⁷ Record Tab C3.

15. Given the use of the property, Ms. Mohammed and Mr. O'Hara offered recommendations to Eugene Lloyd ("Mr. Lloyd"), who was the Acting Manager of Province Planning at the time of the Applications, in accordance with sound planning principles on October 24, 2022, and August 30, 2022, respectively.⁸
16. On October 26, 2022, a Coastal Erosion Hazard Assessment of the Subject Property was completed.⁹
17. On December 13, 2022, the Minister denied the A2 Application, A3 Application, and A4 Application pursuant to subsections 2.1(1)(h) and (l) of the Act, and subsections 1(f.3) and 3(2)(a), (d), and (e) and section 34 of the Regulations (the "Decision").¹⁰
18. On January 13, 2023, John Stringer, K.C., on behalf of Ms. Stringer, filed an Application to be an Added Party Intervenor ("Ms. Stringer's Application").
19. To address the preliminary matters of jurisdiction, Ms. Stringer's Application, and Appeal LA17008 and Appeal LA18014, the Commission issued a Preliminary Order, Order LA 23-09, on November 7, 2023.¹¹
20. Pursuant to Order LA23-09, the Commission exercised its discretion to order the following: the Appeal be accepted as filed within the legislated limitation period, Ms. Stringer's Application be granted, and Appeal LA17008 and Appeal LA18014 proceed at the same time as the Appeal.
21. On March 1, 2024, the Appellant, via letter to the Commission, withdrew Appeal LA17008.
22. On April 22, 2024, Mr. Stringer, on behalf of Ms. Stringer, via letter to the Commission, withdrew the Added Party Intervenor status granted to Ms. Stringer in the Appeal and withdrew Appeal LA18014.

Grounds of Appeal

23. The Appellant has sought an order from the Commission overturning the Decision and approving the Applications. The Appellant's summarized grounds of appeal are as follows:
 - a. The Minister failed to correctly follow, interpret and apply the provisions of the Act and the Regulations;
 - b. The Minister erred in considering sound planning principles with respect to the Application; and

⁸ Record Tabs F2 and F3.

⁹ Record Tab F1.

¹⁰ Record Tab A.

¹¹ *Bryanton v Minister of Housing Land and Communities*, Preliminary Order LA23-09.

- c. The Minister failed to employ principled, objective, informed analysis and use of scientific evidence, thereby considering irrelevant factors as opposed to relevant factors.¹²

24. The Minister's response to the Appellant's Submissions is set forth below.

The Law

25. In Order 17-06, the Commission held that it is of the view that the following test should be applied to Ministerial decisions made under the Act and the Regulations:

- whether the land use planning authority, in this case the Minister, followed the proper process and procedure as required in the Regulations, in the Act and in the law in general, including the principles of natural justice and fairness, in making a decision on an application for a development permit, including a change of use permit; and
- whether the Minister's decisions with respect to the applications for development and the change of use have merit based on sound planning principles within the field of land use planning and as identified in the objects of the Act.¹³

26. The Commission has commented that it does not lightly interfere with reviewable decisions.¹⁴ The Commission stated in Order LA12-02:

[9] In previous appeals, the Commission has found that it does have the power to substitute its decision for that of the municipal or ministerial decision maker. Such discretion should be exercised carefully. The Commission ought not to interfere with a decision merely because it disagrees with the end result. However, if the decision maker did not follow the proper procedures or apply sound planning principles in considering an application made under a bylaw made pursuant to the powers conferred by the Planning Act, then the Commission must proceed to review the evidence before it to determine whether or not the application should succeed.¹⁵

27. More recently in Order LA23-05, the Commission reaffirmed this principle as follows:

[36] The Commission will generally be reluctant to interfere with a decision on the basis that it is not consistent with sound planning principles where that decision is supported by objective and reliable evidence. This

¹² Record Tab B.

¹³ Stringer at para 52.

¹⁴ *Landfest v Town of Stratford*, Order LA22-07, at para 32.

¹⁵ *Atlantis Health Spa Ltd v City of Charlottetown*, Order LA12-02, at para 9.

evidence must come from planning professionals confirming that the decision is based on the Planning Act, the applicable official plan and bylaw, and sound planning principles. The Commission will typically be deferential toward planning decisions by Council that are properly made.

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28. In this case, the Minister did follow the proper process as set out by law and did apply sound planning principles, and, therefore, we submit that deference has been earned.

29. The Minister's submissions will first address the scope of the appeal followed by the Minister's position on the grounds of the appeal, which will be considered in the same order as presented above.

Scope of Appeal

30. Much of the Appellant's Submissions speak to the testimony and counsels' submissions made during the hearing of Appeal LA15010. It is the Minister's position that the evidence and submissions referred to by the Appellant are not properly before the Commission on the Appeal for the following reasons:

- a. different applications for the structures and different decision being before the Commission on the Appeal;
- b. the evidence not being able to be tested against the facts before the Commission on the Appeal;
- c. the passage of time; and
- d. the parties and their respective counsel changing.

31. Simply put, this is a different appeal than the one before the Commission in Appeal LA15010.

32. As a result, the Minister requests that the Commission only rely on the findings made by the Commission in Order LA17-06, not the testimony and submissions of the parties. For greater certainty, the Commissions' findings are set out at paragraphs 45 to 66 of Order LA17-06.¹⁷

Minister's Position

Step 1: Processing of the Applications

33. The Minister submits that the Decision meets the first part of the two-part test in that the Minister followed the proper process and procedure, and the applicable legislation, when

¹⁶ *Deborah Dennis v City of Charlottetown*, Order LA23-05, at para 36.

¹⁷ Stringer at paras 45 to 66.

making the Decision. The Decision was not overly broad nor arbitrary and was grounded in the principles of natural justice.

34. Subsection 6(c) of the Act provides that the Minister shall generally administer and enforce the Act and the Regulations.¹⁸ The Regulations apply to all areas of the province, except those municipalities with official plans and bylaws.¹⁹
35. As the Subject Property is located in Little Pond, which does not have an official plan or bylaws, the Regulations apply.
36. The Act in force at the time of the Decision is attached as **Tab A**. The Regulations in force at the time of the Decision are attached as **Tab B**.
37. Part III – C of the Regulations sets out the standards specific to development approvals.
38. Subsection 31(1) of the Regulations provides that no person shall do any of the following without first obtaining a development permit from the Minister:

31(1) No person shall, without first obtaining a development permit from the Minister,

- (a) commence the construction of any building or structure;
- (b) locate any building or structure, or change the location of any building or structure on a lot;**
- (c) make any structural alterations that will change the exterior dimensions of any building or structure;
- (d) change the use of any building or structure or land, or part thereof;
- (e) intensify any non-conforming use;
- (f) locate a travel trailer on any lot as the main or accessory use, other than in a travel trailer park where utility services are provided;
- (g) create a mobile home park **[Empasis Added]**.²⁰

39. Pursuant to section 34 of the Regulations:

No development permit shall be issued where the proposed use of the building or structure is contrary to the use specified on an approved subdivision plan.²¹

40. Further, pursuant to subsection 3(2) of the Regulations:

¹⁸ Act, s 6(c).

¹⁹ Regulations, s 2(1).

²⁰ Regulations, s 31(1).

²¹ Regulations, s 34.

3(2) No development permit shall be issued where a proposed building, structure, or its alteration, repair, location, or use or change of use would

- (a) not conform to these regulations or any other regulations made pursuant to the Act;**
- (b) precipitate premature development or unnecessary public expenditure;
- (c) in the opinion of the Minister, place pressure on a municipality or the province to provide services;
- (d) have a detrimental impact;** or
- (e) result in a fire hazard to the occupants or to neighbouring buildings or structures [Empasis Added].²²**

41. The definition of “detrimental impact” in the Regulations is as follows:

1(f.3) “detrimental impact” means any loss or harm suffered in person or property in matters related to **public health, public safety, protection of the natural environment and surrounding land uses**, but does not include potential effects of new subdivisions, buildings or developments with regard to

- (i) real property value;
- (ii) competition with existing businesses;
- (iii) viewscales; or
- (iv) development approved pursuant to subsection 9(1) of the *Environmental Protection Act*.²³

42. In Order LA17-06, the Commission provided relevant guidance for the Minister to satisfy the first part of the test at paragraphs 57 and 61:

[57] The Minister's staff did not perform a site inspection of the original 12 by 14-foot building prior to issuing Permit 87. **In the absence of such an inspection, and given the testimony of Ms. Bryanton, the Commission finds that the 12 by 14-foot converted shed does not meet the definition of a "cottage" or a "dwelling unit" as set out in the Regulations without the installation of toilet facilities in the unit itself and without the installation of an approved septic system. The Commission, therefore, finds that the Minister did not follow an acceptable proper process of procedure as required in the Regulations in ensuring that the building that was to be subject to a change of use, complied with and met the Regulations.** The Minister therefore contravened the first part of the two-part test as enumerated in paragraph 52.

²² Regulations, s 3(2)(a).

²³ Regulations, s 1(f.3).

...

[61] Once again, the terminology of "non-commercial storage buildings" is neither defined nor referred to in the Regulations, although the term "accessory building" is both defined and referred to in the Regulations. It is not apparent from the face of Permit 88 that the non-commercial storage buildings are approved as sleeping quarters or "bunkies". It was clear from the evidence that the Minister's staff were well aware that these sheds were bought for and intended to be used so that people could stay in them. It was the Minister's staff that advised that this was not permissible, but that the shed could fall within the Regulations and be permitted to be placed on the property as a "non-commercial storage building". **By accepting an application, knowing full well that the intended use is not what is stated on the application, the Minister therefore breached the first part of the two-part test and did not follow proper process and handling of the application [Empasis Added].**²⁴

43. The Minister submits that a review of the Decision and the Record demonstrates that the statutory requirements and principles set out in the Act and the Regulations, as well as the guidance of the Commission, were considered and applied during the Minister's assessment of the Applications.
44. The Record shows that Mr. Lloyd completed the Pre-Development and Subdivision Inspection Report on October 25, 2022. As noted in the Pre-Development and Subdivision Inspection Report, Mr. Lloyd sent copies of the application to the Land Use Planning Section and the Department of Environment, Energy and Climate Action.²⁵
45. In regard to the Land Use Planning Section, two professional land-use planners employed by the Department were consulted with respect to the Applications, namely Ms. Mohammed and Mr. O'Hara. At the time of considering the Applications, Ms. Mohammed was the Manager of the Land Division and Mr. O'Hara was (and continues to be) a Land Use Planning Act Specialist.²⁶
46. In following the comments of the Commission in Order LA17-06, Ms. Mohammed and Mr. O'Hara conducted a site visit on August 16, 2022, to ensure that the accessory structures complied with and met the Act and Regulations. The site visit in this matter was especially prudent given the history of the matter and the Commission determining in Order LA17-06 that the Appellant intended to use the same accessory buildings contrary to the use stated in the relevant application.

²⁴ Stringer at paras 57 and 61.

²⁵ Record Tab D.

²⁶ Record Tabs F2 and F3.

47. Contrary to Appellant's Submissions and Jenifer Tsang's Land Use Planning Opinion Report ("Tsang's Report"), the Minister cannot simply accept the Applications at their face value as being true and correct without exercising due diligence to ensure that to be the case. Had the Minister processed the Applications on their face, without conducting a site visit, the first part of the two-part test would have been breached given paragraphs 57 and 61 of Order LA17-06.²⁷
48. The Applications not being correct on their face is further highlighted by the structures being different sizes than what was stated by the Appellant. Tsang's Report notes on page 15 that the structures on the Subject Property are actually smaller than the dimensions provided on the Applications.
49. While at the Subject Property conducting the site visit, structures "A2" and "A3" were observed as being used as "bunkies" and structure "A4" housed the toilet. Based on this information on the respective uses of the structures, the Minister handled the Applications accordingly.
50. The Minister therefore submits that the first part of the test is satisfied. The Decision demonstrates that the relevant sections of the Act and the Regulations, and sound planning principles were considered and applied in this case, and that the Minister followed the proper process and procedure in rendering a decision with respect to the Applications.
51. Further and in response to paragraph 40 of the Appellant's Submissions, the Minister considers all development permit applications thoroughly. The time between filing the application and rendering a decision varies depending on the complexity of the application, the history of the matter, and the quantity of applications filed. The Minister makes best efforts to ensure that all applications are properly processed in a timely manner.

Step 2: Sound Planning Principles

Sound Planning Principles

52. The Decision meets the second part of the test in that it is supported by objective and reliable evidence from two professional land-use planners confirming that the Decision is based on the Act, the Regulations, and sound planning principles.
53. The assessment of the Applications pursuant to the Act, the Regulations, and the application of sound planning principles ensured that the decision was neither arbitrary, nor overly broad.
54. The Minister highlights the Commission's highly relevant findings in Order LA17-06 with respect to sound planning principles in the process of decision-making:

²⁷ Stringer at paras 57 and 61.

[63] The objects of the Planning Act require: efficient planning, protection of the Province's unique environment, an effective means for resolving land use conflict and to provide the opportunity for public participation in the planning process. The Commission expects decisions made under the Planning Act and the Regulations to not only follow the legislative requirements but also be in accordance with sound planning principles. **Adherence to sound planning principles is especially important where, as here, the legislation has not addressed a particular type of development. Sound planning principles could consider not only whether "bunkies" would or would not be permitted, but also, if deemed to be permissible, determine the number permitted on a parcel, size, location, appearance, consultation with adjacent property owners and other such factors.**

[64] The Commission reiterates, as set out in paragraph 58 herein, that this type of development must have merit based on sound planning principles. **Adherence to sound planning principles is especially important where there are applications to place a number of buildings on a single lot all of which, for the most part, would be used as "bunkies". Sound planning principles would determine whether it is appropriate to have a sprinkling of sheds over a cottage lot property and, if so, what number, size and location, appearance would be permitted on the parcel, after consultation with adjacent property owners and consideration of other factors. (Atlantis Health Spa Ltd. v. City of Charlottetown, Order LA12-02) ... Sound planning principles are a guard against arbitrary decision making especially where a regulatory checklist does not address a concern.** Sound planning principles require regulatory compliance but go beyond merely insuring such compliance and require discretion to be exercised in a principled and informed manner. Sound planning principles require the decision maker to take into consideration the broader implications of their decisions. In order to ensure that sound planning principles have been followed in anomalous applications a professional land use planner must be consulted. The Minister's staff admitted that, in hindsight, the decision to grant the permits for these applications allowing the placement of three sheds on one lot was not based on sound planning principles. The Minister's staff further acknowledged that the applications, if they were now received, would not have been processed without land use planners being consulted.²⁸

55. Again, in Order LA17-06, the Commission commented that in determining whether a development permit should be granted, the Minister must make an examination:

²⁸ Stringer at paras 63 and 64.

beyond the strict conformity with the Regulations and must consider sound planning principles including, but not limited to, the quality of architectural design, compatibility with architectural character of adjacent development, site development principles for the placement of structures and a thorough assessment of whether the development is consistent with sound planning principles (*Atlantis Health Spa Ltd. V. City of Charlottetown*, Order LA12-02). The alteration of the character and appearance of the neighbourhood must also not be contrary to sound planning principles (*Compton v. Town of Stratford*, Order LA07-05).²⁹

56. In addition, in assessing suitability and compatibility, a review of sound planning principles includes looking at the development's lot coverage, scale, height, massing, and unique lot features. All of these factors are to be considered in determining whether the development is compatible with and has architectural harmony with the surrounding properties.³⁰
57. In this case, the application of sound planning principles required that the Minister deny the Applications.
58. At the time of the Decision being rendered, the following purposes and provincial interests were incorporated into the Act, in part:

2. Purposes

The purposes of this Act are

- (a) to provide for efficient planning at the provincial and municipal level;
- (b) to promote sustainable and planned development;**
- (c) to protect the natural and built environment of the province;
- (d) to encourage co-operation and co-ordination among stakeholders;
- (e) to address potential conflicts regarding land use;
- (f) to provide the opportunity for public participation in the planning process; and
- (g) to ensure compatibility between land uses. 1988, c.4, s.2; 2021,c.42,s.1.

2.1. Provincial interests

(1) The Minister in carrying out the Minister's responsibilities in relation to planning matters and the effects of proposed development under this Act shall have regard but not be limited to matters of provincial interest, such as

- (h) the effect of proposed planning development on, and measures for the protection of, public health and safety;

...

²⁹ Stringer at para 58.

³⁰ *Pine Cone Developments Inc v City of Charlottetown*, Order LA17-08, at para 52 [Pine Cone].

(l) the orderly and sustainable development of safe and healthy communities;³¹

59. The following definitions set forth in the Regulations are also pertinent:

1. Definitions

In these regulations

(a) “accessory building” means a building whose use is incidental and subordinate to, and consistent with, the main or approved use of the lot upon which the building is located;

...

(c) “building” means any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal, or chattel, and includes a mini home or mobile home;

...

(g.1) “dwelling” means a building or portion thereof designed, arranged or intended for residential occupancy, and

(i) “dwelling unit” means one or more rooms used or intended for domestic use of one or more individuals living as a single housekeeping unit with cooking and toilet facilities,

(ii) “single-unit dwelling” means a building containing one dwelling unit and does not include mobile homes, but does include mini homes, modular homes, single-family dwellings and summer cottages,

...

(v.2) “summer cottage” means a single-unit dwelling that is intended to be occupied primarily during the summer months;³²

60. As a preliminary comment, the Appellant’s Submissions at paragraphs 137 to 141 raised whether sound planning principles ought to be applied by the Minister in reviewing the Applications as they were not anomalous. Order LA17-06 was clear that this type of development requires the Minister to consult with a professional land-use planner and apply sound planning principles. The Minister did that.

61. This type of development refers to the number of accessory shelters being proposed for the Subject Property, two of which, structures “A2” and “A3”, having been observed to be used as sleeping quarters or “bunkies”. As neither the Act nor the Regulations address “bunkies”, sound planning principles are paramount to considering whether “bunkies” would be permitted. If they are to be deemed permissible, then sound planning principles must determine the number permitted on the Subject Property, size, location, and appearance.

³¹ Act, ss 2 and 2.1(1).

³² Regulations, s 1.

62. As such, when considering and applying sound planning principles to the Application, Ms. Mohammed and Mr. O'Hara correctly considered whether it is appropriate to have a sprinkling of sheds over a cottage lot property and, if so, what number, size, location, and appearance would be permitted on the parcel as directed by the Commission previously.
63. In the opinion of Ms. Mohammed, as a professional planner, and as set out in her correspondence to Mr. Lloyd:
- a. the two structures being used as sleeping quarters have no toilets or running water, which does not satisfy health standards;
 - b. the structures are not incidental to the single dwelling unit;
 - c. the structures are spread out across the Subject Property interrupting the views of the Appellant and adjacent landowners, but taking advantage of the water view;
 - d. the structures being used as "bunkies" supports that one shed is required for storage;
 - e. the placement of the structures on the Subject Property is not orderly for use as storage;
 - f. the use of "bunkies" is unsafe and unhealthy; and
 - g. the A4 structure is no longer required upon the toilet being moved inside the dwelling unit.³³
64. Further, in the opinion of Mr. O'Hara, as a professional planner, and as set out in his report:
- a. the current use of the Subject Property appears contrary to the approved use; and
 - b. the relevant planning considerations in processing the Application include: previous planning decisions on the Subject Property, noise and disturbance resulting from the proposed development, and the layout and density of the structures.³⁴
65. In light of Ms. Mohammed and Mr. O'Hara's application of sound planning principles, the Minister submits that the Applications were found to be contrary to the purposes and provincial interests set out in the Act.
66. The Minister also submits that the structures being used as a "bunkie" would create a detrimental impact on public health and/or safety. The Minister recognizes that the assessment of "detrimental impact" is by its nature discretionary. It is the Minister's position, however, that any discretion exercised by the Minister in this assessment was done in accordance with sound planning principles and the legislation.

³³ Record Tab F3.

³⁴ Record Tab F2.

67. The Decision was therefore grounded in sound planning principles within the field of land use planning and consistent with the purposes and provincial interests as set out in the Act. The Minister submits that the Decision furthers sustainable and planned development of safe and healthy communities.
68. In this case, the Minister acknowledges that the Applications on their face are not contrary to the Act and the Regulations. In other words, the Applications could be approved from a technical perspective.
69. However, Ms. Mohammed and Mr. O'Hara recommended that the Applications should not be approved on the basis of land use planning concerns and sound planning principles taking into account their observations at the Subject Property, which were contrary to the Applications' stated uses.
70. In addition, at the time of the Decision, the Minister's ability to enforce development permits, and conditions attaching thereto, was limited. Consequently, there were limited methods available to penalize the Appellant, including the issuance of fines, if the Development Permits were granted and subsequently not followed.³⁵
71. As a result, the application of sound planning principles required that the Minister deny the Application pursuant to subsections 2.1(1)(h) and (l) of the Act, and subsections 1(f.3) and 3(2)(a), (d), and (e) and section 34 of the Regulations.

Report on the Task Force on Land Use Policy

72. Throughout the Appellant's Submissions, she refers to the Report on the Task Force on Land Use Policy (the "Policy") in support of her position.
73. The Minister refers to Order LA23-04 where the Commission offered the following in response to policies relied upon by the Minister:
- [19] ... Many of the papers, recommendations, statements, and policies relied upon in the Minister's Report are not anchored in Act, Regulations, or sound planning principles. The authorities cited are reports and white papers that have been developed by or submitted to Government over decades. They consist of multiple land use reviews by various lay person panels who made proposals for future land use policy. They contain blue sky proposals and desires that amount to wishes, not law.³⁶
74. The Minister therefore submits that the Appellant's reliance on the Policy must be weighed appropriately in light of same not being enacted into law.

³⁵ Megan Williams' Expert Report, at page 2.

³⁶ *Lucas Arsenault, Jennie Arsenault and L&J Holdings Inc v Minister of Agriculture and Land*, Order LA23-04, at para 19 [Arsenault].

Professional Land-Use Planner

75. The Minister dutifully recognizes the Commission's comments in relation to the Minister's requirement to consult a professional land-use planner to ensure discretionary provisions of the legislation are interpreted in accordance with the Act, the Regulations and sound planning principles.³⁷ The Minister acknowledges that the public is entitled to decisions that are founded in sound planning principles and is committed to rendering decisions in accordance with these principles.
76. As stated herein, the Decision relied on Ms. Mohammed's and Mr. O'Hara's recommendations as professional land-use planners. These recommendations were not subjective opinion, but anchored in the Act, Regulations, and sound planning principles.
77. With respect to Ms. Mohammed's professional accreditations in land use planning, she is a RPP and MCIP.
78. With respect to Mr. O'Hara's professional accreditations in land use planning, these were before the Commission in Order LA23-04. The Commission found that Mr. O'Hara was not a professional land-use planner as he did not have recognized professional accreditation(s) in land use planning.³⁸
79. The Minister respectfully disagrees with the Commission's findings in Order LA23-04. First and foremost, Mr. O'Hara has now obtained his RPP designation and will be in a position to speak to his recommendations on the Application as a RPP at the hearing of this matter.
80. At the time of rendering his report, his qualifications included being a candidate member of the Canadian Institute of Planners, chartered member of the Royal Town Planning Institute, corporate overseas member of the Irish Planning Institute, and Master of Science in Planning and Property Development. As a candidate member of the Canadian Institute of Planners, Mr. O'Hara must abide by the same Code of Professional Conduct and Statement of Values as "full" members of the Canadian Institute of Planners.³⁹
81. Following graduating with his Master of Science degree in July 2013, he has been employed in various planning and surveying positions. As a result, he has over ten years of experience in the planning field. Since July 2021, Mr. O'Hara has been employed by the Department as a Land Use and Planning Act Specialist.
82. As a result of Mr. O'Hara's experience and memberships, the Minister submits that Mr. O'Hara was a professional land-use planner who weighed and balanced the important

³⁷ Stringer at para 64.

³⁸ Arsenault at paras 43 to 46.

³⁹ [Code of Professional Conduct and Statement of Values.](#)

considerations associated with sound planning principles in rendering his report in this matter.

83. In Order LA24-04, the Commission addressed the weight to be given to a land-use planner's evidence who does not hold a RPP or MCIP at paragraph 61:

[61] First, Mr. Kenebel's Development Report is thorough and comprehensive. It addresses how the Development meets the objectives of the Official Plan and complies with the 2023 Bylaw, including the variance factors at section 3.6.1. Mr. Kenebel has experience and training as a land-use planner and is a member of the Royal Town Planning Institute. The Commission accepts his evidence as credible and knowledgeable about the issues testified to.⁴⁰

84. The Minister requests that the Commission accept Mr. O'Hara's evidence as it relates to the consideration of the Application in 2022 as being credible and knowledgeable.

Relevant and Irrelevant Factors Considered

85. It is the Minister's position that the Record of the Decision demonstrates that the factors that were taken into consideration were relevant and that no irrelevant factors were considered. The Record contains objective and reliable evidence that was weighed by the Minister to determine that the Applications were contrary to the legislation and sound planning principles.
86. It is the Minister's further position that the Decision was free from a reasonable apprehension of bias and was solely based on the statutory requirements and principles within the field of land use planning.
87. The Decision letter of December 13, 2022, clearly sets forth the reasons behind the Minister arriving at the decision to deny the Applications. The reasons identified the relevant sections of the Act and the Regulations under which the Application was denied and adopts the recommendations of Ms. Mohammed and Mr. O'Hara.⁴¹
88. The Commission addressed the requirement of objective decision making in Order LA17-24 stating that reliance must be placed on the assessment, opinions, and reports of trained professionals as opposed to the hue and cry of neighbours or politicians.⁴²

⁴⁰ *Geraldine Johnston-Grinton and Paul Grinton v Town of Three Rivers*, Order LA24-04, at para 61.

⁴¹ Record Tab A.

⁴² Pine Cone, at para 47.

89. It is the Minister's position that an informed person, viewing the matter realistically and practically, would not apprehend that there was bias in issuing the Conditional Permit.⁴³ As a result, the Minister could not be found to have a reasonable apprehension of bias.
90. In response to the Appellant's allegations of procedural inconsistencies at page 12 of the Appellant's Submissions under the section entitled "Procedural Inconsistencies", the Minister relies on the Commission's comments on inconsistency and its relation to bias in Order LA19-02 at paragraphs 40 and 44 as follows:

[40] It may be that the Appellant is conflating or otherwise confusing the legal determination of bias in the municipal context with suggested inconsistencies in decision-making by a municipal council. As counsel for the Municipality correctly points out, the Appellant must persuade the Commission that the Municipality closed its mind to the Application. [21] It has not done so. The evidentiary threshold is high and the burden rests on the Appellant.

...

[44] Even when inconsistency has been established, inconsistency is not bias. Past decisions of the Municipality are not relevant to the Application or this appeal. They certainly do not, at least in this appeal, establish bias. The Municipality was required to consider the Application individually and on its own merits. Upon a thorough review of the Record, the Commission accepts that the Municipality did just that.⁴⁴

91. Further and in response to the Appellant's allegations of bias and lack of impartiality at pages 14 and 15 of Appellant's Submissions under the section entitled "Influenced", the Minister relied on the professional planners' objective opinions and was not influenced by the hues and cries of neighbours, namely Ms. Stringer. The Minister considers applications in accordance with the process and procedure required by the Regulations, the Act, and the law in general, which has resulted in both the Appellant and Ms. Stringer appealing the Minister's decisions in the past.
92. Based on the foregoing, the Appellant has not met the high threshold of adducing evidence to satisfy the legal test for bias.

Conclusion

93. For the reasons outlined above, the Minister submits that the Appeal must be dismissed.
94. The Minister submits that the two-part test set out in Stringer has been satisfied: (1) proper process and procedure were followed by the Minister in denying the Applications in

⁴³ *R v S (RD)*, [1997] 3 SCR 484.

⁴⁴ *Smooth-Coat Drywall Ltd v Resort Municipality*, Order LA19002, at paras 40 and 44.

accordance with the Act and the Regulations; and (2) a professional land-use planner was consulted on the Application and formed an opinion based on sound planning principles.

95. In the event the Minister grants the Appeal, the Minister submits that the location of the structure "A3" must be confirmed to ensure it meets the minimum buffer zone of 15 metres in accordance with the *Environmental Protection Act Watercourse and Wetland Protection Regulations*, PEI Reg EC720/08.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 22nd day of October, 2024.



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TAB

A



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PLANNING ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to November 17, 2021. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

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PLANNING ACT

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PLANNING ACT CHAPTER P-8

INTERPRETATION

1. Definitions

In this Act

- (a) **“Commission”** means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11;
- (b) **“council”** means the council of a municipality;
- (c) **“developer”** means a person who, directly or indirectly, is authorized to apply for approval of a development or subdivision or to enter into an agreement regarding a development or subdivision;
- (d) **“development”** means
 - (i) site alteration, including but not limited to
 - (A) altering the grade of the land,
 - (B) removing vegetation from the land,
 - (C) excavating the land,
 - (D) depositing or stockpiling soil or other material on the land, and
 - (E) establishing a parking lot,
 - (ii) locating, placing, erecting, constructing, altering, repairing, removing, relocating, replacing, adding to or demolishing structures or buildings in, under, on or over the land,
 - (iii) placing temporary or permanent mobile uses or structures in, under, on or over the land, or
 - (iv) changing the use or intensity of use of a parcel of land or the use, intensity of use or size of a structure or building;
- (e) **“development agreement”** means an agreement between a developer and a council, or between a developer and the Minister, or a tripartite agreement between a developer, a council and the Minister, respecting the terms and conditions under which a development may be carried out;
- (e.1) **“development permit”** means a permit issued for a development under the regulations or pursuant to a bylaw but does not include a building permit issued under the *Building Codes Act*;
- (f) **“Minister”** means the Minister of Agriculture and Land;
- (g) **“municipality”** means a municipality as defined in the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1;

- (h) “**official plan**” means a plan for a municipality adopted under Part III;
- (i) “**planning board**” means a planning board or joint planning board appointed under Part III;
- (j) “**resident**” in relation to a municipality, means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of the municipality;
- (j.1) “**state of emergency**” means a state of emergency declared by the Minister of Justice and Public Safety or a mayor under the *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1, or a public health emergency declared under the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1;
- (k) “**subdivision**” means
 - (i) the division of a parcel of land to create two or more new parcels of land,
 - (ii) the consolidation of two or more contiguous parcels of land to create a new parcel of land, or
 - (iii) the attachment of a part of a parcel of land to another parcel of land contiguous to that part to create a new parcel of land,
 by means of a plan of subdivision, a plan of survey, an agreement, a deed or any other instrument, including a caveat, that transfers or creates an estate or interest in the new parcels of land created by the division, or in the new parcel of land created by the consolidation or the attachment, as the case may be;
- (l) “**subdivision agreement**” means an agreement between a council and a developer whereby the developer undertakes to provide basic services in order to develop a plan of subdivision. *1988, c.4, s.1; 1991, c.18, s.22; 1993, c.29, s.4; 1994, c.46, s.1 {eff.} March 31, 1995; 1995, c.29, s.1 {eff.} Oct. 14/95; 1997, c.20, s.3; 2000, c.5, s.3; 2009, c.73, s.2; 2010, c.31, s.3; 2012, c.17, s.2; 2014, c.40, s.1; 2015, c.28, s.3; 2016, c.44, s.277; 2017, c.10, s.1(2); 2019, c.1, s.3; 2017, c.61, s.35(2); 2021, c.14, s.1.*

OBJECTS

2. Purposes

The purposes of this Act are

- (a) to provide for efficient planning at the provincial and municipal level;
- (b) to promote sustainable and planned development;
- (c) to protect the natural and built environment of the province;
- (d) to encourage co-operation and co-ordination among stakeholders;
- (e) to address potential conflicts regarding land use;
- (f) to provide the opportunity for public participation in the planning process; and
- (g) to ensure compatibility between land uses. *1988, c.4, s.2; 2021, c.42, s.1.*

2.1 Provincial interests

- (1) The Minister in carrying out the Minister’s responsibilities in relation to planning matters and the effects of proposed development under this Act shall have regard but not be limited to matters of provincial interest, such as
 - (a) the protection, conservation and management of resource lands;
 - (b) the protection, conservation and management of coastal areas;
 - (c) the protection, conservation and management of ecological systems;

- (d) the prevention of fragmentation of land and of loss of natural habitat connectivity and biodiversity;
- (e) the supply, efficient use and conservation of water;
- (f) the supply, efficient use and conservation of energy;
- (g) the adequate provision and efficient use of communication, transportation, sewage and water services, storm water management systems, waste management systems and other public services in relation to planning development, and the effect of planning development on those services;
- (h) the effect of proposed planning development on, and measures for the protection of, public health and safety;
- (i) the protection of features of significant archaeological, cultural, architectural, historical or scientific interest;
- (j) the protection of viewsapes that contribute to the unique character of Prince Edward Island;
- (k) the direction of development to areas designed to support servicing;
- (l) the orderly and sustainable development of safe and healthy communities;
- (m) the adequate provision of a full range of housing options;
- (n) the promotion of a built environment that supports public transit and active transportation;
- (o) the promotion of a built environment that incorporates the principles of conservation design;
- (p) the adaptation of the built and natural environment to address the effects of climate change;
- (q) the mitigation of greenhouse gas emissions; and
- (r) adaptation to a changing climate.

Regulations

- (2) The Lieutenant Governor in Council may make regulations to establish additional matters of provincial interest for the purposes of subsection (1). *2021, c.42, s.2.*

PART I — LAND USE COMMISSION

Sections 3 to 5 repealed by *1991, c.18, s.22 {eff.} Nov. 4/91.*

PART II — PROVINCIAL PLANNING

6. Role of Minister

The Minister shall

- (a) advise the Lieutenant Governor in Council on provincial land use and development policy;
 - (b) perform the functions conferred on him by this Act and the regulations;
 - (c) generally, administer and enforce this Act and the regulations,
- and may
- (d) provide planning advisory services;

- (e) promote co-operation between municipalities with respect to inter-municipal or regional planning issues;
- (f) promote public participation in the development of policies;
- (g) establish organizations and groups which he may consult respecting the exercise of his functions;
- (h) delegate any of his functions under this Act or the regulations. *1988, c.4, s.6.*

7. Role of cabinet

- (1) The Lieutenant Governor in Council may
 - (a) adopt provincial land use development policies;
 - (b) establish minimum requirements applicable to official plans;
 - (c) make regulations establishing minimum development standards respecting
 - (i) public health and safety,
 - (ii) protection of the natural environment,
 - (iii) landscape features.

Modification of official plan and bylaws to conform with regulations

- (2) Where regulations have been made pursuant to clause (1)(c) or section 8.1, the council of a municipality with an official plan or bylaws made under this Act shall, within one hundred and twenty days of the date of publication of the regulations in the Gazette, make such amendments to its official plan or bylaws as are necessary to ensure that any requirements imposed thereby are not less stringent than those imposed by the comparable provision of the regulations.

Procedure

- (3) Sections 11, 13 and 18 do not apply to an amendment made pursuant to subsection (2).

Declaration nullifying municipal bylaws

- (4) Where a council fails to comply with subsection (2), the Lieutenant Governor in Council may, by order, declare
 - (a) the official plan or bylaws, or any part thereof, made by that council to be null and void;
 - (b) which of the provisions of the regulations made pursuant to clause (1)(c) apply in their stead.

Effect of order

- (5) Where an order is made under subsection (4),
 - (a) the regulations made under clause (1)(c), or such parts of them as are specified in the order, apply in the municipality in which the council has jurisdiction; and
 - (b) the Minister has exclusive jurisdiction with respect to subdivision approvals, development permits and building permits in the municipality, but any such approval or permit issued before the date of the order is valid if it complied with the official plan and bylaws in force at the time of issue. *1995, c.29, s.2 {eff.} Oct. 14/95.*

7.1 Land use policy regulations

- (1) The Lieutenant Governor in Council may make regulations with respect to land use policies adopted pursuant to clause 7(1)(a) and, in particular, may make regulations that

- (a) establish land use designations;
- (b) establish the objectives, purpose and function of land use designations;
- (c) refer to or otherwise specify maps or plans that corroborate the objectives, purpose and function of the land use designations;
- (d) prescribe the geographical boundaries within which a land use designation applies;
- (e) refer to or otherwise specify maps or plans that illustrate the geographical boundaries within which the land use designations apply;
- (f) regulate development and land uses within the geographical boundaries shown on a referenced map or plan for a land use designation; and
- (g) amend or revoke a land use designation in circumstances where the objectives, purpose and function it was established to fulfill no longer apply.

Consistency with official plan and bylaw

- (2) A council's official plan and bylaw
 - (a) shall be, at a minimum, consistent with the regulations established under subsection (1); and
 - (b) may be more stringent than the applicable provisions of the regulations.

Protection paramount

- (3) In the event of an inconsistency or conflict between the regulations established under subsection (1) and a council's official plan and bylaw, the provisions that provide more protection for the matters specified in clause 7(1)(c) shall prevail. *2017, c.10, s.1(3).*

8. Provincial planning regulations

- (1) The Lieutenant Governor in Council may make provincial planning regulations applicable to any area except a municipality with an official plan and bylaws

general

- (a) with respect to planning and land use matters affecting the general welfare, health, safety and convenience of persons in any area or municipality;

areas

- (b) with respect to the definition of areas to be regulated;

zoning

- (c) with respect to land use zones, and in particular
 - (i) establishing and prescribing the geographical boundaries of zones,
 - (ii) prescribing permitted uses of land and structures within zones, and
 - (iii) establishing and regulating areas as conservation zones for the purpose of preserving therein objects of beauty, fossil remains, other objects, animate and inanimate, of aesthetic, educational or scientific interest, or for the purpose of preserving any unusual combination of elements of the natural environment having educational, historic or scientific interest,
 - (iv) establishing and regulating areas as environmentally sensitive areas;

subdivision

- (d) with respect to the subdivision of land and in particular
 - (i) governing, restricting and prohibiting subdivision of land,

- (ii) setting out procedures for subdivision application,
- (iii) empowering and governing subdivision agreements between the Minister and subdividers and between vendors and purchasers,
- (iv) requiring a subdivider to convey to the Crown or a non-profit corporation, for open space, recreation, park or other public use, for the benefit and enjoyment of landowners and residents in the neighbourhood, up to 10 per cent of the land being subdivided or to apply the equivalent value thereof to be held in a fund for those purposes;

development and services

- (e) with respect to the development of land and the provision of services and in particular
 - (i) governing the servicing of land with streets, sidewalks, and piped services,
 - (ii) establishing standards and timetables for the servicing of land,
 - (iii) establishing cost-sharing schedules for development and maintenance between the developer and the Crown or between vendors and purchasers,
 - (iv) authorizing the Minister to negotiate development agreements with a developer;

development charges

- (e.1) with respect to development charges to compensate the Government or another person for an increase in a capital cost that results from a need to directly or indirectly service land that is to be developed or subdivided, or that will be incurred as a result of the effect of a development or subdivision on other areas and, in particular,
 - (i) establishing eligible on-site and off-site costs, or portions of them, that a development charge may be levied to fund,
 - (ii) establishing rules to calculate a development charge for an eligible cost,
 - (iii) prescribing development charges,
 - (iv) establishing means of payment and schedules of payment of development charges,
 - (v) establishing the amount and type of security a developer may be required to provide to ensure the payment of development charges,
 - (vi) authorizing the Minister to negotiate and enter into development charge agreements with developers and other parties,
 - (vii) regarding the registration of development charge agreements,
 - (viii) any other matters necessary or desirable to effect a development charge agreement;

building standards

- (f) with respect to building standards and in particular
 - (i) repealed by 2017,c.61,s.35(3),
 - (ii) establishing standards for the prevention and suppression of fires,
 - (iii) establishing and prescribing architectural control standards;

development permits

- (g) with respect to the use of development permits and in particular
 - (i) requiring the use of development permits for subdivision and development,

- (ii) setting the terms and conditions under which development permits may be issued, refused, suspended, reinstated and revoked or may expire,
- (iii) providing penalties for failure to obtain development permits,
- (iv) providing methods, sanctions and procedures for ensuring compliance with the terms and conditions of development permits,
- (v) empowering and governing development agreements between the Minister and a developer,
- (vi) prescribing fees for development permits,
- (vii) providing for and authorizing the lawful inspection and entry therein of properties that are the subject of development permits;

environment protection

- (h) with respect to environmental protection and in particular
 - (i) establishing as a precondition to issue of a permit that the provisions of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 and the regulations thereunder and the *Water Act* R.S.P.E.I. 1988, Cap. W-1.1 and the regulations thereunder be complied with,
 - (ii) that failure to comply be grounds for refusal or revocation of permits;

scenic heritage roads

- (i) repealed by 2005, c.46, s.1;

access to highways

- (j) with respect to access to streets and highways and in particular, subject to the provisions of the *Roads Act* R.S.P.E.I. 1988, Cap. R-15,
 - (i) regulating access roads and lanes and driveways having access to a street or highway in accordance with the laws of the province,
 - (ii) requiring a permit before the construction of such roads, lanes and driveways,
 - (iii) imposing limitations or conditions on a permit;

mobile homes

- (k) with respect to mobile homes, mobile home courts, travel trailers used as a residence and travel trailer courts and in particular
 - (i) prescribing terms and conditions respecting their use, location, maintenance, design and construction,
 - (ii) requiring development permits for them;

special planning areas

- (l) repealed by 1991, c.30, s.1;

parking areas

- (m) with respect to vehicular parking and in particular
 - (i) regulating the allocation of space for parking and loading areas in each lot of a subdivision,
 - (ii) requiring the setting aside of land in a subdivision, building or development site for vehicular parking and loading including space for public transportation services;

summer cottages

- (n) with respect to summer cottages and in particular
 - (i) prescribing terms and conditions respecting their use, location,
 - (ii) prescribing terms and conditions respecting the subdivision and development of land for summer cottage purposes,
 - (iii) requiring development permits for summer cottage development and the subdivision of land for summer cottage use;

fees

- (o) prescribing fees in respect of an application for a subdivision approval or development permit;

land identification program

- (p) with respect to a land identification program to prevent commercial or industrial development or subdivision of identified land and respecting the particulars of a land identification agreement;

enforcement

- (q) with respect to the enforcement of this Act, regulations and bylaws and in particular
 - (i) empowering the Minister to take such remedial or other action as may be necessary to ensure compliance with this Act and the regulations, including the taking of an action required to be taken by a permittee or any other person,
 - (ii) empowering the Minister to incur such costs as are necessary in taking such remedial or other action and to charge them to the permittee or other person,
 - (iii) respecting the persons or officers, or classes of persons or officers, who have the power and authority to enforce this Act and the regulations or any specified provisions of this Act and the regulations, and
 - (iv) respecting the powers and duties of persons or officers who enforce this Act and the regulations or specified provisions of this Act and the regulations.

Municipal plan

- (1.1) Repealed by *1995, c.29, s.3.*

Restrictions on zoning for public purposes

- (2) No zone shall be established pursuant to clause (1)(c) in which the land therein is used or intended to be used exclusively for public purposes unless all the land in the zone is owned by the Crown, a municipality or a public authority or is intended to be acquired by the Crown, a municipality or a public authority within six months after the date of establishment of the zone and, in the case of a zone established by a municipality on land owned by the Crown or a public authority, the written approval of the Crown or public authority is first obtained.

Subdivision agreement, effects of covenants

- (3) Where pursuant to this Act or any regulation made under subsection (1) an agreement respecting a subdivision of land is made by and between a developer and the Minister which provides for the incorporation of a company to hold and manage an area of land or facilities for the common benefit of the owners from time to time of land within the subdivision affected by the agreement, any covenants made pursuant to that agreement between the developer and the owners of land within the subdivision and expressed to run with the land

shall run with the land and be binding upon any subsequent owner thereof notwithstanding that such covenant is positive in nature.

Agreements run with land

- (3.1) A subdivision agreement, development charge agreement or development agreement between a developer and any other party and a council, or between a developer and any other party and the Minister, or a multipartite agreement involving developers, other parties, councils and the Minister, shall be registered in the office of the Registrar of Deeds for the county in which the land is situated, and a party to the agreement may enforce the provisions of the agreement against any other party to the agreement and against any or all subsequent owners or tenants of the land to which it applies.

Registration in registry office

- (4) Subsection (3) is of no effect unless and until the agreement referred to therein between the Minister and the developer and the covenants between the developer and the owners are registered in the office of the Registrar of Deeds for the county in which the land is situated.

Prohibitions

- (5) For the avoidance of doubt it is declared that the power to make regulations with respect to any activity or development pursuant to subsection (1) includes power to prohibit that activity or development.

Cancellation of land identification agreement

- (6) Where real property has been identified pursuant to the regulations made under clause (1)(p), the land identification agreement may be altered or cancelled only
- (a) by a majority vote of the Commission; and
 - (b) with the consent in writing of the current owner. *1988, c.4, s.8; 1991, c.30, s.1{eff.}May 16/91; 1991, c.18, s.22{eff.}Nov. 4/91; 1995, c.29, s.3 {eff.} Oct. 14/95; 2005, c.46, s.1; 2006, c.16, s.63(9.3); 2017, c.10, s.1(4); 2017, c.17, s.822017, c.61, s.35(3).*

8.1 Regulations, special planning areas

The Lieutenant Governor in Council may make regulations with respect to special planning areas and, in particular

- (a) establishing the special planning areas;
- (b) prescribing their geographical boundaries;
- (c) defining the objectives, purpose and function of the special planning areas;
- (d) regulating development in special planning areas;
- (e) superseding or suspending the application of the bylaws of a municipality or any part of such bylaws within a special planning area and substituting therefor regulations under this Act. *1991, c.30, s.2 {eff.} May 16/91; 1994, c.46, s.2 {eff.} July. 14/94.*

PART III — MUNICIPAL PLANNING

9. Responsibility of council

- (1) The council of a municipality which has an official plan adopted under this Act or a previous *Planning Act* is responsible for administration of the official plan within the boundaries of the municipality.

Consistency with provincial policies, etc.

- (1.1) Where
- (a) a provincial land use and development policy pursuant to clause 7(1)(a);
 - (b) minimum requirements applicable to official plans pursuant to clause 7(1)(b); or
 - (c) regulations pursuant to clause 7(1)(c)

have been adopted, established or made, the land use policy of a council or the official bylaws of a municipality shall, subject to subsection 7(2), be consistent with them.

Planning board

- (2) The council of a municipality may appoint a planning board to prepare an official plan.

Duties and powers of planning board

- (3) The planning board has the following powers and duties:
- (a) to investigate and survey the physical, social and economic conditions in relation to the development of the municipality;
 - (b) to recommend to the council, for its adoption, an interim planning policy;
 - (c) to prepare and recommend to council for its adoption a proposed official plan;
 - (d) to prepare and recommend to the council proposed alterations and additions to the official plan;
 - (e) to recommend to the council bylaws in respect of the official plan;
 - (f) to hold public meetings;
 - (g) when requested by the council so to do, to prepare estimates of the cost of any public work, improvement, or other project; and
 - (h) to perform such other duties of a planning nature as may be requested by the council.

Constitution

- (4) A planning board shall consist of
- (a) a chairman who shall be a member of the council; and
 - (b) not less than two other members who may be members of the council.

Term of office

- (5) Members of a planning board hold office until their successors are appointed.

Notice to Minister

- (6) The council shall notify the Minister of the establishment of a planning board, give the names of the members thereof and notify the Minister of any changes in the membership of the board.

Remuneration

- (7) The members of a board shall receive such remuneration and expenses as the council may determine.

Powers

- (8) For the purpose of assisting a planning board to prepare an official plan, a council may
- (a) employ staff;
 - (b) engage consultants;
 - (c) incur expenditures;

- (d) study, investigate and survey physical, social and economic matters relevant to the preparation, amendment or implementation of an official plan. *1988, c.4, s.9; 1991, c.30, s.3 {eff.} May 16/91; 1994, c.46, s.3 {eff.} July 14/94; 1995c.29, s.3 {eff.} Oct. 14/95.*

INTERIM PLANNING POLICY

10. Interim planning policy

- (1) A planning board may recommend to the council the adoption of an interim planning policy containing limitations, restrictions and prohibitions on land use pending the completion of an official plan.

Refusal pending adoption of bylaws

- (2) The council or the Minister, as the case may be, may refuse to hear applications for subdivision approvals, development permits or building permits from the date of receipt by the council of the proposed interim planning policy until the bylaws giving effect to the policy come into force.

Notice

- (3) The council shall, before adopting an interim planning policy hold at least one public meeting, notice of which is published on at least two occasions in a newspaper circulating in the area, not less than seven days before the meeting, in order to give an opportunity to residents and other interested persons to make representation.

Public meeting during state of emergency

- (3.1) During a state of emergency, the public meeting referred to in subsection (3) may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

Minutes of meeting

- (4) The council shall maintain a record of the proceedings at the public meeting and, in particular, of the objections and representations made by the residents and other interested persons.

Bylaws

- (5) Within sixty days after the public meeting the council may, with the approval of the Minister, make bylaws to give effect to the interim planning policy.

Suspension of provincial regulations

- (5.1) Where a bylaw has been made under subsection (5), regulations made under subsection 8(1) are suspended while the bylaw is in effect.

Duration

- (6) The bylaws shall remain in effect for a period of six months but may be extended for a further period not exceeding six months.

Application

- (7) Bylaws giving effect to an interim planning policy do not apply in respect of any development for which application is made prior to the date of the receipt by the council of

the proposed interim planning policy from the planning board. *1988, c.4, s.10; 1995, c.29, s.5 (eff.) Oct. 14/95; 2021, c.14, s.2.*

OFFICIAL PLAN

11. Opportunity for public input

- (1) Before recommending to the council the adoption of an official plan or any review of an official plan, the planning board shall give an opportunity to residents and other interested persons to make representations.

Public meeting

- (2) The board shall hold at least one public meeting, notice of which is published on at least two occasions in a newspaper circulating in the area indicating
- (a) in general terms, the content of the official plan or review of the official plan and the proposed implementing bylaws;
 - (b) the date, place and time of the meeting, which shall be held not less than seven clear days after the date of publication of the notice;
 - (c) the location at which copies of the proposed official plan or review of the official plan or proposed bylaws may be inspected during office hours; and
 - (d) that residents and other interested persons are invited to attend and make representations concerning the plan or review.

Public meeting during state of emergency

- (2.1) During a state of emergency, the public meeting referred to in subsection (2) may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

Public inspection of documents - electronic means

- (2.2) During a state of emergency, public inspection of the proposed official plan or review or proposed bylaws may be provided
- (a) by electronic means by posting the documents on a website accessible to the public; or
 - (b) if requested to do so by a person, by sending copies of the documents to the person by e-mail, mail or facsimile.

Minutes of meeting

- (3) The planning board shall maintain a record of the proceedings at the public meeting and, in particular, of the objections and representations made by residents and other interested persons. *1988, c.4, s.11; 2021, c.14, s.3.*

12. Official plan

An official plan shall include

- (a) a statement of economic, physical, social and environmental objectives;
- (b) a statement of policies for future land use, management and development, expressed with reference to a specified period not exceeding fifteen years;

- (c) proposals for its implementation, administration and the periodic review of the extent to which the objectives are achieved. *1988, c.4, s.12.*

13. Approval by planning board

The planning board shall recommend to the council the adoption of an official plan if approved by a vote of the majority of the members of the board present and voting at a meeting thereof. *1988, c.4, s.13.*

14. Adoption of plan

- (1) The council may adopt an official plan by resolution.

Procedure

- (2) Following the adoption of the official plan by the council, the plan
- (a) shall continue to be available for public inspection at the office of the municipality;
 - (b) shall be submitted to the Minister for approval accompanied by a copy of the notice given under subsection 11(2) and a copy of the minutes of the public meeting.

Public inspection of official plan - electronic means

- (3) During a state of emergency, public inspection of the official plan may be provided
- (a) by electronic means by posting the official plan on a website accessible to the public; or
 - (b) if requested to do so by a person, by sending a copy of the official plan to the person by e-mail, mail or facsimile. *1988, c.4, s.14; 1994, c.46, s.4 {eff.} Sept. 1/94; 2021, c.14, s.4.*

15. Procedure following Minister approval

- (1) Following the approval of an official plan by the Minister
- (a) the plan becomes the official plan for the area;
 - (b) a copy of the official plan as approved by the Minister shall be published in the Gazette;
 - (c) the Minister shall deposit a copy of the official plan, certified by the chairman as a true copy, in the office of the Registrar of Deeds for the county to which the plan relates; and
 - (d) the council shall, as soon as is practicable, cause bylaws to be made to implement the official plan.

Bylaws, conformity with plan

- (2) The bylaws or regulations made under clause (1)(d) shall conform with the official plan and in the event of any conflict or inconsistency, the official plan prevails. *1988, c.4, s.15; 1991, c.1, s.1; 1991, c.18, s.22; 1994, c.46, s.4 {eff.} Sept. 1/94; 1995, c.29, s.6 {eff.} Oct. 14/95.*

15.1 Review

- (1) The council of a municipality shall review its official plan and bylaws at intervals of not more than five years and shall by resolution confirm or amend them and where the official plan and by laws were made or last reviewed more than three years before the date on which this section comes into force the council shall review them within three years of that date.

Declaration nullifying municipal bylaws

- (2) Where a council fails to comply with subsection (1), the Lieutenant Governor in council may, by order, declare that the official plan and bylaws, or parts thereof, are null and void.

Effect of order

- (3) Where an order is made under subsection (2),
- (a) the regulations made under clause 7(1)(c) or section 8, or such parts of them as are specified in the order, apply in the municipality in which the council has jurisdiction;
 - (b) to the extent that the official plan or bylaws are declared null and void, the Minister has exclusive jurisdiction with respect to subdivision approvals, development permits and building permits in the municipality, but any such approval or permit issued before the date of the order is valid if it complied with the official plan and bylaws in force at the time of issue. *1995, c.29, s.7 {eff.} Oct. 14/95.*

MUNICIPAL PLANNING BYLAWS

16. Municipal planning bylaws

A council may make bylaws implementing an official plan for the municipality. *1988, c.4, s.16.*

17. Approval of Minister

The bylaws shall be subject to the approval of the Minister and shall be effective on the date of approval by the Minister. *1988, c.4, s.17.*

18. Notice of meeting

- (1) Before making any bylaw the council shall
- (a) give an opportunity to residents and other interested persons to make representations; and
 - (b) at least seven clear days prior to the meeting, publish a notice in a newspaper circulating in the area indicating in general terms the nature of the proposed bylaw and the date, time and place of the council meeting at which it will be considered.

Bylaw amendment requiring official plan amendment

- (2) Where a bylaw amendment requires an amendment to the official plan pursuant to subsection 15(2), the council may consider the official plan amendment concurrently with the bylaw and shall
- (a) indicate in general terms, in the notice published under clause (1)(b), the nature of the proposed plan amendment; and
 - (b) give the planning board an opportunity to comment on the plan amendment prior to adoption of the amendment.

Council meeting during state of emergency

- (3) During a state of emergency, the council meeting referred to in subsection (1) may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting. *1988, c.4 s.18; 2021, c.14, s.5.*

19. Procedure

A bylaw shall be made in accordance with the following procedure:

- (a) it is read and formally approved by a majority of councillors on two occasions at meetings of the council held on different days;
 - (b) after it is read a second time, it is formally adopted by resolution of the council;
 - (c) it is signed by the mayor or chairman, the administrator and the Minister and formally declared to be passed, and sealed with the corporate seal of the municipality;
 - (d) the minutes of the meeting record the name of the bylaw and the fact that it is passed; and
 - (e) a copy of the bylaw bearing the signature of the mayor or chairman, the administrator and the Minister is entered into the register of bylaws retained by the administrator.
- 1988, c.4, s.19.*

20. Bylaws

- (1) The powers of a council to make bylaws includes the power to make bylaws applicable within the municipality with respect to all of the matters set out in clauses 8(1)(a) to (q) except clauses (i), (l) and (p) as if
 - (a) references to the Crown were references to the municipality;
 - (b) references to the Minister were references to the council.

Development officer

- (2) A council may appoint a development officer to administer the bylaws for the council. *1988, c.4, s.20; 2017, c.10, s.1(5).*

20.1 Development charge bylaw

- (1) A council may make a development charge bylaw pursuant to subsection 20(1) for a purpose specified in clause 8(1)(e.1) if the development charge bylaw is based on
 - (a) a background study ordered or commissioned by the council that meets the requirements of this section and the regulations and that establishes the need for the eligible costs of the specified facilities and services in the area to which the bylaw will apply;
 - (b) council's consideration of the specified facilities and services in relation to the anticipated need for infrastructure growth; and
 - (c) council's consideration of the estimated timing of the introduction or expansion of the specified facilities and services.

Standards respecting background study

- (2) The background study referred to in subsection (1) shall be developed in accordance with the regulations and based on evidence and assumptions
 - (a) that are reasonable, correct and credible; and
 - (b) that were gathered and analyzed by a suitable and competent professional in compliance with generally accepted engineering principles.

Public notice

- (3) A council shall give public notice in accordance with the regulations before making, amending or repealing a development charge bylaw, indicating

- (a) its intention to make, amend or repeal the development charge bylaw;
- (b) the location where and times at which the background study referred to in subsection (1) may be inspected;
- (c) the location where and times at which the proposed bylaw or amending bylaw may be inspected; and
- (d) the deadline for submission of comments respecting the background study or the proposed bylaw.

Public meeting during state of emergency

- (3.1) During a state of emergency, a public meeting for the purpose of making a development charge bylaw may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

Public inspection of documents - electronic means

- (3.2) During a state of emergency, public inspection of the background study or proposed development charge bylaw may be provided
- (a) by electronic means by posting the documents on a website accessible to the public; or
 - (b) if requested to do so by a person, by sending copies of the documents to the person by e-mail, mail or facsimile.

Application of provisions

- (4) Subsections 19(2) and (3) do not apply to the making of a development charge bylaw by a council.

Filing requirement

- (5) Within 21 days of the day on which the bylaw was made, amended or repealed, the council shall file with the Minister
- (a) a copy of the bylaw certified by the administrator and sealed with the municipal seal; and
 - (b) where the council made or amended a bylaw, a statutory declaration by the administrator that the council complied with the requirements of subsection (1).

Addition to register of bylaws

- (6) Where a development charge bylaw is made, amended or repealed by a council pursuant to this section, a sealed copy of the bylaw bearing the signature of the mayor and the chief administrative officer shall be entered into the register of bylaws retained by the municipality.

Commencement of development charge bylaw

- (7) A development charge bylaw or a bylaw amending or repealing it comes into force on the day it is passed or the day specified in the bylaw, whichever is later.

Duration of development charge bylaw

- (8) Unless it expires or is repealed earlier, a development charge bylaw expires five years after the day it comes into force.

New bylaw

- (9) Subsection (7) does not prevent a council from passing a new development charge bylaw. *2017,c.10,s.1(7); 2021,c.14,s.6.*

20.2 Eligible costs

- (1) Where a council of a municipality makes a development charge bylaw referred to in section 20.1, the development charge shall be used only to pay for
- (a) all or part of the on-site or off-site capital cost of
 - (i) new or expanded facilities and services for the supply and distribution of drinking water,
 - (ii) new or expanded facilities and services for the collection, treatment and disposal of waste water,
 - (iii) new or expanded facilities and services for the collection, treatment and disposal of sewage,
 - (iv) new or expanded facilities and services for the provision of storm water drainage, control and management,
 - (v) new or expanded facilities and services for the provision of transportation, including roads, traffic control, public transit, sidewalks and trails,
 - (vi) new or expanded facilities and services for electrical power generation, transmission and distribution,
 - (vii) land required for or in connection with facilities and services described in subclauses (i) to (vi), or
 - (viii) for any other purpose prescribed in the regulations; or
 - (b) the costs associated with the preparation of the background study required under subsection 20.1(1).

Imposing development charges

- (2) Where a council imposes a development charge for a purpose listed in subsection (1), the charge shall be imposed only once, and shall be paid at the time when the development or subdivision of the land is approved unless
- (a) the development charge bylaw includes provisions for the collection of the development charge in instalments; and
 - (b) the council has entered into a development charge agreement with the developer or any other party in accordance with subsection (3) that provides for the payment of development charges in instalments.

Contents of development charge agreement

- (3) A council may enter into a development charge agreement with a developer and any other party that
- (a) provides for the payment of development charges in instalments;
 - (b) permits the developer or any other party to provide specified services or extended services in lieu of the payment of all or a part of the charges in accordance with the terms of the agreement;
 - (c) provides for the provision of security by the developer or any other party to ensure that the charges are paid when due; or
 - (d) provides for any other matter necessary or desirable to effect the agreement.

Reserve fund for specific purpose

- (4) All money received by the council under a bylaw made pursuant to this section shall be paid into a separate reserve fund established for the specific purpose for which it was collected as described in subsection (1), and the money in that reserve fund shall be expended by the council for the specific purpose for which it was collected and for no other purpose.

“Facilities and services”, clarified

- (5) In this section and section 20.1, “**facilities and services**” include structures, landscaping and earthworks. *2017, c.10, s.1(6).*

RETURNS

21. Statistical return

The council of a municipality shall forward to the Minister an annual statistical return showing all subdivision plans approved and development permits issued in the municipality. *1988, c.4, s.2; 2017, c.10, s.1(7).*

JOINT PLANNING BOARD

22. Joint planning boards

- (1) Where two or more councils wish to establish a joint planning board, they may do so by passing a joint resolution to that effect setting out the representation and functions of the joint planning board.

Application

- (2) The provisions of this Part apply, with the necessary changes, to a joint planning board as if it were a planning board for the relevant area. *1988, c.4, s.22.*

PART IV — NOTICE AND ENFORCEMENT

23. Definition

In this Part “appropriate authority” means the Minister or a council, as the case may be. *1988, c.4, s.23.*

23.1 Notice of decision of Minister or council

- (1) Where
- (a) the Minister makes a decision of a type described in subsection 28(1); or
 - (b) the council of a municipality makes a decision of a type described in subsection 28(1.1)

the Minister or council, as the case may be, shall, within seven days of the date the decision is made, cause a written notice of the decision to be posted

- (c) on an Internet website accessible to the public; and
- (d) at a location accessible to the public during business hours,

- (i) if the decision is made by the Minister, in
 - (A) a provincial government office in Charlottetown, and
 - (B) a provincial government office in the county where the land that is the subject of the decision is located, or
- (ii) if the decision is made by the council of a municipality, in that municipality.

Contents of notice

- (2) A notice of a decision that is required to be posted under subsection (1) shall contain
 - (a) a description of the land that is the subject of the decision;
 - (b) a description of the nature of the application in respect of which the decision is made;
 - (c) the date of the decision;
 - (d) the date on which the right to appeal the decision under section 28 expires; and
 - (e) the phone number of a person or an office at which the public may obtain more information about the decision.

Public inspection of documents - electronic means

- (3) During a state of emergency, public inspection of the notice of the decision of the Minister or council may be provided
 - (a) by electronic means by posting the document on a website accessible to the public; or
 - (b) if requested to do so by a person, by sending a copy of the document to the person by e-mail, mail or facsimile. *2006, c.15, s.1; 2021, c.14, s.7.*

24. Enforcement

- (1) Any bylaw or regulation made pursuant to the powers conferred by this Act or a bylaw made under the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1*, relating to planning matters may be enforced and the breach thereof may be restrained by application at the instance of the appropriate authority to the Supreme Court.

Remedies

- (2) In any proceeding commenced under subsection (1), the Supreme Court or a judge thereof may grant one or more of the following:
 - (a) a declaration that an act engaged in or about to be engaged in by a person is or will be a breach of any bylaw or regulation or provision of this Act;
 - (b) an injunction restraining any person from breaching or continuing to breach any such bylaw, regulation or provision;
 - (c) an order directing any person to comply with the requirements of any such bylaw, regulation or provision and directing that compliance be carried out under the supervision of a named person;
 - (d) such other order as the court or judge may determine.

Absence of approval

- (3) Where any subdivision of land or a lot within a subdivision requires the approval of the appropriate authority, no person shall convey a lot without first obtaining approval and no building or development permit shall be issued by the appropriate authority prior to approval of the subdivision of land or the lot within the subdivision. *1988, c.4, s.24; 1994, c.6, sch.2 {eff.} March 31/95; 2019, c.27, s.22.*

25. Evidentiary provisions

In any prosecution for an offence under this Act

- (a) *prima facie* proof that a permit or license under this Act or the regulations has or has not been issued may be made by a certificate purporting to be signed by the executive director of the Commission or by an officer of the Department of Agriculture and Land and, where the name in the certificate is the same as the name of the person charged with the offence, it shall be *prima facie* proof that he is the person named in the certificate;
- (b) *prima facie* proof of the boundaries of any municipality may be made by a certificate purporting to be signed by the administrator setting out the legal description of the boundaries;
- (c) proof that a municipality is or is not incorporated may be made by a certificate purporting to be signed by the administrator specifying in the case of incorporation the date of incorporation. 1988,c.4,s.25; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2009,c.73,s.2; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2019,c.1,s.3.

26. Offence and penalty

- (1) Every person who contravenes any provision of this Act or any bylaw or regulation made under this Act is guilty of an offence and liable on summary conviction
 - (a) on a first conviction, to a fine not exceeding \$2,000;
 - (b) on a subsequent conviction, to a fine of not more than \$400 for each day upon which the contravention has continued after the day on which he was first convicted.

Limitation period

- (2) Any prosecution for an offence under subsection (1) may be instituted within one year after the time when the contravention occurred. 1988, c.4, s.26; 1994, c.46, s.5 {eff.} July 14/94.

27. Production of permit

- (1) Where any building or structure is being constructed or other activity performed for which a permit is required under any bylaw or regulation made pursuant to this Act, a person authorized by the Minister or the council may require the person constructing the building or structure or performing the activity to show to him the permit therefor and on failure to do so within one day thereafter, that person is guilty of an offence.

Power of entry

- (2) For the purposes of subsection (1), a person authorized by the Minister or the council may enter upon any lands upon which the building or structure is being constructed or the activity performed. 1988, c.4, s.27.

PART V — APPEALS

28. Appeals from decisions of Minister

- (1) Subject to subsections (1.2) to (4), any person who is dissatisfied by a decision of the Minister that is made in respect of an application by the person, or any other person, pursuant to the regulations for
 - (a) a development permit;

- (b) a preliminary approval of a subdivision or a resort development;
- (c) a final approval of a subdivision;
- (d) the approval of a change of use; or
- (e) any other authorization or approval that the Minister may grant or issue under the regulations,

may appeal the decision to the Commission by filing with the Commission a notice of appeal.

Appeals from decisions of council

- (1.1) Subject to subsections (1.2) to (1.4), any person who is dissatisfied by a decision of the council of a municipality
- (a) that is made in respect of an application by the person, or any other person, under a bylaw for
 - (i) a development permit,
 - (i.1) an occupancy permit, in relation to a matter under this Act or the regulations,
 - (ii) a preliminary approval of a subdivision,
 - (iii) a final approval of a subdivision; or
 - (b) to adopt an amendment to a bylaw, including
 - (i) an amendment to a zoning map established in a bylaw, or
 - (ii) an amendment to the text of a bylaw,

may appeal the decision to the Commission by filing with the Commission a notice of appeal.

“bylaw”

- (1.2) In subsection (1.1) and subsection (1.4) “**bylaw**” means a bylaw made under this Act.

Notice of appeal and time for filing

- (1.3) A notice of appeal must be filed with the Commission within 21 days after the date of the decision being appealed.

Council decision that requires Minister’s approval

- (1.4) For greater certainty, where a person is dissatisfied by the decision of a council of a municipality to adopt an amendment to a bylaw, the 21-day period for filing a notice of appeal under this section commences on the date that the council gave final reading to the amendment to the bylaw.

Elimination of appeal when development approved under *Environmental Protection Act*

- (2) Where the Lieutenant Governor in Council has by order declared that
- (a) a development for which approval is required under the *Environmental Protection Act* has met all the requirements of that Act and written approval has been given;
 - (a.1) a development for which approval is required under the *Water Act* has met all the requirements of that Act and written approval has been given; and
 - (b) the right of appeal to the Commission in respect of that development should be curtailed,

subsection (1) has no application and there is no right of appeal to the Commission in respect of a decision on that development.

Reasons to be tabled

- (3) Where a declaration has been made under subsection (2), the Lieutenant Governor in Council shall submit to the next session of the Legislative Assembly a statement of the reasons for making the declaration.

Exceptions

- (4) No appeal lies from a decision of the council or the Minister respecting
- (a) the final approval of a subdivision where the grounds for the appeal are matters that could have been heard and determined at the stage of preliminary approval of the subdivision; or
 - (b) the final approval of a subdivision or development permit within a resort development, where the grounds for the appeal are matters that could have been heard and determined at the stage of preliminary approval of that subdivision or development.

Notice

- (5) A notice of appeal to the Commission under subsection (1) shall be in writing and shall state the grounds for the appeal and the relief sought.

Service upon council or Minister

- (6) The appellant shall, within seven days of filing an appeal with the Commission, serve a copy of the notice of appeal on the council or the Minister, as the case may be.

Procedure

- (7) Subject to adherence to the rules of natural justice, the Commission shall determine its own procedure.

Order

- (8) The Commission shall hear and decide appeals and shall issue an order giving effect to its disposition.

Reasons

- (9) The Commission shall give reasons for its decision.

Implementation

- (10) The council or the Minister, as the case may be, shall implement an order made by the Commission.

Action by Commission

- (11) Where the council or the Minister, as the case may be, fails to implement an order made under subsection (8), the Commission, on its own initiative or the initiative of an interested person, may act in the name of the council or the Minister to implement the order. *1995, c.29, s.8 [eff.] Oct. 14/95; 2001, c.47,s.1; 2006,c.15,s.2; 2017,c.17,s.822017,c.61,s.35(4).*

PART VI — MAJOR DEVELOPMENT

Sections 29 to 39 repealed by 1999, c.39, s.1.

PART VII — MAJOR RETAIL DEVELOPMENT

Sections 40 to 43 repealed by 1991, c.30, s.5 {eff.} May 16/91.

PART VIII — GENERAL**44. Transitional**

The Lieutenant Governor in Council may make regulations for the effective transition from the administration of the *Planning Act* R.S.P.E.I. 1974, Cap. P-6 to this Act and the regulations may include provisions for the lapse of existing municipal bylaws unless an official plan is adopted by the municipality within such period as may be prescribed. 1988, c.4, s.44.

45. Agreements re land identification program

Agreements made or deemed to be entered into under the land identification program established under the *Planning Act* R.S.P.E.I. 1974, Cap. P-6

- (a) where the land is identified for agricultural use, shall cease to have effect and are deemed to be null and void on the date this Act comes into force;
- (b) where the land is identified for non-development use, shall continue in force and shall have effect as if made in accordance with regulations made under clause 8(1)(p). 1988, c.4, s.46; 1990, c.44, s.2.

46. Existing official plans and bylaws

- (1) Where, on the date this section comes into force, a municipality has an official plan or a bylaw controlling development made under this or any other Act, the official plan or bylaw shall, unless earlier revoked or replaced by the council of the new municipality created under the *Charlottetown Area Municipalities Act* or the *City of Summerside Act*, remain in effect until October 14, 1998 and shall be deemed to have been adopted or made by the council of the new municipality.

Idem

- (2) Where an area under the jurisdiction of the Minister for development control purposes becomes a part of a new municipality referred to in subsection (1), the regulations made under the *Planning Act* shall, unless earlier revoked or replaced by the council of the new municipality created under the *Charlottetown Area Municipalities Act* or the *City of Summerside Act*, remain in effect for a period of up to three years and shall be deemed to have been adopted or made by the council of the new municipality. 1994, c.46, s.6 {eff.} Mar.31/95; 1998, c.76, s.1.

47. Transitional

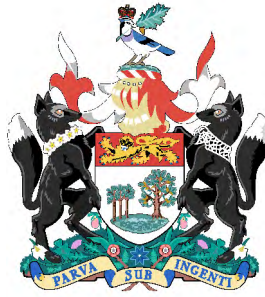
- (1) A subdivision approval, development permit or building permit issued by the council of municipality after May 16, 1991, and before the date on which this section comes into force shall be deemed to have been validly issued if it complied with the official plan and bylaws then in force and shall not be liable to challenge on the ground that the official plan and bylaws were less stringent than the regulations made under this Act.

Existing decision of Commission

- (2) Notwithstanding subsection (1), any decision of the Commission on the issue of whether a particular official plan or bylaw was or was not less stringent than the regulations shall stand.
1995, c.29, s.10.

TAB

B



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PLANNING ACT SUBDIVISION AND DEVELOPMENT REGULATIONS

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to September 24, 2022. It is intended for information and reference purposes only.

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PLANNING ACT SUBDIVISION AND DEVELOPMENT REGULATIONS

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PLANNING ACT
Chapter P-8

SUBDIVISION AND DEVELOPMENT REGULATIONS

Pursuant to sections 8 and 8.1 of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, Council made the following regulations:

PART I - INTERPRETATION

1. Definitions

In these regulations

- (a) “**accessory building**” means a building whose use is incidental and subordinate to, and consistent with, the main or approved use of the lot upon which the building is located;
- (a.1) “**Act**” means the *Planning Act* R.S.P.E.I. 1988, Cap. P-8;
- (a.2) “**alter**” means to make a change in the size, shape, bulk, or structure, whether interior or exterior, of a building or any part thereof, but does not include repairs carried out for the purposes of maintenance or non-structural renovation or improvement;
- (a.3) “**amusement type attraction**” means a commercial or recreational establishment where buildings or structures have been erected or are proposed for the purpose of amusement in the form of a circus, carnival, midway show, sideshow, or similar exhibition where one of the following classes of recreation are provided:
 - (i) any mechanically or electrically operated amusement ride,
 - (ii) any mechanical or electronic machine or device intended for use as a game, entertainment or amusement, or
 - (iii) any petting zoo or farm;
- (a.4) “**approved subdivision**” means a lot or lots for which final approval has been granted pursuant to section 27;
- (b) “**arterial highway**” means any highway that has been designated as an arterial highway under the provisions of the *Roads Act* Highway Access Regulations;
- (b.1) “**baymouth barrier sand dune**” revoked by EC137/09;
- (b.2) “**beach**” means that portion of land between the ordinary or mean high water mark and the water’s edge;
- (b.3) “**buffer**” means an area of land which serves to separate two or more different types of land use;

- (c) “**building**” means any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal, or chattel, and includes a mini home or mobile home;
- (c.1) “**building height**” means the number of storeys contained between the roof and the floor of the first storey;
- (c.2) “**campground or RV park**” means a parcel of land used or permitted to be used by the travelling public that provides sites for tents, trailers, or motor homes, but does not include industrial, work or construction camps or permanent mobile home parks;
- (c.3) “**central waste treatment system**” means a waste treatment system as defined in the *Environmental Protection Act R.S.P.E.I. 1988, Cap. E-9* and controlled by a public or private utility;
- (c.4) “**central water supply system**” means a water works for the collection, treatment, purification, storage, supply or distribution of water to
 - (i) five or more households, or
 - (ii) a public building or place of assembly;
- (d) “**change of use**” means
 - (i) altering the class of use of a parcel of land from one class to another, recognizing as standard classes residential, commercial, industrial, resource (including agriculture, forestry and fisheries), recreational and institutional uses, or
 - (ii) a material increase in the intensity of the use of a building, within a specific class of use as described in subclause (i), including an increase in the number of dwelling units within a building;
- (d.1) “**child**” revoked by EC137/09;
- (d.2) “**cluster subdivision**” revoked by EC137/09;
- (d.3) “**coastal area**” means all the lands, including surface water bodies, streams, rivers, and off-shore islands in the province, lying within 1640 feet (500 metres) inland and seaward of the mean high water mark of all coastal and tidal waters;
- (e) “**collector highway**” means any highway that has been designated as a collector highway under the provisions of the *Roads Act Highway Access Regulations*;
- (e.1) “**commercial**” means the use of a building or lot for the storage, display or sale of goods or services, and includes hotels, motels, inns, or rental cottages;
- (e.2) “**commercial eco-tourism use**” means the development and management of tourism within the Greenwich, Prince Edward Island National Park, through the use of any land or building for any retail or service use, except any amusement type attraction, so that the natural environment is preserved;
- (e.3) “**commercial tourist use**” includes the use of any land, building, or structure for the storage, display, or sale of goods or services and includes hotels, motels, country inns, Bed & Breakfast establishments and rental cottages, but does not include campgrounds or RV parks, or amusement type attractions;
- (f) “**common elements**” revoked by EC352/01;
- (f.1) “**condominium**” revoked by EC352/01;
- (f.2) “**deck**” revoked by EC137/09;
- (f.3) “**detrimental impact**” means any loss or harm suffered in person or property in matters related to public health, public safety, protection of the natural environment and surrounding land uses, but does not include potential effects of new subdivisions, buildings or developments with regard to



- (i) real property value;
 - (ii) competition with existing businesses;
 - (iii) viewscales; or
 - (iv) development approved pursuant to subsection 9(1) of the *Environmental Protection Act*;
- (g) **“development”** means
- (i) site alteration, including but not limited to
 - (A) altering the grade of the land,
 - (B) removing vegetation from the land,
 - (C) excavating the land,
 - (D) depositing or stockpiling soil or other material on the land, and
 - (E) establishing a parking lot,
 - (ii) locating, placing, erecting, constructing, altering, repairing, removing, relocating, replacing, adding to or demolishing structures or buildings in, under, on or over the land,
 - (iii) placing temporary or permanent mobile uses or structures in, under, on or over the land, or
 - (iv) changing the use or intensity of use of a parcel of land or the use, intensity of use or size of a structure or building;
- (g.1) **“dwelling”** means a building or portion thereof designed, arranged or intended for residential occupancy, and
- (i) **“dwelling unit”** means one or more rooms used or intended for domestic use of one or more individuals living as a single housekeeping unit with cooking and toilet facilities,
 - (ii) **“single-unit dwelling”** means a building containing one dwelling unit and does not include mobile homes, but does include mini homes, modular homes, single-family dwellings and summer cottages,
 - (iii) **“duplex dwelling”** means a building that is divided into two dwelling units,
 - (iv) **“multiple unit dwelling”** means a building containing three or more dwelling units,
 - (v) **“semi-detached dwelling”** means a residential dwelling unit within a semi-detached building;
- (g.2) **“entrance way”** means a vehicular access to a parcel of land from a public road;
- (g.3) **“estuary”** revoked by EC137/09;
- (h) **“existing parcel of land”** means any parcel of land or lot in existence prior to February 3, 1979;
- (h.1) **“farm parcel”** means land comprising an area of 50 acres (20.2 hectares) or more including any complementary buildings, utilized for the purpose of sowing, cultivation and harvesting of crops, rearing of livestock or production of raw dairy products, and may comprise a lesser area when operated as a farm enterprise by a *bona fide* farmer as defined in the *Real Property Assessment Act R.S.P.E.I. 1988, Cap. R-4*;
- (h.2) **“farm dwelling”** means a single-unit dwelling that is located on a farm parcel, and is owned and occupied by the principal owner of the farm parcel, a person whose primary occupation is to work on the farm parcel, or the son or daughter of the principal owner of the farm parcel;

- (h.3) “**first storey**” means the uppermost storey having its floor level not more than 6.5 feet (2 metres) above grade;
- (i) “**floor area**” means the area provided on each of one or more levels, measured from the outside walls of the building;
- (i.1) “**forested riparian zone**” revoked by EC137/09;
- (i.2) “**frontage**” means the width of a lot or a parcel of land where it abuts a street or a road;
- (i.3) “**garden suite**” means a single-unit dwelling that is placed on a lot on a temporary basis and that
- (i) has a width no greater than 24 feet (7.31 metres),
 - (ii) is no greater than one storey in height,
 - (iii) has a roof pitch no greater than 4/12,
 - (iv) is constructed and erected in such a manner as to be capable of being readily removed from the site,
 - (v) does not exceed 800 square feet (92.9 square metres) in area, or is a mobile home or a mini home, and
 - (vi) is for the sole and exclusive use as an accessory dwelling to a single-unit dwelling or mobile home on the same lot or parcel of land by
 - (A) the parents or grandparents of the owner or spouse of the owner of the single-unit dwelling on the same lot or parcel,
 - (B) any person who is physically or intellectually challenged or experiences a chronic disability or who, due to illness, frailty or age, requires home care, and is under the care of the owner or spouse of the owner of the single-unit dwelling on the same lot or parcel, or
 - (C) a caregiver for a family member of the owner or spouse of the owner of the single-unit dwelling on the same lot or parcel who qualifies under paragraph (A) or (B) and who also resides in the garden suite;
- (i.4) “**grade**” means the lowest of the average levels of finished ground adjoining each exterior wall of a building, except that localized depressions such as for vehicle or pedestrian entrances need not be considered in the determination of average levels of finished ground;
- (i.5) “**habitable building**” means any building designed for human occupancy in any manner or form;
- (j) “**Highway Access Regulations**” means the Highway Access Regulations (*EC580/95*) made under the *Roads Act* R.S.P.E.I. 1988, Cap. R-15;
- (j.01) “**home-based business**” means a business or service use that is located in a dwelling unit that is used or occupied as a home, or an accessory structure to the dwelling unit;
- (j.1) “**industrial use**” means the use of a building or lot for the storage, distribution, processing, assembly or recycling of wholesale products, goods or materials, or for activities relating to transportation, extraction, manufacturing, construction, warehousing, assembly or general repair;
- (j.2) “**institutional use**” means the use of land or buildings for non-profit or public purposes including but not limited to, hospitals, government buildings, religious institutions, churches, public schools, colleges, cultural centres, libraries and public recreational and park buildings;
- (j.3) “**light industrial use**” means use of land or buildings for fabrication, manufacturing, assembly, treatment or warehousing of goods, but does not include industrial



processing or other process which may result in the creation of hazardous or offensive conditions related to noise, odour, smoke or effluent;

- (k) **“loading space”** means an off-street area designed to accommodate a vehicle while loading or unloading produce or materials;
- (k.1) **“local highway”** means any highway that has been designated as a local highway under the provisions of the Highway Access Regulations;
- (k.2) **“lot”** means a measured parcel of land having fixed boundaries and
 - (i) **“lot area”** means the total area included within the lot lines,
 - (ii) **“corner lot”** means a lot situated at the junction of two or more roads where the interior angle of intersection does not exceed 135 degrees,
 - (iii) **“lot line”** means any boundary of a lot,
 - (iv) **“flankage lot line”** means the side lot line that abuts a road on a corner lot,
 - (v) **“front lot line”** means the lot line that divides a lot from the road, and in the case of a corner lot means the lot line that divides a lot from the road which the front of the main building is facing,
 - (vi) **“rear lot line”** means the lot line opposite the front lot line,
 - (vii) **“side lot line”** means a lot line other than a front, flankage, or rear lot line;
- (l) **“mini home”** means a single-unit dwelling designed to be transported on wheels and axles attached temporarily for moving purposes;
 - (l.1) **“mobile home”** means a single-unit dwelling designed to be transported on permanently fixed wheels, axles and chassis;
 - (l.2) **“mobile home park”** means a parcel of land planned and developed for the placement of mobile homes and mini homes;
 - (l.3) **“nacelle”** means the housing unit for electrical components of a wind turbine that is installed at the top of a wind turbine tower;
 - (l.4) **“name plate capacity”** means, in respect of a wind energy conversion system development, the rated electric output of each wind turbine of the wind energy conversion system development;
- (m) **“non-essential highway”** means any highway that has been designated as a non-essential highway pursuant to the Highway Access Regulations;
 - (m.1) revoked by EC137/09;
 - (m.2) **“open space”** means an outdoor amenity space for active or passive recreational use;
- (n) **“panhandle lot”** means a lot that does not have the minimum frontage on a road required by these regulations, but has a driveway or right-of way connection providing access to a public road or privately owned subdivision road;
 - (n.1) **“parcel”** means a lot or other division of land which is recognized as a separate unit of land for the purposes of these regulations;
 - (n.2) **“parking area”** means a portion of land, or of a building or structure, set aside for the parking and manoeuvring of motor vehicles;
- (o) **“parking stall”** means that portion of a parking area, excluding motor vehicle manoeuvring areas, that will accommodate one motor vehicle;
 - (o.01) **“party wall”** means a wall extending from the foundation to the roof of a building, that separates two units of the building;
 - (o.1) **“perimeter coastline”** means the coastal area of the Prince Edward Island landmass that borders directly on waters of the Northumberland Strait, the Gulf of St. Lawrence, Egmont Bay, Bedeque Bay, Hillsborough Bay, Cardigan Bay, Boughton

- Bay, Howe Bay, Rollo Bay, and Colville Bay, as outlined in black on the map attached as Appendix 2 to the *Environmental Protection Act*;
- (p) “**primary sand dune**” revoked by EC137/09;
 - (p.1) “**private road**” means a road, street or right-of-way that is not a public road;
 - (p.2) “**professional engineer**” means an engineer who is a member in good standing of the Association of Professional Engineers of Prince Edward Island and holds a license to practise issued by the Association;
 - (q) “**public road**” means all parts of the townships of the province reserved in the grants of patents thereof for public roads, all roads laid out by virtue of any statute and all roads whereon public money has been expended for common and public highways except where the roads have been altered or closed, or shall be altered or closed according to law, and excluding, in all circumstances, farm lanes;
 - (q.01) “**public utility**” means any person or corporation and the lessees, trustees, liquidators or receivers of any person or corporation who owns, operates, manages or controls, or is incorporated for the purpose of owning, operating, managing or controlling any plant or equipment
 - (i) for the conveyance or transmission of telephone messages,
 - (ii) for the production, transmission, distribution or furnishing of electric energy, or
 - (iii) for the provision of water or sewerage service, either directly or indirectly, to or for the public.
 - (q.1) “**recreational use**” means the use of land or buildings for passive or active recreational entertainment, pursuit or sport, including but not limited to golf courses, marinas, ski parks, hiking and cycling trails, parks, playgrounds and their amenities;
 - (r) revoked by EC137/09;
 - (r.1) “**resort development**” means
 - (i) a comprehensively designed recreational development having a minimum area of 20 acres (8.1 hectares), together with buildings intended for recreational use having a minimum total floor area of 2,500 square feet (232.2 square metres), and
 - (ii) a residential subdivision containing a minimum of 20 lots or a residential development containing a minimum of 20 residential units;
 - (r.2) “**resource use**” means the use of land or buildings for the production and harvesting or extraction of any agricultural, forestry, or fisheries product;
 - (r.3) “**resource industrial use**” means the use of land or buildings for any industrial development directly associated with agriculture, fisheries or forestry industries;
 - (r.04) “**rotor blades’ arc**” means the largest circumferential path travelled by the rotor blades connected to a wind turbine;
 - (r.4) revoked by EC137/09;
 - (s) “**rural tourism use**” means the use of a building or land for non-recreational commercial uses related to tourism, including rental accommodations and campgrounds;
 - (s.1) “**sand dune**” means a wind or wave deposited formation of vegetated or drifting wind-blown sand that lies generally parallel to, and landward of a beach, and between the upland limit of a beach and the most inland extent of sand deposits;
 - (s.2) “**scenic heritage road**” revoked by EC208/07;
 - (s.3) “**semi-detached commercial development**” revoked by EC593/05;



- (s.4) “**semi-detached building**” means a single building designed and built to contain two side-by-side units that are separated by a party wall, and each of which is capable of being conveyed separately;
- (t) “**seasonal highway**” means any highway that has been designated as a seasonal highway under the provisions of the Highway Access Regulations;
- (t.1) “**secondary sand dune**” revoked by EC137/09;
- (t.2) “**sewage disposal system**” means any system or part thereof for disposing of sewage or waste by means of one or more settling or septic tanks and one or more disposal fields, and any other system or part thereof for sewage or waste disposal not directly connected to a municipal or approved central waste treatment system;
- (u) “**standpipe system**” means a pipe and attendant hose valves and hose used for conveying water to various parts of a building for fire fighting purposes;
- (u.1) “**storey**” means that portion of a building which is situated between the top of any floor and the top of the floor next above it, and if there is no floor above it, that portion between the top of such floor and ceiling above it;
- (u.2) “**St. Peters Village Zone**” revoked by EC137/09;
- (v) “**structure**” means any thing constructed or erected with a fixed location on the ground, or sunk into land or water, but excludes concrete and asphalt paving or similar surfacing walkways, sewage disposal systems, water wells, fences, utility poles, clothes line poles, or flag poles or recreational equipment accessory to a dwelling unit;
 - (v.1) “**subdivide**” means
 - (i) to divide a parcel of land to create two or more new parcels of land,
 - (ii) to consolidate two or more contiguous parcels of land to create a new parcel of land, or
 - (iii) to attach a part of a parcel of land to another parcel of land contiguous to that part to create a new parcel of land,
 by means of a plan of subdivision, a plan of survey, an agreement, a deed or any other instrument, including a caveat, that transfers or creates an estate or interest in the new parcels of land created by the division, or in the new parcel of land created by the consolidation or the attachment, as the case may be;
 - (v.2) “**summer cottage**” means a single-unit dwelling that is intended to be occupied primarily during the summer months;
 - (v.03) “**top of the bank**” means, where there is no embankment, the landward boundary of a beach;
 - (v.3) “**total height**” means, in respect of a wind turbine tower, the height from grade to the highest vertical extension of the wind turbine tower, and includes the distance from grade to the top of the wind turbine tower plus the distance from the top of the wind tower to the highest point of its rotor blades’ arc;
 - (w) “**travel trailer**” means a vehicle designed to be used as temporary accommodation for travel, recreation and vacation purposes;
 - (w.1) “**variance**” means a limited relaxation from the provisions of these regulations with respect to setbacks, area, height or size of a structure, or with respect to minimum lot sizes, where, owing to the conditions peculiar to the parcel, and not the result of actions of the applicant, a literal enforcement of the regulations would result in unnecessary or undue hardship;
 - (w.2) “**watercourse**” means a watercourse as defined in the *Environmental Protection Act Watercourse and Wetland Protection Regulations*;

- (x) “**wetland**” means a wetland as defined in the *Environmental Protection Act Watercourse and Wetland Protection Regulations*;
- (y) “**wildlife**” has the same meaning as in the *Wildlife Conservation Act R.S.P.E.I. 1988, Cap. W-4.1*;
- (y.1) “**wind turbine**” means a turbine that converts wind energy into mechanical or electrical energy by means of one or more rotor blades that rotate around a hub connected to a gearbox and generator inside a nacelle;
- (y.2) “**wind turbine tower**” means a structure that supports a wind turbine and the rotor blades which turn the wind turbine;
- (y.3) “**wind energy conversion system development**” means a development that is designed, intended or developed for the production of mechanical or electrical energy from wind energy by means of one or more wind turbines and includes
 - (i) any associated wind turbine towers,
 - (ii) any associated buildings or structures that are required for the transmission of that mechanical or electrical energy or for the maintenance of the development, and
 - (iii) any access road to the development.
- (z) “**yard**” means an area of land adjoining a building, and
 - (i) “**flankage yard**” means the side yard of a corner lot facing a street other than the street towards which the front of the principle building is facing;
 - (ii) “**front yard**” means a yard extending across the full width of the lot between the front lot line and the nearest main wall of the principle building on the lot;
 - (iii) “**rear yard**” means a yard extending across the full width of the lot between the rear lot line and the nearest main wall of the principle building on the lot; and
 - (iv) “**side yard**” means a yard extending from the front yard to the rear yard between a side lot line of the lot and the nearest main wall of the principle building, exclusive of any chimney breast or entrance steps. (*EC693/00; 191/01; 352/01; 176/03; 349/04; 593/05; 208/07; 137/09; 422/09; 395/14; 319/17; 222/22*)

PART II - APPLICATION OF REGULATIONS

2. Application

- (1) These regulations apply to all areas of the province except, subject to subsection (2), those municipalities with official plans and bylaws.

Special planning areas within municipalities

- (2) Where a special planning area established pursuant to section 8.1 of the Act includes a municipality or part thereof with an official plan and bylaws, no council shall issue a permit unless the proposed development complies with the regulations established for that special planning area. (*EC693/00*)

2.1 Exemption for acquisition from Part III, B - Subdivisions

- (1) A parcel or part of a parcel, other than a parcel or part of a parcel to which Part IV of these regulations applies, that is being acquired by the Minister responsible for the *Roads Act* for



the purposes of constructing, improving or realigning a public road is exempt from the requirements of Part III, B - Subdivisions, of these regulations.

Exemption for acquisition from Part III, B - Subdivisions, and Part IV

- (2) A parcel or part of a parcel to which Part IV of these regulations applies that is being acquired by the Minister responsible for the *Roads Act* for the purposes of constructing, improving or realigning a public road is exempt from the requirements of Part III, B - Subdivisions, and the provisions of Part IV of these regulations applicable to subdivision of land.

Exemption for acquisitions - Slemon Park future development area

- (3) A parcel or part of a parcel, including a parcel or part of a parcel to which Part IV of these regulations applies, that is being acquired by the Minister responsible for the *Roads Act* for the purpose of taking ownership of a road within the Slemon Park future development area, as that area is described in Appendix B to these regulations, is exempt from the requirements of Part III, B - Subdivisions, of these regulations, and the provisions of Part IV of these regulations applicable to subdivision of land. (EC539/18)

2.2 Exemption for disposition from Part III, B - Subdivisions

- (1) Where the government is disposing of a parcel or part of a parcel, other than a parcel or part of a parcel to which Part IV of these regulations applies, that parcel or part of it is exempt from the requirements of Part III, B - Subdivisions, of these regulations, where the parcel or part of it was
 - (a) acquired by the Minister responsible for the *Roads Act* for the purposes specified in subsection 2.1(1) or (3); or
 - (b) purchased by the Minister responsible for the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5, pursuant to subsection 19(1) of that Act.

Exemption for disposition from Part III, B - Subdivisions, and Part IV

- (2) Where the government is disposing of a parcel or part of a parcel to which Part IV of these regulations applies, that parcel or part of it is exempt from the requirements of Part III, B - Subdivisions, and the provisions of Part IV of these regulations applicable to subdivision of land, where the parcel or part of it was
 - (a) acquired by the Minister responsible for the *Roads Act* for the purposes specified in subsection 2.1(2) or (3); or
 - (b) purchased by the Minister responsible for the *Real Property Tax Act* pursuant to subsection 19(1) of that Act. (EC539/18)

PART III - STANDARDS

A - GENERAL

3. General requirements - subdivisions

- (1) No person shall be permitted to subdivide land where the proposed subdivision would
 - (a) not conform to these regulations or any other regulations made pursuant to the Act;
 - (b) precipitate premature development or unnecessary public expenditure;

- (c) in the opinion of the Minister, place pressure on a municipality or the province to provide services; or
- (d) have a detrimental impact.

Idem, development permits

- (2) No development permit shall be issued where a proposed building, structure, or its alteration, repair, location, or use or change of use would
 - (a) not conform to these regulations or any other regulations made pursuant to the Act;
 - (b) precipitate premature development or unnecessary public expenditure;
 - (c) in the opinion of the Minister, place pressure on a municipality or the province to provide services;
 - (d) have a detrimental impact; or
 - (e) result in a fire hazard to the occupants or to neighbouring buildings or structures.

Forested area adjacent to watercourse or wetland

- (3) Revoked by EC137/09.

Entrance ways

- (4) Notwithstanding any other provisions of these regulations, no development permit shall be issued in respect of a development involving the change of use of an entrance way or the creation of an entrance way to any highway where an entrance way permit is required unless an entrance way permit has first been granted by the Minister of Transportation and Public Works. (EC693/00; 137/09)

4. Approval with conditions

- (1) An approved subdivision or development permit may be made subject to any conditions necessary to ensure compliance with these regulations, other regulations made pursuant to the Act, or any relevant sections of the *Environmental Protection Act*, *Roads Act*, *Provincial Building Code Act* R.S.P.E.I. 1988, Cap. P-24 , or the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11.

Owner ensures compliance

- (2) Where an approved subdivision or development permit is granted subject to conditions in accordance with subsection (1), the owner shall ensure that the subdivision or development complies with the conditions.

Development agreement

- (3) The conditions of approval may include a requirement that the owner enter into a development agreement specifying any special measures that must be carried out in order to ensure compliance with the regulations referred to in subsection (1). (EC693/00)

5. Other approvals required

No approval shall be given pursuant to these regulations until the following permits or approvals have been obtained as appropriate:

- (a) where an environmental assessment or an environmental impact statement is required under the *Environmental Protection Act*, approval has been given pursuant to that Act;
- (b) where the Fire Marshal's approval is required pursuant to the *Fire Prevention Act*, approval has been given pursuant to that Act;



- (c) where approval is required pursuant to the *Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 or regulations made pursuant to that Act, approval has been given pursuant to that Act and any applicable regulations made pursuant to that Act;
- (d) where, pursuant to the *Roads Act*, an entrance way permit or approval is required, the required permit or approval has been obtained; and
- (e) revoked by EC222/22. (*EC693/00; 222/22*)

6. Development, private road

- (1) No development for any year round use shall be permitted on a lot or parcel served by a private road.

Permitted development uses

- (2) Notwithstanding subsection (1), the following types of development may be permitted on a lot or parcel served by a private road:
 - (a) commercial rental cottages;
 - (b) farm buildings;
 - (c) seasonal commercial uses related to tourism;
 - (d) seasonal resort developments or portions of a resort development not intended for year-round use;
 - (e) single-unit dwellings;
 - (f) a wind energy conversion system development;
 - (g) industrial, commercial office or retail, institutional, public service or residential within the approximately 600 acres of the Slemon Park future development area, as described in Appendix B.

Exemption

- (3) Subsection (1) does not apply in respect of any development of or on the following:
 - (a) the building and property located at 5 and 7 Ashwood Avenue, Slemon Park, being approximately 0.83 acres, and bounded by Ashwood Avenue, Fifth Street and Cherrywood Avenue;
 - (b) the buildings and property located at 66 Argus Avenue, Slemon Park, being approximately 6.01 acres, and bounded by Argus Avenue, Fifth Street and Redwood Avenue. (*EC693/00; 352/01; 176/03; 612/03; 349/04; 386/04; 319/17*)

7. Inspection

An application for a subdivision approval or development permit shall constitute authorization for inspection of the land, building, structure or premises in question. (*EC693/00*)

8. Non-conforming use

- (1) Subject to subsections (2) and (3), any legal use of a building or structure existing prior to the enactment of these regulations that contravenes the provisions of these regulations may continue as a non-conforming use.

Expansion

- (2) A non-conforming use may be enlarged or expanded provided that the enlargement or expansion does not increase the level of non-compliance.

Abandonment

- (3) If, in the opinion of the Minister, a non-conforming use has been discontinued or abandoned, the building or structure shall not be used except in conformance with the requirements of these regulations. (EC693/00)

9. Non-compliance

Where a subdivision or development has occurred contrary to sections 12 or 31, but which otherwise conforms with the requirements of these regulations, a subdivision approval or a development permit may be granted by the Minister following application by the owner. (EC693/00)

10. Variance

- (1) A variance from the provisions of these regulations may be granted where
- (a) the variance does not violate the intent and purpose of the regulations;
 - (b) the variance is for a unique circumstance and is not a difficulty common to properties in the area; and
 - (c) the circumstance for which the variance is requested is not the result of an intentional disregard for the requirements of the regulations.

Variance of up to 10%

- (2) A variance of up to 10% from the provisions of these regulations may be granted where
- (a) the variance meets the provisions of subsection (1); and
 - (b) there is, in the opinion of the Minister, no reasonable alternative available.

Variance of more than 10%

- (3) A variance of more than 10% from the provisions of these regulations may be granted where
- (a) the variance meets the provisions of subsection (1);
 - (b) there is, in the opinion of the Minister, no reasonable alternative available.

No variance for sight distance

- (4) Notwithstanding subsections (1), (2) and (3), no variance from the sight distance standards set out in the Highway Access Regulations shall be granted. (EC693/00; 386/04)

11. Public meeting

- (1) The Minister may hold a public meeting regarding any subdivision or development proposed under these regulations.

Requirements

- (2) Where a public meeting is called in accordance with subsection (1):
- (a) the Minister shall appoint a person to chair the meeting;
 - (b) the meeting shall be advertised at least twice in a newspaper circulating in the area of the proposed subdivision or development, giving the date, time, and location of the meeting;
 - (c) the first advertisement required by clause (b) shall be placed not less than 7 clear days prior to the meeting;



- (d) written notice of the meeting shall be provided to the owner and, where applicable, to the council of the municipality in which the proposed subdivision or development is located;
- (e) the owner shall make available for public examination the information required by these regulations or by the Act to be included with the application, at least 7 clear days prior to the public meeting, at a location chosen by the Minister; and
- (f) the owner or a representative of the owner shall attend the meeting to answer questions from the public respecting the proposed subdivision or development. *(EC693/00)*

B - SUBDIVISIONS

12. Subdivision approval

- (1) Subject to sections 2.1 and 2.2, no person shall subdivide land without first obtaining final approval of the subdivision from the Minister.

Naturally subdivided

- (2) Notwithstanding subsection (1), where a parcel is naturally subdivided into two or more units by a public road, a watercourse, or other body of water, each of the units shall be treated as a separate parcel.

Independent sale

- (3) Where one or more of the parcels described in subsection (2) are to be conveyed independently of any other parcel under the same ownership, a subdivision approval shall not be required. *(EC693/00; 575/01; 137/09; 539/18)*

13. Principles

Subdivision designs shall be based on sound planning, engineering, and environmental principles, and shall demonstrate that the proposed subdivision is suited to the intended use, having due regard for

- (a) compatibility with surrounding uses;
- (b) the topography of the site;
- (c) surface drainage on the site and its impact on adjacent parcels of land;
- (d) traffic generation onto adjacent highways;
- (e) availability, adequacy and the economical provision of utilities and services;
- (f) the ability to further subdivide the land or adjoining land;
- (g) the provision of lots suitable for the intended use;
- (h) waste water management;
- (i) water supply; and
- (j) natural features. *(EC693/00)*

14. Application for subdivision

- (1) An application for subdivision shall be made on a form prescribed by the Minister, and shall include the following:
 - (a) the name, address and telephone number of the applicant;
 - (b) the property number;

- (c) the existing use of the land;
- (d) the number of lots proposed and proposed uses;
- (e) the signature of the owner of the land being subdivided or legal authorization to make an application on behalf of the landowner;
- (f) all required fees.

Five or fewer lots

- (2) An application for the subdivision of five lots or fewer shall be accompanied by
 - (a) a copy of a property map showing the true shape and dimensions of the property being subdivided, the proposed lots, and all roads or rights-of-way proposed to provide access to the lots from a public highway; and
 - (b) any additional information the Minister considers necessary.

Six or more lots

- (3) An application for the subdivision of six or more lots shall be accompanied by:
 - (a) a plan or plans showing
 - (i) the true shape and dimensions of the property to be subdivided, the proposed lots and uses, and all roads or rights-of-way proposed to provide access to the lots from a public highway,
 - (ii) a key plan indicating the general location of the land to be subdivided,
 - (iii) the north point,
 - (iv) the scale,
 - (v) the location and current use of all existing buildings or structures on the site and within 100 feet (30.4 metres) of the site,
 - (vi) existing and proposed services, including central or municipal waste treatment systems, and central or municipal water supply systems,
 - (vii) all land proposed as open space, park, recreation or other common area,
 - (viii) watercourses, wetlands, beaches, sand dunes, forested areas, designated natural areas or conservation zones on, or adjacent to, the proposed subdivision,
 - (ix) existing and proposed private rights-of-way or easements,
 - (x) elevation contours and the proposed storm water drainage pattern within the subdivision and within 300 feet (91.4 metres) of the boundaries of the subdivision,
 - (xi) any special planning areas affecting the site;
 - (b) any additional information the Minister considers necessary.

Number of lots

- (4) For the purpose of determining the number of lots, all parcels to be severed from the original parcel shall be counted.

Incremental subdivision

- (5) All provisions of these regulations for subdivisions of six or more lots shall apply where a parcel has been subdivided incrementally so as to bring the number of lots created since June 12, 1993 to six or more. (EC693/00; 137/09)



15. Open space

- (1) Except for a residential subdivision having five or fewer lots, or a subdivision intended for commercial, industrial or other non-residential uses, the owner of lots being subdivided shall set aside open space in the subdivision for recreation or park use equal to a minimum of 10% of the total area of the lots being subdivided.

Idem, held in common

- (2) Open space set aside in accordance with subsection (1) shall be held in common by the owners of lots in the subdivision.

Common ownership

- (3) Where a buffer required under subsection 16(1) is included as permitted by subsection 16(5), the buffer may be counted as part of the open space required by this section. (EC693/00; 176/03; 655/10)

16. Buffer inside coastal area

- (1) Where a subdivision is proposed within a coastal area, the proposed subdivision shall, where applicable, include the following:
- (a) where adjacent to a beach, a buffer having a minimum width of 60 feet (18.3 metres) or 60 times the annual erosion rate for the area, whichever is greater, measured from the top of the bank adjacent to the beach;
 - (b) where adjacent to a sand dune, a buffer having a minimum width of 60 feet (18.3 metres) measured from the inland boundary of the dune;
 - (c) where feasible and appropriate, access to the beach or watercourse for the use of the owners of the lots.

Exception

- (2) Revoked by EC137/09.

Buffer outside coastal area

- (3) Where a subdivision is proposed outside a coastal area and adjacent to a watercourse, the proposed plan of subdivision may include an access to the watercourse for the use of the owners of the lots.

Development prohibited in buffer

- (4) No person shall undertake any development, including a sewage disposal system, within a required buffer.

Ownership of buffer

- (5) Any buffer required under subsection (1) may be included
- (a) as one separate parcel that is to be held in common ownership by the owners of the lots of the subdivision and designated for use as a buffer only; or
 - (b) as part of one or more lots designated for residential use where each such lot
 - (i) meets the minimum lot size standards required by section 23 exclusive of the included area of the buffer, and
 - (ii) has dimensions sufficient to permit the building setbacks required by these regulations exclusive of the included area of the buffer.

Idem

- (6) Revoked by EC655/10.

Increased buffer

- (7) Revoked by EC137/09. (EC693/00; 137/09; 655/10)

17. Subdivision roads

- (1) All subdivision roads, other than a subdivision road existing on April 15, 2022, shall have a minimum width of 66 feet (20.1 metres) and shall be designed to meet the following requirements:
- (a) where practicable, subdivision roads shall be connected to existing roads in adjacent subdivisions, and provision shall be made for extension into future subdivisions on adjacent properties;
 - (b) subdivision roads shall provide a temporary turning area with a minimum turning radius of 40 feet (12.2 metres) where a subdivision is approved in phases and any phase results in a dead-end road, or where a road is to be extended onto an adjacent property in accordance with clause (a), until either an approved cul-de-sac, with a minimum turning radius of 66 feet (20.12 metres) has been constructed or the dead-end road has been extended.

Public roads

- (2) All roads serving 21 or more lots approved after March 21, 2009, shall be public roads.

Permitted development on private roads

- (3) The following types of development may be allowed on lots that have frontage onto a private road:
- (a) commercial rental cottages;
 - (b) seasonal commercial uses related to tourism;
 - (c) seasonal resort developments or portions of a resort development not intended for year-round use;
 - (d) single-unit dwellings;
 - (e) industrial, commercial office or retail, institutional, public service or residential development within the 600 acres of the Slemon Park future development area as described in Appendix B.

Exemption

- (4) Subsections (1) and (2) do not apply in respect of any development of or on the following:
- (a) the building and property located at 5 and 7 Ashwood Avenue, Slemon Park, being approximately 0.83 acres, and bounded by Ashwood Avenue, Fifth Street and Cherrywood Avenue;
 - (b) the buildings and property located at 66 Argus Avenue, Slemon Park, being approximately 6.01 acres, and bounded by Argus Avenue, Fifth Street and Redwood Avenue.

Private roads, professional engineer

- (5) Private roads serving from six to 20 residential lots approved after March 21, 2009, shall be designed by and constructed under the supervision of a professional engineer in accordance with the applicable standards for private roads and to the satisfaction of the Minister responsible for the *Roads Act*.



Exception - multi-phase subdivision

- (6) Notwithstanding subsections (2) and (5), where a subdivision was to be completed in phases and final approval was granted for at least one phase of the multi-phase subdivision prior to March 21, 2009, the Minister may on application
 - (a) permit the roads servicing the completed and remaining phases to be constructed to a lesser standard that is consistent with the standards approved for roads in the phase completed prior to March 21, 2009; and
 - (b) impose additional conditions in the interests of safety including, but not limited to, referring the application for approval to
 - (i) the Minister of Transportation and Infrastructure, and
 - (ii) the Provincial Fire Marshal. (EC693/00; 352/01; 176/03; 612/03; 386/04; 137/09; 319/17; 222/22)

18. Phasing

- (1) Subdivisions having preliminary approval for more than 20 lots shall be granted final approval in phases.

Number of lots

- (2) The total number of lots approved in any one phase of a subdivision shall not exceed 20.

50% of lots must be sold before next phase approved

- (3) Final approval shall not be granted for the second or a subsequent phase of a subdivision until 50% of the lots in the immediately preceding phase of the subdivision have been sold by the developer.

Application

- (4) Subsections (1) to (3) do not apply to subdivisions within a resort development. (EC693/00; 176/03; 422/03)

19. Minimum lot requirements

- (1) All lots on a plan of subdivision shall be categorized in accordance with subsection 23(1), and shall conform with the minimum lot size standards outlined in subsection 23(2).

Soil testing

- (2) Where an existing lot has not been categorized in accordance with subsection 23(1), the Minister shall require that a site suitability assessment be conducted as set out in the *Environmental Protection Act Sewage Disposal Systems Regulations*.

Idem

- (3) A lot that does not meet the category standards as set out in section 23, may be approved if an alternative means of sewage disposal, acceptable to the Minister responsible for the *Environmental Protection Act*, is provided.

Sewage disposal system

- (4) The area encompassed by the required minimum circle diameter as set out in Table 1 under subsection 23(2) shall be located on the lot such that it will accommodate an on-site septic sewage disposal system.

Previously approved lots

- (5) The minimum lot size standards for residential lots as set out in subsection 23(2) do not apply to lots approved prior to June 12, 1993.

Revision of previously approved lots

- (6) A subdivision application to increase the size of a lot approved prior to June 12, 1993, or an existing parcel of land, may be approved, notwithstanding that the resulting lot will not meet the minimum lot size standards as set out in subsection 23(2).

Increase in area of previously approved lots

- (7) Where an application is submitted to increase the intensity of use of
- (a) a lot approved prior to June 12, 1993;
 - (b) an existing parcel of land; or
 - (c) an existing building,

the Minister may, after consultation with the Minister responsible for the *Environmental Protection Act*, require that the parcel of land be increased in area to the extent considered necessary to ensure the safe operation of water supply and sewage disposal systems on the parcel in question and on all adjacent parcels. (EC693/00; 176/03; 137/09)

20. Panhandle lots

- (1) Where a lot is proposed to be subdivided from an existing parcel of land that is not a panhandle lot, and the proposed lot does not have the minimum required frontage on a public road, it may be approved as a panhandle lot where:
- (a) the lot will include vehicular access to a public road by way of a driveway that is part of the lot, or an exclusive right-of-way that is registered over an adjacent parcel;
 - (b) the access driveway or right-of-way has a minimum width of 24 feet (7.3 metres);
 - (c) no other panhandle lot has been subdivided from the existing parcel of land;
 - (d) the lot and the remnant parcel meet all the requirements of these regulations.

Driveway area not included

- (2) The area of the access driveway or right-of-way portion of a panhandle lot shall not be included in the minimum lot area requirements as set out in Table 1 under subsection 23(2).

Additional panhandle lots

- (3) Notwithstanding clause (1)(c), where one panhandle lot has been subdivided from an existing parcel of land pursuant to subsection (1), no more than one additional non-residential panhandle lot may be approved for each of the following uses only:
- (a) a primary resource use with a minimum area of 10 acres (4.05 hectares);
 - (b) an existing or approved commercial or industrial development.

Idem

- (4) A lot that has been approved as a panhandle lot may not be further subdivided unless the proposed subdivision meets all the requirements of these regulations. (EC693/00; 176/03; 137/09)



21. Lots not requiring water and sewage servicing

- (1) Where a lot is intended for any non-residential use where water and sewage services are not required for the proposed development, the Minister may approve an exemption from the requirements of section 23.

Change of use of excepted lot

- (2) A change of use application to permit a development requiring water and sewage services on a lot approved pursuant to subsection (1), may only be approved if the lot meets the minimum standards set out in section 23. *(EC693/00; 137/09)*

22. Diminishing lot below standards

Except as provided for in sections 19, 20, and 21, no person shall diminish a lot below the standards set out in subsection 23(2). *(EC693/00; 137/09)*

23. Lot categories

- (1) Every lot on a plan of subdivision shall be categorized in accordance with the following site suitability standards:
- (a) Category I, where
 - (i) the depth of permeable natural soil is 2 feet (0.61 metres) or greater,
 - (ii) the depth to bedrock is 4 feet (1.22 metres) or greater, and
 - (iii) the depth to the maximum groundwater elevation is 4 feet (1.22 metres) or greater;
 - (b) Category II, where
 - (i) the depth of permeable natural soil is greater than 1 foot (0.3 metres), but less than 2 feet (0.61 metres),
 - (ii) the depth to bedrock is 4 feet (1.22 metres) or greater, and
 - (iii) the depth to the maximum groundwater elevation is 4 feet (1.22 metres) or greater;
 - (c) Category III, where
 - (i) the depth of permeable natural soil is 1 foot (0.3 metres) or greater,
 - (ii) the depth to bedrock is 2 feet (0.61 metres) or greater, but less than 4 feet (1.22 metres), or
 - (iii) the depth to the maximum groundwater elevation is 2 feet (0.61 metres) or greater, but less than 4 feet (1.22 metres);
 - (d) Category IV, where
 - (i) the lot has a depth of permeable natural soil of less than 1 foot (0.3 metres),
 - (ii) the depth to bedrock is greater than 1 foot (0.3 metre), and
 - (iii) the depth of the maximum groundwater elevation is greater than 2 feet (0.61 metres);
 - (e) Category V, where
 - (i) the depth to bedrock is less than 1 foot (0.3 metre), and
 - (ii) the depth to the maximum ground water elevation is greater than 2 feet (0.61 metres).

Minimum lot size standards -residential lots

- (2) Every residential lot on a plan of subdivision shall conform with the following minimum lot size standards:

**TABLE 1 - MINIMUM LOT SIZE STANDARDS:
RESIDENTIAL LOTS**

(a) Servicing	(b) Lot Category	(c) Minimum Lot Frontage	(d) Number of Dwelling Units	(e) Minimum Lot Area sq. ft. / sq. m.	(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet / metres
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 40,000 sq. ft. / 3,717 sq. m. 40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 200 ft. / 61 m. 200 ft. / 61 m.
on-site water supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	35,000 sq. ft. / 3,251.5 sq. m. 40,000 sq. ft. / 3,717 sq. m. 45,000 sq. ft. / 4,180.5 sq. m. 50,000 sq. ft. / 4,645 sq. m. 50,000 sq. ft. / 4,645 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	175 ft. / 53.3 m. 200 ft. / 61 m. 225 ft. / 68.6 m. 250 ft. / 76.2 m. 250 ft. / 76.2 m.
on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	51,000 sq. ft. / 4,738 sq. m. 56,000 sq. ft. / 5,202 sq. m. 61,000 sq. ft. / 5,667 sq. m. 66,000 sq. ft. / 6,131 sq. m. 66,000 sq. ft. / 6,131 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	225 ft. 68.6 m. 250 ft. /76.2 m. 275 ft. / 83.8 m. 300 ft. / 91.4 m. 300 ft. / 91.4 m.



on-site water supply and on-site sewage system	IV	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	75,000 sq.ft / 6,975 sq.m. 80,000 sq.ft / 7,440 sq.m. 85,000 sq.ft / 7,905 sq.m. 90,000 sq.ft / 8,370 sq.m. 90,000 sq.ft. / 8,370 sq.m., plus 1,500 sq.ft. / 457 sq.m. for each additional unit	300 ft. / 91.4 m.
on-site water supply and on-site sewage system	V	N/A	N/A	not developable	N/A
central water supply and on-site sewage disposal system	I	50 feet / 15.25 metres	1 2 3 4 more than 4	20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 35,000 sq. ft. / 3,251 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and on-site sewage disposal system	II	50 feet / 15.25 metres	1 2 3 4 more than 4	25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 40,000 sq. ft. / 3,717 sq. m. 40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 200 ft. / 61 m. 200 ft. / 61 m.

central water supply and on-site sewage disposal system	III	50 feet / 15.25 metres	1 2 3 4 more than 4	40,000 sq. ft. / 3,717 sq. m. 45,000 sq. ft. / 4,180.5 sq. m. 50,000 sq. ft. / 4,645 sq. m. 55,000 sq. ft. / 5,110 sq. m. 55,000 sq. ft. / 5,110 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m. 225 ft. / 68.6 m. 250 ft. / 76.2 m. 275 ft. / 83.8 m. 275 ft. / 83.8 m.
central water supply and on-site sewage disposal system	IV	50 feet / 15.25 metres	1 2 3 4 more than 4	60,000 sq. ft. / 5,580 sq. m. 65,000 sq. ft. / 6,450.5 sq. m. 70,000 sq. ft. / 6,510 sq. m. 75,000 sq. ft. / 6,975 sq. m. 75,000 sq. ft. / 6,975 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	275 ft. / 83.8 m.
central water supply and on-site sewage disposal system	V	N/A	N/A	not developable	N/A
on-site water supply and central waste treatment system	I or II	50 feet / 15.25 metres	1 2 3 4 more than 4	15,000 sq. ft. / 1,393.5 sq. m. 20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 30,000 sq. ft. / 2,787 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	100 ft. / 30.5 m. 125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 160 ft. / 48.8 m.



on-site water supply and central waste treatment system	III	50 feet / 15.25 metres	1 2 3 4 more than 4	20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 35,000 sq. ft. / 3,251.5 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and waste treatment systems	I, II, or III	n/a	any number	as determined by the Minister	as determined by the Minister

Minimum lot size standards - non-residential lots

- (3) Every non-residential lot on a plan of subdivision shall conform with the following minimum lot size standards:

**TABLE 2 - MINIMUM LOT SIZE STANDARDS:
NON-RESIDENTIAL LOTS**

(a) Servicing	(b) Lot Category	(c) Minimum Lot Frontage	(d) Minimum Lot Area	(e) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet/metres
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
on-site water supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	51,000 sq. ft. / 4,738 sq. m.	225 ft. / 68.6 m.
central water supply and on-site sewage disposal system	I	50 feet / 15.25 metres	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.

central water supply and on-site sewage disposal system	II	50 feet / 15.25 metres	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
central water supply and on-site sewage disposal system	III	50 feet / 15.25 metres	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and central waste treatment system	I, II or III	50 feet / 15.25 metres	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
central water supply and waste treatment systems	I, II or III	n/a	as determined by the Minister	as determined by the Minister

Prohibition

- (4) No person shall diminish a lot below the standards set out in subsection (2) except as otherwise provided for in subsections 19(2) and 21(1). (EC693/00; 137/09)

24. Access

No person shall create a lot which does not have vehicular access to a public road or a private road, or which prevents or eliminates vehicular access from an adjacent parcel to a public road. (EC693/00; 137/09)

25. Subdivide along highways; minimum sight distance

- (1) No person shall subdivide a parcel of land that abuts, and requires access to, an arterial, collector, local or seasonal highway unless all proposed entrance ways, including any new entrance way for a remnant parcel, meet the minimum sight distance standards as set out in the *Roads Act Highway Access Regulations*.

Arterial highways

- (2) No person shall subdivide a parcel of land that abuts, and requires access to, an arterial highway unless an entrance way permit, where required, has been issued by the Minister responsible for the *Roads Act Highway Access Regulations*.

Collector highways

- (3) No person shall subdivide a parcel of land that abuts, and requires access to, a collector highway, unless it is an existing parcel of land, in which case
- (a) where the parcel has a frontage of less than 1,320 feet (402.3 metres), no more than one lot may be approved;
 - (b) where the parcel has a frontage of 1,320 feet (402.3 metres) or more, one lot may be allowed for every 660 feet (201 metres) of frontage;
 - (c) one lot in addition to those permitted in clauses (a) and (b) may be approved provided
 - (i) that the proposed lot contains an existing farm dwelling served by an existing highway access, and

- (ii) that no development permit shall be issued for a dwelling on the remainder of the subdivided parcel.

Effect of infilling designation

- (3.1) Subsection (3) does not apply to a parcel of land along a portion of a collector highway that is designated for infilling under the regulations made under the *Roads Act*.

Connecting roads

- (3.2) Notwithstanding the restrictions on subdivision specified in clause (3)(b), a person may subdivide additional lots from an existing parcel of land that abuts, or requires access to, a collector highway if the person has applied for and obtained approval of a plan of subdivision that includes approval for a road connecting to and within the subdivision to serve all the lots that meets the requirements of these regulations respecting road standards.

Service of Dwelling

- (4) Where a lot is subdivided pursuant to subclause 3(c)(i) or (ii), the dwelling on the lot shall be served by the existing dwelling access, and no development permit shall be issued for a dwelling on the remainder of the subdivided parcel.

Seasonal Highways

- (5) No person shall subdivide a parcel of land that abuts, and requires access to, a seasonal highway, unless an entrance way permit, where required, has been issued by the Minister responsible for the *Roads Act* Highway Access Regulations.

Non-essential highways

- (6) No person shall subdivide a parcel of land that abuts a non-essential highway unless access to an arterial, collector, local or seasonal highway is provided in accordance with the requirements of subsections 25(1) to (5) or access to a non-essential highway is approved by the Minister responsible for the *Roads Act* Highway Access Regulations. (EC693/00; 176/03; 372/05; 137/09; 285/16; 222/22)

26. Preliminary approval

- (1) A subdivision application that includes lots intended to accommodate septic sewage disposal systems shall not be granted preliminary approval until the lots have been categorized in accordance with subsection 23(1).

Conditions

- (2) Preliminary approval for all or a portion of a plan of subdivision may include conditions relating to:
 - (a) soil and water testing, and the provision of sewage disposal and water services;
 - (b) the allocation of land for any of the following purposes:
 - (i) the provision of shore access,
 - (ii) the preservation of a natural area or an historic site that is, in the opinion of the Minister, of provincial significance,
 - (iii) the provision of required buffers,
 - (iv) the construction of roads,
 - (v) the provision of utility, access or drainage easements;

- (c) the posting of a performance bond, cash bond, or other financial guarantee for the purpose of ensuring that the subdivision is developed in accordance with any conditions attached to preliminary approval;
- (d) any other requirements the Minister considers necessary.

Expiry

- (3) Preliminary approval for all or a portion of a plan of subdivision shall expire 24 months from the date of issue if the applicant fails to meet all of the conditions of preliminary approval within that time period, unless the applicant has made a request, in writing, and has been granted, an extension by the Minister sufficient to meet any outstanding conditions. (EC693/00; 137/09)

27. Final Approval

- (1) Final approval for all or a portion of a subdivision application shall not be granted until:
 - (a) all the conditions of preliminary approval established in accordance with subsection 26(2) have been met;
 - (b) an agreement has been completed with the Department of Transportation and Public Works for the construction and deeding of all public roads;
 - (c) a storm water management plan, acceptable to the Minister responsible for the *Environmental Protection Act*, where required, has been submitted for the construction and post-construction phases of the subdivision;
 - (d) a survey plan, certified by an accredited member of the Association of Prince Edward Island Land Surveyors, has been submitted showing the location of all survey pins.

Where survey not required

- (2) Notwithstanding clause (1)(d), where a subdivision would result in one or more lots of 10 acres or more, a plan of subdivision drawn accurately to scale on a provincial property map may be submitted in lieu of a certified survey plan for those lots that will be 10 acres or greater in area.

Idem

- (3) Notwithstanding clause (1)(d), a certified survey plan shall not be required for the remaining portion of the original parcel from which a parcel was created.

Preliminary approval prior to these regulations

- (4) Where a subdivision application was granted preliminary approval prior to December 2, 2000, but has not received final approval, final approval may be granted in accordance with subsection (1) only if all of the proposed lots on the plan of subdivision meet the minimum lot size standards as set out in section 23. (EC693/00; 137/09)

28. Designation of permitted uses

- (1) Final approval of a subdivision application shall specify the permitted uses of each lot on the plan of subdivision.

Offence

- (2) No person shall use a parcel for any purpose other than that which is specified on the approved plan of subdivision. (EC693/00; 137/09)



29. Change of use

- (1) No person shall deviate from an existing land use or an approved plan of subdivision, including changing the use of a lot from the approved use, unless a revised plan of subdivision, where applicable, and an application for a change of use has been submitted to, and has been approved by, the Minister.

Idem

- (2) Where a change of use application has been made, the Minister, in reviewing the application for a change of use, may take into consideration any written submissions received from the owners of lots within 330 feet (100 metres) of the lot to which the application applies. *(EC693/00; 137/09; 480/14; 222/22)*

29.1 Subdivision approved before 1974

- (1) The Minister may, on the request of an owner of a lot in a subdivision, and on submission of a revised plan of subdivision and an application for a change of use, approve a change of use respecting the lots in an approved plan of subdivision, where
- (a) the plan of subdivision was approved prior to 1974;
 - (b) the public roads shown on the approved plan have not been constructed or conveyed to the government; and
 - (c) at least 60% of the owners of the lots have indicated support for the requested change of use.

S. 14 applies with necessary changes

- (2) Subject to subsection (3), section 14 applies, with such changes as are necessary, to a request made under subsection (1).

Waiver of s. 14 requirements

- (3) The Minister may waive any of the requirements of section 14 in respect of a request made under subsection (1).

Notice of approval

- (4) If the Minister approves the request under subsection (1), the Minister shall give notice of the approval to the owners of the lots in the subdivision.

“support for the requested change of use”, defined

- (5) For the purposes of this section, “support for the requested change of use” includes support for the requested change of use that was communicated to the Minister or an employee of the Department in the time period between January 1, 2000 and the date this section comes into force. *(EC151/06; 222/22)*

30. Rescind or alter approval

- (1) The Minister may alter or rescind a subdivision approval, in whole or in part, where
- (a) the subdivision has been carried out contrary to
 - (i) the approved plan,
 - (ii) any conditions of approval,
 - (iii) these regulations, or
 - (iv) any other applicable Acts or regulations; or

- (b) the owner of the land has submitted an application to alter or to rescind the subdivision approval, and the application is in accordance with these regulations and any other applicable Acts and regulations.

Minister may consider submissions

- (2) Where an application to alter or rescind a subdivision approval has been made pursuant to clause (1)(b), the Minister, in reviewing the application, may take into consideration any written submissions received from owners of lots within the subdivision, or landowners within 330 feet (100 metres) of the subdivision, to which the application applies. (EC693/00; 176/03; 137/09; 480/14)

C - DEVELOPMENT PERMITS

31. Where development permit required

- (1) No person shall, without first obtaining a development permit from the Minister,
 - (a) commence the construction of any building or structure;
 - (b) locate any building or structure, or change the location of any building or structure on a lot;
 - (c) make any structural alterations that will change the exterior dimensions of any building or structure;
 - (d) change the use of any building or structure or land, or part thereof;
 - (e) intensify any non-conforming use;
 - (f) locate a travel trailer on any lot as the main or accessory use, other than in a travel trailer park where utility services are provided;
 - (g) create a mobile home park.

Prefabricated buildings

- (2) Notwithstanding subsection (1), a development permit shall not be required for prefabricated buildings manufactured in-plant, or the location of the units at the place of manufacture for either storage or display purposes.

Permit required - home-based business

- (3) A person shall apply for a development permit to renovate an existing dwelling unit for the purpose of accommodating a home-based business, for a change of use to a home-based business, or a for an accessory structure to be used for the home-based business.

Information required for application

- (4) An application for a development permit for a home-based business shall provide the development officer the information required in order to determine whether the proposed home-based business, the change of use to a home-based business or the accessory structure to be used for the home-based business will meet all of the following criteria:
 - (a) the business use of the dwelling unit or an accessory structure to the dwelling unit is secondary to the residential occupancy use of the dwelling unit;
 - (b) at least one full-time resident of the dwelling unit where the home-based business will be located operates or will operate the business;
 - (c) the home-based business, if within the dwelling unit, uses less than 50 per cent of the total floor area of the dwelling unit;



- (d) the home-based business, if located in an accessory structure, has a total floor area of less than 100 square metres.

Issuance of permit

- (5) Where the development officer is satisfied that the applicant’s proposed home-based business will meet all of the criteria specified in subsection (4), the development officer may issue a permit to the applicant that authorizes the proposed development, renovation or change of use.

Permit not transferable

- (6) An applicant to whom a permit is issued under subsection (5) shall not transfer the permit to any person.

Access to highway

- (7) Where a person’s home-based business requires new access to a highway, or a change to an existing entrance way to a highway, the person shall obtain the required permit in accordance with the *Roads Act* Highway Access Regulations prior to making an application for a development permit under this section. (EC693/00; 575/01; 222/22)

32. Application for a development permit

An application for a development permit shall be made on a form prescribed by the Minister, and shall be accompanied by

- (a) a copy of a property map;
- (b) an application fee; and
- (c) any additional information the Minister considers necessary. (EC693/00)

33. Duration

- (1) A development permit shall be valid for a period of 24 months from the date of issue.

Revocation or alteration

- (2) Notwithstanding subsection (1), a development permit may be revoked or altered within 24 months of the date of issuance or extension if construction has commenced in a location or manner contrary to the application or these regulations. (EC693/00)

34. Proposed use contrary to plan

No development permit shall be issued where the proposed use of the building or structure is contrary to the use specified on an approved subdivision plan. (EC693/00)

35. Entrance way; sight distance

Subject to section 8, no development permit shall be issued for any parcel of land where the entrance way does not conform to the sight distance standards for entrance ways set out in the *Roads Act* Highway Access Regulations. (EC693/00)

36. Minimum building standards

No person shall construct or alter a building without meeting the following minimum building standards:

- (a) all side walls and end walls shall be covered with a standard building siding;

- (b) tar paper or rolled roofing shall not be used as a permanent exterior siding ; and
- (c) roofs shall be covered with standard roofing materials. (EC693/00)

37. Application of regulations to existing lots

The minimum frontage and area provisions of these regulations do not apply to any lot existing on June 12, 1993, and a development permit may be issued for an existing lot that does not meet these standards provided that the lot meets the minimum requirements for sewage disposal in accordance with the *Environmental Protection Act Sewage Disposal Regulations* (EC298/97). (EC693/00)

38. Side and rear yards

(1) No person shall locate a building or development closer than 15 feet (4.6 metres) to a side or rear lot line except as follows:

- (a) an accessory building, if located in a rear yard, may be located no closer than 3 feet (0.9 metre) to a side or rear lot line;
- (b) a building or development may be located no closer than 8 feet (2.4 metres) to a side or rear lot line, provided the lot or parcel of land is located within the boundaries of one of the following municipalities:

Cardigan	Miminegash	Morell
Mount Stewart	Murray River	Murray Harbour
Tyne Valley	Victoria	St. Peters Bay

- (c) a semi-detached building may be located on two lots with the common side lot line coincident with the party wall between the two units, if
 - (i) the party wall is constructed in compliance with the *Fire Prevention Act*,
 - (ii) the dimensions of each lot comply with
 - (A) the minimum sight distance requirements of section 25, and
 - (B) the minimum lot size standards of section 23, Table 1,
 - (iii) all other provisions of these regulations are met, and
 - (iv) in the case of a semi-detached dwelling, the dwelling is
 - (A) located within the boundaries of an incorporated municipality, and
 - (B) serviced by a municipal sewer system and, if available, a municipal water system.

Exception

(2) Notwithstanding subsection (1), where there are extraordinary circumstances associated with the use of the building or development, larger side or rear yards may be required if considered necessary by the Provincial Fire Marshal.

Fire wall

(3) Notwithstanding subsection (1), the Minister may approve the erection of a building or structure, other than a dwelling, adjacent to a side or rear lot line, if the buildings or structure incorporates on the property line side a fire wall that is constructed in accordance with the requirements of the *Fire Prevention Act*. (EC693/00; 191/01; 176/03; 593/05)



39. Building setbacks; highways

- (1) No person shall locate a building or development closer than the following distances to a highway or public road:
- (a) along any arterial highway, collector highway, local highway, or seasonal highway, 83 feet (25.3 metres) to the centre line of the highway or 50 feet (15.2 metres) to the highway boundary, whichever is greater;
 - (b) along any public road which is an interior subdivision road, 50 feet (12.5 metres) to the centre line of the road or 17 feet (5.2 metres) to the road boundary, whichever is greater.

Reduced setback in selected municipalities

- (2) Notwithstanding subsection (1), no person shall locate a building or development closer than 50 feet (12.5 metres) to the centre line of a highway or 17 feet (5.2 metres) to a highway boundary, where
- (a) the highway speed limit where the lot or parcel of land is located is 50 kilometres per hour or less; and
 - (b) the lot or parcel of land is located within one of the following municipalities:

Abrams Village	Hunter River	St. Peters Bay
Bedeque	Miminegash	Tyne Valley
Cardigan	Morell	Victoria
Central Bedeque	Mount Stewart	York
Crapaud	Murray Harbour	Ellerslie-Bideford
Murray River		

Private road or right-of-way

- (3) Along any private road or right-of-way in an approved subdivision for summer cottage use, no person shall locate a building or development closer than
- (a) 50 feet (12.5 metres) to the centre line of a private road or right-of-way having a width of 66 feet (20.1 metres); or
 - (b) 17 feet (5.2 metres) to the boundary of a private road or right-of-way having a width of less than 66 feet (20.1 metres).

Where loading space proposed

- (4) Where a loading space is proposed in the front yard of a repair shop, store, warehouse or any other commercial or institutional building, the building shall have a minimum setback of 150 feet (45.7 metres) from the edge of the right-of-way.

Setback from beach, sand dune, wetland or watercourse

- (5) The nearest exterior portion of a building or structure shall be located no closer than
- (a) 75 feet (22.9 metres), or 60 times the annual rate of erosion, whichever is greater, to a beach, measured from the top of the bank;
 - (b) 100 feet (30.5 metres) to a migrating primary or secondary sand dune, measured from the inland boundary of the dune;
 - (c) 75 feet (22.9 metres) to the inland boundary of a wetland or watercourse.

Where greater setback required

- (6) Notwithstanding subsection (5), if after consultation with the Department of Fisheries, Aquaculture and Environment, it is determined that the setbacks listed therein are not sufficient to protect the beach, wetland or watercourse from the adverse impacts of contaminants discharged from the proposed buildings or structures, it may be required as a

condition of approval that the development be located at a greater distance from the beach, wetland or watercourse.

Miscellaneous structures

- (7) Subsection (5) shall not apply to buildings or structures used for fishing or bait sheds, aquaculture operations, boat launches, walkways, bridges, or wharves and piers and any associated buildings or structures, except where the Minister requires that these buildings or structures be located at some fixed distance from the top of the bank.

“top of the bank”, defined

- (8) For the purposes of this section, the words “top of the bank” mean, where there is no embankment, the landward boundary of the beach. (EC693/00)

40. Development, primary and secondary dunes

- (1) No person shall develop or construct a road on any primary, secondary, or baymouth barrier sand dunes.

Other dunes

- (2) Revoked by EC222/22.

Conservation officer may enforce

- (3) A conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1 has the power and authority to enforce subsection (1). (EC693/00; 138/10; 222/22)

41. Grouped buildings

Other than farm buildings, no person shall build or place more than one building on a parcel of land for commercial, industrial, recreational or institutional use, unless a site plan for such buildings has been approved by the Provincial Fire Marshal. (EC693/00)

42. More than one dwelling on a lot -exception

- (1) No person shall locate more than one building or structure for use as a part-time or year-round dwelling on a lot or existing parcel of land except
- (a) in conjunction with a farm parcel, and where the use of the dwelling is clearly incidental to the use of the main building;
 - (b) as a garden suite in conjunction with a single-unit dwelling in accordance with subsection (2);
 - (c) in the case of a tourist operation, where rental accommodations are grouped on a lot or existing parcel of land in accordance with all other requirements of these regulations;
 - (d) as part of a resort development;
 - (e) for use as senior citizens housing, where the buildings or structures are grouped in accordance with all other requirements of these regulations and connected to a central municipal sewer system prior to and during occupancy; or
 - (f) for institutional use on the property located at civic address 2661 Heatherdale Road, Route 316.



Requirements

- (2) One garden suite may be located as a second dwelling unit on a lot or parcel of land subject to the following requirements:
- (a) a single-unit dwelling unit already exists on the lot or existing parcel of land;
 - (b) the garden suite meets all the requirements of any applicable sections of these regulations;
 - (c) the garden suite utilizes the existing access to the lot or existing parcel of land;
 - (d) where the garden suite is to be located on a lot in a multiple lot approved subdivision, the owners of the adjoining lots and a majority of the owners of lots conveyed in the subdivision have consented in writing;
 - (e) the owner of the single-unit dwelling applies for and receives a development permit for the garden suite;
 - (f) the garden suite and the single-unit dwelling are connected to a common water supply system and a common sewage disposal system, where feasible, and where these systems are considered capable of handling the increase;
 - (g) the garden suite is approved by the Provincial Fire Marshal.

Time period

- (3) The development permit for a garden suite referred to in clause (2)(e) shall be valid for two years, but may be extended provided that the garden suite continues to meet all applicable requirements of these regulations.

Removal

- (4) When the garden suite no longer complies with any requirements under subsections (2) and (3), the owner of the single-unit dwelling shall, within 90 days, remove the garden suite from the site.

Extension

- (5) Upon written request by the owner or spouse of the owner of the single-unit dwelling, the 90 day removal period stated in subsection (4) may be extended by an additional 90 days. *(EC693/00; 352/01; 670/13; 319/17; 328/18)*

43. Multiple unit dwellings

No person shall construct or structurally alter a building for use as a multiple unit dwelling containing more than four units unless the proposal meets one of the following sets of criteria:

- (a) the lot or existing parcel of land is serviced by a municipal waste treatment system and meets the minimum standards set out in Table 1 for either lots with on-site water supply and central waste treatment system, or for fully serviced lots;
- (b) the lot or existing parcel of land is located in a resort development, and meets all other requirements of sections 48 to 54; or
- (c) the dwelling units are in a single storey building intended for senior citizens housing, and the proposal is appropriate for a rural area. *(EC693/00; 352/01)*

44. Parking

Off-street parking and loading areas shall be in accordance with the following requirements:

- (a) the minimum number of parking spaces shall be provided for the proposed use, as listed in Table 3;
- (b) every parking space shall have access to a clear manoeuvring lane;
- (c) every parking space shall have minimum dimensions of 9 feet (2.7 metres) by 18 feet (5.5 metres);
- (d) every loading space shall have minimum dimensions of 70 feet (21.3 metres) by 12 feet (3.7 metres);
- (e) notwithstanding clause (a), for any use other than residential, when an applicant submits a parking generation analysis based on the standards of the Institute of Transportation Engineers, and after consultation with the Minister of Transportation and Public Works, an alternative parking plan may be approved by the Minister. (EC693/00)

**TABLE 3
PARKING STANDARDS**

(a) Type of Use	(b) Number of Parking Spaces	(c) Loading Area
Residential	1.5 per dwelling unit (minimum of 2)	n/a
Auditorium, theatre, church or hall	1 per 4 seats	n/a
Hotel, motel, or tourist home	1 per guest room	n/a
Restaurants (including take outs)	1 per 100 square feet (9.3 square metres) minimum of 10	n/a
Business and professional offices	1 per 300 square feet (27.9 square metres) of floor area	n/a
Warehouse and storage facilities and other industrial uses	1 per employee	1 per loading bay
Other Commercial Uses	1 per 300 square feet (27.9 square metres) of floor area	
Other Institutional or Recreation Uses	1 per 400 square feet (37.2 square metres) of floor area	n/a
Other industrial uses	1 per employee	1 per loading bay

45. Travel trailer

- (1) No person shall place a travel trailer as the main or accessory use on any lot or parcel of land without first obtaining a development permit, other than in a travel trailer park where utility services are provided.

Permit

- (2) A permit issued in accordance with subsection (1) shall be valid for a period of not more than 120 days, and shall not be renewed.

Removal

- (3) A travel trailer placed in accordance with this section shall be removed from the lot or parcel of land immediately following expiry of the development permit. (EC693/00)

46. Mobile Homes

- (1) No person shall place a mobile home on a lot unless the structure is certified by a Standards Council of Canada accredited testing agency in accordance with CSA Standard CAN-Z-240.

Permit

- (2) Other than in an approved mobile home park, no person shall place a mobile home without first obtaining a development permit.

Mobile home on single family dwelling or cottage lot

- (3) Where a subdivision has been approved for single-unit dwelling use, either in a single phase or two or more phases, no person shall place a mobile home on a lot in the subdivision unless the owners of all adjoining approved lots and at least 75% of the owners of all other lots or parcels within 300 feet (91.4 metres) of the centre of the proposed location of the mobile home, including any lots or parcels outside the approved subdivision but within the specified distance, have consented in writing.

Voting

- (4) For the purpose of determining the opinion of the majority referred to in subsection (3), only one objection or favourable response per lot or parcel will be counted. (EC693/00; 319/17)

47. Mobile home park

- (1) An application for a mobile home park shall be made on a form prescribed by the Minister, and shall be accompanied by a detailed site plan, drawn to scale, that includes the following information:

- (a) the location and size of all mobile home sites;
- (b) the location and width of all roads provided within the park for access to the mobile home sites;
- (c) the proposed location of mobile homes;
- (d) the proposed location and size of any buildings or other structures to be located within the park; and
- (e) any additional information the Minister considers necessary.

Standards

- (2) No person shall establish a mobile home park that does not comply with the following standards:

- (a) the mobile home park shall be
 - (i) either serviced by a central waste treatment system and a central water supply system, or
 - (ii) where a water supply system or a waste treatment system of a municipality is available, the mobile home park shall be connected to the available municipal systems;
- (b) a paved road shall be provided to serve each mobile home space, and shall connect to a public highway at a location which meets the sight distance standards for entrance ways set out in the *Roads Act* Highway Access Regulations;
- (c) each mobile home space shall meet the following requirements:
 - (i) minimum area of 5,000 square feet (464.5 square metres),
 - (ii) minimum frontage of 25 feet (7.6 metres),
 - (iii) minimum distance of 30 feet (9.1 metres) between mobile home units,

- (iv) minimum distance of 15 feet (4.5 metres) between mobile home units and mobile home park boundary line,
- (v) minimum parking space in accordance with the residential standard set out in section 44 and Table 3;
- (d) a minimum area of 500 square feet (46.4 square metres) per mobile home space shall be set aside as an open space and recreation area, and in parks with more than 50 units, two such areas must be provided.

Location of mobile homes in park

- (3) No person shall locate a mobile home in a mobile home park other in accordance with the conditions of approval of the plan. (EC693/00)

D - RESORT DEVELOPMENTS

48. Approval required

- (1) No person shall develop land as a resort development without applying for preliminary approval under these regulations. (EC352/01)

Design brief, where required

- (2) An applicant under subsection (1)
 - (a) shall include a design brief with the application, where approval is required pursuant to the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9; and
 - (b) may include a design brief with the application, where clause (a) does not apply.

Idem

- (3) The Minister may
 - (a) grant preliminary resort development approval; or
 - (b) require additional information on the application. (EC693/00; 352/01)

49. Design brief

- (1) A design brief shall be based on sound planning, engineering and environmental principles and it shall indicate how the proposed development is suited to the intended location by means of a detailed written presentation and plans, including a site plan drawn to scale that shall include the following information:
 - (a) the topography and total area of the proposed site, property boundaries and the location of all existing and proposed buildings on the property;
 - (b) existing and proposed land uses, and the location of any archaeological sites, wildlife habitat areas and natural features, including beaches, sand dunes, wetlands and watercourses;
 - (c) proposed street and block design, including considerations of pedestrian circulation, parking, safety of access, emergency access, trip generation and impact on existing roads and intersections;
 - (d) proposed water supply, waste collection, sewage disposal and treatment, and storm water management;
 - (e) proposed placement of utilities and services;
 - (f) proposed population, number of dwelling units, commercial and other uses, recreational infrastructure and provision of open space;



- (g) percentage of the site to be occupied by buildings;
- (h) the method of fire protection and other emergency services; and
- (i) additional information as the Minister considers necessary.

Waiver of requirements

- (2) Notwithstanding subsection (1), the Minister may waive the requirement to provide any information required by subsection (1) that is not applicable to the application. (EC693/00; 352/01)

50. Preliminary approval conditions

- (1) Preliminary development approval shall state conditions that are required to be met as follows:
 - (a) environmental requirements;
 - (b) development of roads;
 - (c) phasing, including a condition that no succeeding phase can be developed until specified conditions for preceding phases have been met; and
 - (d) other requirements as the Minister considers necessary.

Expiry

- (2) Preliminary development approval shall expire 36 months from the date it was granted if the applicant has failed to meet the conditions of it. (EC693/00; 352/01)

51. Central water supply system

- (1) A resort development shall be serviced by a central water supply system that complies with the *Environmental Protection Act*.

Waste services

- (2) A resort development shall be serviced by
 - (a) a central waste treatment system; or
 - (b) a combination of a central waste treatment system and on-site sewage disposal systems,

that complies with the *Environmental Protection Act*. (EC693/00;352/01)

52. Private road

- (1) A resort development may be serviced by a private road, where the road
 - (a) has a right-of-way with a minimum width of 66 feet or 20 metres;
 - (b) is connected to a public road maintained by the province on a year-round basis; and
 - (c) is constructed under the supervision and certification of a professional engineer, in accordance with the applicable laws and standards for the intended use of the private road.

Road maintenance

- (2) Where a resort development is served by a private road pursuant to subsection (1), that road shall not be maintained by a department or agency of government at public expense.

Access responsibility

- (3) Responsibility for ensuring access to a lot in a resort development is a matter for determination between the owner of the road connecting the resort development to a public road, and the purchaser of a lot therein.

Year-round roads

- (4) Notwithstanding any other provision of this section, the roads serving any portion of a resort development that is approved for year-round residential use shall be public roads, including any roads required to provide access from the subdivision to an existing public road maintained by the province on a year-round basis. *(EC693/00; 352/01)*

53. Preliminary approval for portion

The Minister may grant preliminary subdivision approval for any portion of a subdivision within a resort development to permit the survey and pinning of lots, construction of roads, construction of buildings, and installation of a central water supply system and central waste treatment system, provided that the developer has

- (a) met all conditions of a preliminary resort development approval granted in accordance with subsection 50(1);
- (b) applied for subdivision approval and, where necessary, development permits, and paid the prescribed fees;
- (c) where required as a condition of approval of a development permit, entered into a comprehensive site development agreement respecting any or all of the following:
 - (i) parking;
 - (ii) building form, including height, bulk, and exterior materials;
 - (iii) vehicular movement;
 - (iv) pedestrian circulation;
 - (v) signs;
 - (vi) utilities, including sewerage, water and storm water management;
 - (vii) on-site landscaping, including measures to buffer adjacent properties;
 - (viii) setback distances from road and property lines; and
 - (ix) other conditions as the Minister considers necessary. *(EC693/00; 352/01)*

54. More than 4 units, year-round use

- (1) The erection of a building for year-round residential use containing more than four dwelling units may be approved for a resort development, where the building
- (a) is equipped with an automatic fire extinguishing system installed in accordance with the National Fire Protection Association Standard NFPA13;
 - (b) does not exceed three storeys in building height, or has a maximum height not more than fifteen metres above grade,
 - (c) does not have a building height exceeding the capability of the serving fire department to gain direct access to each storey from the exterior of the building; and
 - (d) is easily and readily accessible for fire-fighting vehicles and equipment on a year-round basis from a road adjoining the boundary of the building lot.



Exception

- (2) Clause (1)(b) does not apply where a building that exceeds the limits in clause (1)(b) is equipped with a standpipe system designed and installed in accordance with the National Fire Protection Association Standard NFPA14. (EC693/00; 352/01)

54.1 Definitions

- (1) In this section

- (a) “**permit holder**” means the person who holds a development permit for a wind energy conversion system development;
- (b) “**sign**” means any visual communication device, notice or medium created or manufactured for the purpose of providing information of any kind and includes any electric sign, flag or notice.

Setback from habitable buildings

- (2) No permit holder shall locate a wind turbine tower of a wind energy conversion system development with a name plate capacity of greater than 100 kilowatts within the distance equal to four times the total height of the wind turbine tower from any existing habitable building.

Idem

- (2.01) No permit holder shall locate a wind turbine tower of a wind energy conversion system development with a name plate capacity of 100 kilowatts or less within the distance equal to three times the total height of the wind turbine tower from any existing habitable building.

Exception

- (2.1) Notwithstanding subsection (2.01), a permit holder may, on a lot, locate a wind turbine tower closer than the distance equal to three times the height of the wind turbine tower from any existing habitable building, if
- (a) the permit holder is the owner of the lot;
- (b) the wind turbine tower is not located closer than the distance equal to the total height of the wind turbine tower from any habitable building on the same lot; and
- (c) the wind turbine tower is not located closer than a distance equal to three times the total height of the wind turbine tower from any habitable building on another lot.

Set back from lot lines and roads

- (3) Subject to subsection (4), no permit holder shall locate a wind turbine tower closer than the distance equal to the total height of the wind turbine tower from
- (a) any part of a lot line of a lot that is not owned by the permit holder; or
- (b) the nearest boundary of a public road, private road or right-of-way, except for any access road to the wind energy conversion system development.

Exception - consent of owner of lot within the setback

- (4) A permit holder may locate a wind turbine tower closer than the distance equal to the total height of the wind turbine tower from any part of a lot line of a lot that is not owned by the permit holder if the permit holder first obtains the written consent of the owner of that lot.

Set back for new habitable buildings

- (5) No person shall locate a habitable building closer to an existing wind turbine tower than the distance equal to the total tower height of the wind turbine tower.

Application of subdivision provisions

- (6) Sections 12 to 30 do not apply in respect of the subdivision of a parcel of land for the purposes of a wind energy conversion system development.

Signs

- (7) Subject to subsections (8) and (9), no permit holder shall cause, or permit, a sign to be displayed on any part of a wind turbine tower that is owned, constructed or located by the permit holder.

Sign of side of tower

- (8) A permit holder may cause, or permit, a single sign to be displayed on the side of a wind turbine tower if the sign
- (a) sets out the name, or contains the logo, of the permit holder or the manufacturer of the wind turbine tower;
 - (b) is located within 10 feet of the grade or base of the wind turbine tower; and
 - (c) is less than 1.5 square metres (16.15 square feet) in area.

Sign on nacelle of tower

- (9) A permit holder may cause, or permit, a single sign to be displayed on the nacelle of a wind turbine tower if the sign sets out the name, or contains the logo, of the permit holder or the manufacturer of the nacelle. *(EC349/04; 180/05; 422/09)*

PART IV - SPECIAL REGULATIONS

A - PRINCETOWN POINT - STANLEY BRIDGE SPECIAL PLANNING AREA

55. Princetown Point-Stanley Bridge Special Planning Area

The Princetown Point - Stanley Bridge area as shown in Appendix A, Map No. 1 is designated as a special planning area, and in addition to any other provisions of these regulations, sections 56 to 58 inclusive apply. *(EC693/00)*

56. Subdivision within 1,000 feet of the shore

- (1) Within the Princetown Point - Stanley Bridge Special Planning Area residential subdivisions of more than three lots shall be permitted only within 1,000 feet (304.8 metres) of the shore.

Exception

- (2) Where topographical or environmental conditions are unsuitable within the 1,000 foot (304.8 metre) development area, a subdivision may be permitted outside the development area provided that the subdivision is located as near as possible to the development area.

Area not subdivided

- (3) Within any area that may be subdivided in accordance with subsection (1) or (2), a portion shall remain unsubdivided.

Dimensions

- (4) The unsubdivided area referred to in subsection (3) shall include



- (a) a length equal to the full depth of the area being subdivided, measured from the perimeter coastline to the point of the parcel farthest from the shore; and
- (b) a width equal to 34% of the width of the shoreline, measured as a straight line between the two points where the side boundaries of the property meet the perimeter coastline.

Lots more than 1,000 feet from the shore

- (5) No more than three lots shall be subdivided from any property, or a portion of any property, outside the 1,000 foot (304.8 metre) development area specified in subsection (1). *(EC693/00)*

56.1 Exception

- (1) Notwithstanding anything to the contrary in section 56, a subdivision of three or more lots may be permitted outside the 1,000 foot (304.8 metre) development area specified in subsection 56(1) if
 - (a) the parcel of land being subdivided is 10 or more acres in size; and
 - (b) the subdivision is for a resource use.

Dwelling unit

- (2) Where a subdivision permitted under subsection (1) is for an agricultural resource use, a dwelling unit may be permitted to support that use. *(EC617/04)*

57. Commercial operation, development restrictions

- (1) Development for a commercial operation shall not be permitted within the following areas:
 - (a) within 30 feet (9.1 metres) of the highway, where access is directly from that portion of Route 6 and Route 20 known as the Blue Heron Drive;
 - (b) within 15 feet (4.6 metres) of the highway, where access is directly from a local highway.

“Development”, defined

- (2) “Development” as referred to in subsection (1) shall include a parking area, but shall not include an access driveway or a sewage disposal system. *(EC693/00)*

58. Scenic viewscape zone

In the scenic viewscape zone, as indicated in Appendix A, Map No. 2, approved subdivisions and development permits shall be subject to the following conditions:

- (a) all new electrical and telephone utility lines shall be placed underground, or where this is not possible, the poles and lines shall be placed on the side of the highway opposite to that along which the scenic viewscape is located;
- (b) no structure shall be constructed, erected, or placed closer than 200 feet (61 metres) to the highway along which the scenic viewscape is located. *(EC693/00)*

B - GREENWICH SPECIAL PLANNING AREA

59. Greenwich Special Planning Area

The September 26, 1996 designation of the Greenwich Special Planning Area as shown in Appendix A, Map No. 3, is continued, and in addition to any other provisions of these regulations, section 60 applies. (EC693/00)

60. Permitted land uses and subdivision

(1) Land uses and subdivision within the Greenwich Special Planning Area shall conform to the following Tables:

**TABLE 4
Greenwich Special Planning Area Permitted Land Uses**

Rural Development Zone					
residential use	single-unit dwelling accessory buildings		rental summer cottage	garden suite	duplex dwelling
commercial use	commercial eco-tourism use	retail	food service		resort development
industrial use	resource industrial use		accessory buildings		
institutional use	not permitted				
recreational use	permitted				
St. Peters Village Zone					
residential use	single-unit dwelling accessory buildings		2 to 4 unit apartment	rental summer cottage	garden suite
commercial use	commercial eco-tourism use commercial tourist use	resort development offices	retail accessory buildings	food service	campground or RV park
industrial use	light industrial use		accessory buildings		
institutional use	interpretation facility	institutional use			accessory buildings
recreational use	permitted				



**TABLE 5
GREENWICH SPECIAL PLANNING AREA SUBDIVISION OF LAND**

Proposed Use	Number of Lots per Existing Parcel of Land	
	St. Peters Village Zone	Rural Development Zone
residential use	no limit	1 lot per existing parcel
commercial tourist use	no limit	1 lot per existing parcel
light industrial use	no limit	not permitted
resource industrial use	no limit	no limit
institutional use	by development agreement	not permitted

Provisions for subdivision for family members

- (2) Notwithstanding subsection (1), residential subdivision in the Rural Development Zone of more than one lot per existing parcel of land, for residential use only, may be approved in the following situations:
 - (a) where
 - (i) the requirement of one lot per existing parcel of land is insufficient to permit an owner of the parcel to provide lots for the owner’s children,
 - (ii) each lot to be subdivided is to be conveyed to a person who is a child of the owner of the parcel,
 - (iii) a statutory declaration declaring that the lots to be subdivided will be conveyed to and built upon by children of the owner of the parcel has been submitted by the owner of the parcel with the application to subdivide,
 - (iv) no more than one lot is to be subdivided for each child of the owner, and
 - (v) a lot intended for a child of the owner of an existing parcel of land shall not be given final approval and shall not be conveyed until the child has received a building permit approval for the lot and has submitted a statutory declaration declaring that the child intends to build a residence on the lot for the child’s own use;
 - (b) where
 - (i) central sewage service provided by a municipal sewage utility or central water service provided by a municipal water utility is available or both are available, and
 - (ii) an irrevocable agreement has been signed between the developer and the municipal sewage or water utility to provide central sewage service or central water service or both is available to all lots prior to the conveyance of any lot from the subdivision; and
 - (c) where the proposed lots are part of a subdivision within a resort development.

Redesigned subdivisions

- (3) Notwithstanding this section, a subdivision approved prior to the coming into force of these regulations may be redesigned where the resulting redesigned subdivision meets the requirements of these regulations.

Special requirements

- (4) The following Table sets out the special requirements for buildings erected within the Greenwich Special Planning Area:

TABLE 6 - Greenwich Special Planning Area Special Requirements for St. Peters Village Zone and Rural Development Zone

<i>St. Peters Village Zone</i>			
Requirements	Residential use	Commercial use	Industrial use
Setback from highway boundary	17 ft. (5.2 m.)	17 ft. (5.2 m.)	17 ft. (5.2 m.)
Setback from side yard property lines	15 ft. (4.6 m.)	15 ft. (4.6 m.)	15 ft. (4.6 m.)
Lot coverage	one or more buildings - a maximum of 50% of the lot area	one or more buildings - a maximum of 75% of the lot area	one or more buildings - a maximum of 75% of the lot area
Architectural standards:			
Building height	a maximum of 3 storey, not exceeding 35 ft. (10.7 m.)	a maximum of 3 storey, not exceeding 35 ft. (10.7 m.)	a maximum of 3 storey, not exceeding 35 ft. (10.7 m.)
Exterior building materials	exterior wood finish, vinyl siding, brick or stone	exterior wood finish, vinyl siding, brick or stone	exterior wood finish, vinyl siding, brick or stone
Maximum roof slope (standard gable)	4/12	4/12	4/12
Roofing materials	shingles	shingles	unrestricted
<i>Rural Development Zone</i>			
Requirements	Residential use	Commercial use	Industrial use
Setback from highway boundary	150 ft. (47.7 m.)	250 ft. (76.2 m.)	250 ft. (76.2 m.)
Setback from side yard property lines	50 ft. (15.2 m.) 30 ft. (9.1 m.) within a resort development	50 ft. (15.2 m.)	50 ft. (15.2 m.)
Lot coverage	one or more buildings - a maximum of 10% of the lot area	one or more buildings - a maximum of 10% of the lot area	one or more buildings - a maximum of 10% of the lot area
Architectural standards:			
Building height	a maximum of 3 storeys, not exceeding 37 ft. (10.7 m.)	a maximum of 3 storeys, not exceeding 37 ft. (10.7 m.)	a maximum of 3 storeys, not exceeding 37 ft. (10.7 m.)
Exterior building materials	exterior wood finish, vinyl siding, brick or stone	exterior wood finish, vinyl siding, brick or stone	exterior wood finish, vinyl siding, brick or stone
Maximum roof slope (standard gable)	4/12	4/12	4/12
Roofing materials	shingles	shingles	unrestricted



Exception, previously approved lots and existing parcels of land

- (5) Notwithstanding subsection (4), in the Rural Development Zone the setback requirements of sections 38 and 39 shall apply where
- (a) a lot approved prior to July 1, 2000 or an existing parcel of land has dimensions insufficient to permit the setback and lot coverage requirements of subsection (4); or
 - (b) an accessory building is to be constructed on a lot or existing parcel of land containing existing buildings for residential or agricultural use that do not meet the setback requirements of subsection (4).

Set back adjacent to open space

- (5.1) Notwithstanding subsection (4), where a side property boundary in the Rural Development Zone is adjacent to a permanent open space, road right-of-way or other regulated set back that is 35 feet or more in width, the side yard set back for residential use for that property shall be 15 feet (4.6 metres).

Exemptions from roof slope

- (6) Notwithstanding subsection (4) outlining the requirements for minimum roof slopes (standard gabled) other roof types permitted are
- (a) mansard;
 - (b) four square;
 - (c) gambrel; and
 - (d) any other roof type approved by the Minister.

Exception, flat roofs

- (7) Notwithstanding subsection (6), flat roofs are permitted where the flat roof is for use on an industrial building.

Expansions or renovations to existing buildings

- (8) Building permits for expansions or renovations to existing buildings shall be permitted subject to the following regulations:
- (a) siding material or roofing material for expansions or renovations shall be either the same type as the existing building being expanded or renovated or shall be applied to the whole of the structure; and
 - (b) roof pitches and types for expansions or renovations shall be either the same pitch and type as the existing building being expanded or renovated or shall be applied to the whole of the structure.

Comprehensive site development agreement

- (9) Before a building permit is issued for any institutional use, auto body shop, or salvage yard within the St. Peters Village Zone, the Minister shall require the developer to enter into a comprehensive site development agreement respecting any or all of the following parameters:
- (a) parking;
 - (b) building form, including height, bulk, and exterior materials;
 - (c) vehicular movement;
 - (d) pedestrian circulation;
 - (e) signage;
 - (f) utilities, including sewerage, water and storm water management;
 - (g) on-site landscaping, including measures to buffer adjacent properties; and

- (h) set back distances from road and property lines. (EC693/00; 176/03; 202/06; 137/09; 319/17)

C - BORDEN REGION SPECIAL PLANNING AREA

61. Borden Region Special Planning Area

The September 7, 1996 designation of the Borden Region as a special planning area, as shown in Appendix A, Map No. 4 is continued, and in addition to any other provisions of these regulations, section 65 applies. (EC693/00)

62. Definitions

- (1) For the purposes of this section

- (a) “**Confederation Bridge development corridor**” or “**the corridor**” means that area of land indicated as such in Appendix A, Map No. 5;
- (b) “**light industrial development**” means the use of land for fabrication, manufacture, assembly, treatment or warehousing of goods, but does not include industrial processing or other processes which may result in the creation of hazardous or offensive conditions related to noise, odour, smoke or effluent;
- (c) “**recreational development**” means the use of land for passive or active recreational entertainment pursuit or sport, but does not include a recreational development or facilities used for commercial purposes;
- (d) “**resource development**” means the use of land for production and harvesting or extraction of any agricultural, fisheries or forestry product;
- (e) “**resource-based development**” means the use of land for agriculture, fisheries or forestry development; and includes the processing of agriculture, fisheries or forestry products and any accessory commercial operation for the sale of agriculture, fisheries or forestry products;
- (f) “**rural commercial**” means any commercial retail or service operation directly associated with the agriculture, fisheries and forestry industries;
- (g) “**rural industrial**” means any industrial development directly associated with the agriculture, fisheries and forestry industries.

Application of regulations

- (2) Where the Minister is the authority having jurisdiction, the provisions of these regulations apply to all lands within the corridor.

Exception

- (3) Notwithstanding subsection (2), where a development agreement is made pursuant to subsection (6), sections of these regulations relating to the parameters listed in subsection (6) do not apply.

Permitted land uses

- (4) Land use within the corridor shall conform with the following table:



TABLE 7 - PERMITTED LAND USES WITHIN THE CONFEDERATION BRIDGE DEVELOPMENT CORRIDOR

(Excluding PEI 1, PEI 3, Scenic Viewscapes and Rural Development Areas)

Category	Exclusions
residential	- mobile home parks /courts; - residential developments greater than 4 units.
commercial	- motor vehicle storage or sales lots; - motor vehicle body repair operations; - motor vehicle salvage and recycling operations; - campgrounds; - amusement parks.
industrial (other than resource based)	- salvage and recycling operations.
public service / institutional	- highway maintenance facilities.
recreational	- none
resource-based development	- none

Building height requirements

- (5) Except as provided for in a comprehensive site development agreement made pursuant to subsection (6), new developments shall conform to the following maximum building height requirements:

single family residential	35 ft. / 11.5 m.
two family residential	35 ft. / 11.5 m.
multiple family residential	45 ft. / 14.8 m.
commercial	45 ft. / 14.8 m.
light industrial	45 ft. / 14.8 m.
public service/institutional	45 ft. / 14.8 m.
public utility structure	no limit
recreational development	45 ft. / 14.8 m.
resource-based	no limit

Site development agreements, new development

- (6) The authority having jurisdiction shall require new developments, excepting single and two family residential developments, barns, livestock shelters and silos, to enter into a comprehensive site development agreement respecting the following parameters:
- (a) parking;
 - (b) building form, including height, bulk, and exterior materials;
 - (c) vehicular movement;
 - (d) pedestrian circulation;
 - (e) signage;
 - (f) utilities, including sewerage, water and storm water management;
 - (g) on-site landscaping, including measures to buffer conflicting uses; and
 - (h) setback distances from road and property lines.

Site development guidelines

- (7) In addition to the development standards contained in these regulations, and excepting single and two family residential and resource-based developments, the following site development guidelines for specific development locales (Tables 8 and 9) and specific development features (Table 10) shall, as is feasible, be incorporated into the site development concept plan of any new development:

TABLE 8 - SITE DEVELOPMENT GUIDELINES FOR SPECIFIC DEVELOPMENT LOCALES WITHIN THE COMMUNITY OF BORDEN-CARLETON

Locale	Guidelines
intersections	<ul style="list-style-type: none"> - intersections should become major nodes and focal points for development; - landscaping and surface treatment (different paving materials and patterns, pedestrian facilities, etc.) should be used to enhance importance of these locations; - dominant feature of corner lots should be buildings; - corner lot setbacks should be designed to incorporate landscaping, pedestrian amenities or interesting architectural features, while still maintaining safe traffic sight lines.

TABLE 9 - SITE DEVELOPMENT GUIDELINES FOR SPECIFIC DEVELOPMENT LOCALES WITHIN THE CONFEDERATION BRIDGE DEVELOPMENT CORRIDOR

Locale	Guidelines
Scenic Viewscapes	<ul style="list-style-type: none"> - developments occurring on lands within the Scenic Viewscapes (as indicated on Map No. 7) should take the visual quality of the panoramic view of the coastal area into consideration, and should, where practical and feasible, set any new structures on the land parcel in such a manner as to minimize any detrimental impact to the viewscape.

TABLE 10 - SITE DEVELOPMENT GUIDELINES FOR SPECIFIC DEVELOPMENT FEATURES WITHIN THE CONFEDERATION BRIDGE DEVELOPMENT CORRIDOR

Feature	Guidelines
parking	<ul style="list-style-type: none"> - parking should be located at the sides or rear of buildings; - parking areas should be separated from adjacent roads; - loading and delivery areas should be unobtrusive; - landscaping should be used to define access points or divide large parking lots into smaller lots; - parking lots should be screened from street by placement of buildings or, where parking area is located in front of building, the use of berms and landscaping (visibility of entrance way locations and traffic sight-lines will have to be considered and respected); - linked parking areas serving several developments should be used in order to reduce the number of turns onto and off adjacent road; - parking layouts should facilitate safe movement of pedestrians by providing walkways separate from vehicle lanes; - pedestrian lanes should cross roads at the fewest possible points; - parking spaces adjacent to pedestrian lanes should be a minimum of 1.5 ft. / 0.5 m. longer to allow for car overhang; - disabled parking spaces should be provided at strategic locations; - parking for commercial developments should be provided at the rate of 5.5 spaces per 1000 ft. of gross leasable area; - parking lots should be hard surfaced and curbed.



building form	<ul style="list-style-type: none"> - building design should maintain and reinforce local character (e.g., building heights, roof shapes, colour schemes, and exterior finishes) rather than a corporate image; - all visible sides of building should be finished; - finishes of retaining walls should be compatible with those of nearby buildings; - building entrances should be well-defined and accessible to pedestrians, including the disabled.
vehicular movement	<ul style="list-style-type: none"> - driveways should be shared by adjacent developments; - the number of driveways serving a new development should be minimized; - the number of conflict points should be minimized; - driveways should be clearly visible and properly signed.
pedestrian circulation	<ul style="list-style-type: none"> - continuous access from property to property should be provided and be designed to accommodate the disabled; - crosswalks should be conveniently located at intersections and other appropriate crossing points, and should be safe, clearly marked and lit for night use; - where required (e.g., pedestrian walkways and vehicular access points), high level lighting should be complemented with lighting standards (9.8 - 13 ft. / 3 - 4 m above grade).
signage	<ul style="list-style-type: none"> - the number of signs per property should be limited to those absolutely necessary, generally one; - the number of messages per sign should be limited to those which can be read at normal driving speed without impairing safety; - the size of signs and lettering should be determined by the permitted driving speed and should be no greater than what is required for visibility; - signage should be consolidated; - free-standing signs should be installed on a landscaped or decorative base; - portable signs should not be used; - signs should complement the architectural design and materials of the adjacent building(s); - signs should be integrated into the on-site landscaping.
public services	<ul style="list-style-type: none"> - new electrical utility lines should be buried; - existing overhead wiring should be buried, relocated or improved; - where required, storm sewers should be installed.
on-site landscaping	<ul style="list-style-type: none"> - any area on a site not utilized for buildings, storage, parking, walkways or roads should be landscaped utilizing a combination of appropriate tree, shrub and grass species or other natural materials; - on-site landscaping utilized for screening purposes should be of a size and type as to provide the required screening on a year-round basis; - any existing on-site landscaping should be maintained; - landscaped berms should be utilized to separate developments from major thoroughfares, and between conflicting adjacent uses (e.g. residential and industrial); - where non-residential uses are located adjacent to a residential area, they should be screened using berms, fencing or landscaping; - fencing should be compatible with adjacent buildings in terms of colour and materials; - service areas should be incorporated into the building design or screened from view through use of berms, fencing or landscaping; - adequate site drainage, so as to minimize potential flooding of adjacent properties, should be incorporated into site development plans.

Scenic viewscales

- (8) Pursuant to clause 8.1(d) of the Act, the following properties or portions thereof, identified by their Provincial Property Identification Number (PIN), are designated as Scenic Viewscales, as indicated in Appendix A, Map No. 7:

405548 and 814715

Uses permitted

- (9) Within any Scenic Viewscape, the following uses and no others shall be permitted:
- (i) resource development;
 - (ii) recreational development; and

- (iii) scientific studies and conservation-related activities.

Rural Development Areas

- (10) Pursuant to clause 8.1(d) of the Act, the following properties or portions thereof, identified by their Provincial Property Identification Number (PIN), are designated as Rural Development Areas, as indicated in Appendix A, Map No. 6:

209973	590331	210609	379354	210013	769471	209775
209973	590331	210609	379354	210013	769471	209775
601674	214114	546754	209726	536482	214965	214999
536482	209718	209700	405548	215301	215376	215293
215368	215257	215319	215269	212761	214906	215343
215327	215137	568733	215202	215160	215244	509331
215194	215186	620328	215178	591859	214890	620310
214940	789370	769026	215236	404459	214981	734194
215046	212746	214957	214973			

Subdivision, rural development area

- (11) Within any Rural Development Area, a subdivision shall conform to the following table:

TABLE 11 - PERMITTED LAND USES AND SUBDIVISION LIMITATIONS IN A RURAL DEVELOPMENT AREA

Proposed use	No. of lots permitted per existing parcel of land
resource development	- no limit
residential: on-site sewerage system central water and sewerage system	- 1 lot per existing parcel of land; - no limit, provided an irrevocable agreement has been signed between the developer and the Community of Borden-Carleton to provide central waste treatment and water supply service to the approved subdivision from the municipal utility prior to the conveyance of any lot from the subdivision.
rural industrial: resource-based other	- no limit; - 1 lot per existing parcel of land.
rural commercial: resource-based other	- 1 lot per existing parcel of land; - 1 lot per existing parcel of land to a maximum of 1 acre in size.
public service and institutional	- 1 lot per existing parcel of land
recreational	- 1 lot per existing parcel of land
Notes: 1. Notwithstanding Table 11, the total number of lots for residential (on-site sewerage), rural industrial (other), rural commercial (resource-based), rural commercial (other), public service and institutional, and recreational shall not exceed one. 2. The requirements of Table 11 do not apply to approved subdivisions or development permits granted prior to September 7, 1996.	

PEI 1 properties

- (12) Those properties, or portions thereof, identified in Appendix A, Map No. 7 as PEI 1
 - (a) are designated for future residential, retail commercial and commercial service purposes; and

- (b) shall be within the exclusive jurisdiction of the Minister.

PEI 3 properties

- (13) Those properties, or portions thereof, identified in Appendix A, Map No. 7 as PEI 3
 - (a) are designated for future commercial and light industrial purposes; and
 - (b) shall be within the exclusive jurisdiction of the Minister. (EC693/00)

D - STRATFORD REGION, CHARLOTTETOWN REGION, CORNWALL REGION AND SUMMERSIDE REGION

SPECIAL PLANNING AREAS

63. Special Planning Areas

- (1) The July 9, 1994 designation of the following areas as special planning areas is continued:
 - (a) the area adjacent to the Town of Stratford as shown in Appendix A, Map No. 8;
 - (b) the area adjacent to the City of Charlottetown as shown in Appendix A, Map No. 9;
 - (c) the area adjacent to the Town of Cornwall as shown in Appendix A, Map No. 10;
 - (d) the area adjacent to the City of Summerside as shown in Appendix A, Map No. 11.

Application of section

- (2) In addition to all other relevant conditions and requirements contained in these regulations, the provisions of this section apply within the Stratford Region Special Planning Area, the Charlottetown Area Special Planning Area, the Cornwall Region Special Planning Area and the Summerside Region Special Planning Area.

Objectives

- (3) The specific objectives for development within the Stratford Region Special Planning Area, the Charlottetown Region Special Planning Area, the Cornwall Region Special Planning Area, and the Summerside Region Special Planning Area are
 - (a) to minimize the extent to which unserviced residential, commercial and industrial development may occur;
 - (b) to sustain the rural community by limiting future urban or suburban residential development and non-resource commercial and industrial development in order to minimize the loss of primary industry lands to non-resource land uses; and
 - (c) to minimize the potential for conflicts between resource uses and urban residential, commercial and industrial uses.

Definition

- (3.1) In this section,
 - (a) “**existing parcel**” means a parcel of land that existed on July 9, 1994;
 - (b) “**golf course development**” means a development comprising
 - (i) an area of land designed for the playing of the game of golf, with a series of 9 or 18 holes, each including tee, fairway and putting green and one or more natural hazards, that may also include, but is not limited to, a main golf club building, ancillary buildings and structures, infrastructure and related services, equipment and signage used to assist with the operation and maintenance of the golf course, and

- (ii) a residential development component;
- (c) “**residential development component**” means a residential development comprising no more than five lots per parcel approved under subsection (5.03) exclusively for single-unit dwelling use in direct association with a golf course.

Approval of one lot per parcel

- (4) An existing parcel of land may, on approval, be subdivided into not more than one lot for one of the following purposes:
 - (a) recreational use;
 - (b) resource-commercial or resource-industrial use, where the lot is intended for agricultural, forestry or fisheries purposes;
 - (c) institutional use, where the lot has an area no greater than three acres;
 - (d) use as a cemetery;
 - (e) rural tourism use, where the area of the lot does not exceed three acres;
 - (f) public utility use.

Five lots per parcel - residential use

- (4.01) An existing parcel of land may, on approval, be subdivided into not more than five lots for residential use, which may include
 - (a) single-unit dwelling use;
 - (b) duplex dwelling use; or
 - (c) multiple unit dwelling use or a mobile home park where
 - (i) central sewerage service provided by a municipal sewerage utility or central water service provided by a municipal water utility, or both, are available, and
 - (ii) an irrevocable agreement has been signed between the developer and the municipal sewerage or water utility to provide central sewerage service or central water service, or both, if available, to the lot or mobile home park.

Clarification

- (4.02) For greater certainty, the same parcel of land may be subdivided for the purposes of either subsection (4) or (4.01), but not both.

Non-resource commercial or industrial

- (4.1) A parcel may be subdivided for a non-resource related commercial or industrial use where
 - (a) the subdivided land is to encompass or contain an existing commercial use, or be appended to or consolidated with land that was approved for a non-resource related commercial or industrial use by the Minister prior to October 12, 2019;
 - (b) in the opinion of the Minister, that use has not been discontinued or abandoned; and
 - (c) the proposed expansion does not violate the intent and purpose of these regulations, with particular regard for sections 3 and 13.

Exception

- (5) Notwithstanding clause (4.01)(a), where the intended residential use is single-unit dwelling use, subdivisions of more than one lot per parcel of land, may be approved in the following situations:
 - (a) where the requirements of clause (4.01)(a) are insufficient to permit the owner of a parcel to provide lots for the children of that owner, and



- (i) the owner files, with an application to subdivide the parcel, a statutory declaration that he or she will convey the lots only to his or her children and only for the use as a single-unit dwelling,
 - (ii) no child of the owner will receive more than one lot,
 - (iii) the total number of lots that may be subdivided from all of the parcels owned by an owner pursuant to this subsection is equal to or less than the number of children of that owner at the time of the application, and
 - (iv) revoked by EC166/08)
 - (v) a lot intended for a child of the owner of a parcel of land shall not be given final approval and shall not be conveyed until the child has received a development permit approval for the lot and has submitted a statutory declaration declaring that the child intends to build a residence on the lot for the child's own use;
- (b) where one lot is required in addition to those permitted by clause (a) or (4)(a) in order to accommodate an existing farm dwelling, and the dwelling on the lot is to be served by the existing farm dwelling access;
 - (c) where central sewerage service provided by a municipal sewerage utility or central water service provided by a municipal water utility is available or both are available, and an irrevocable agreement has been signed between the developer and the municipal sewerage or water utility to provide central sewerage service or central water service or both if available to all lots prior to the conveyance of any lot from the approved subdivision;
 - (d) where an owner of a golf course that exists on the date of the coming into force of this clause proposes to create a golf course development in accordance with the requirements of subsections (5.03) to (5.05).

“remnant parcel”, defined

- (5.01) In subsection (5.02), “**remnant parcel**” means, in respect of an existing parcel, the portion of the existing parcel that has not been approved for subdivision into one or more lots under subsection (4), (4.01), (4.1), (5) or (5.1).

Subdivision of remnant

- (5.02) An approval to subdivide a remnant parcel may be granted, as if the remnant parcel were an existing parcel, under
 - (a) any clause of subsection (4), (4.01), (4.1) or (5); or
 - (b) subsection (5.1),

if no previous approval to subdivide has been granted under such a clause of subsection (4), (4.01), (4.1) or (5), or under subsection (5.1), as the case may be, in respect of any land forming part of the existing parcel.

Residential development component, criteria

- (5.03) A residential development component of a golf course development shall
 - (a) be directly associated with the golf course by means of a membership agreement between the golf course owner and the prospective purchaser of each lot that provides that the agreement shall run in perpetuity with the lot for the life of the golf course development;
 - (b) be consistent with the objectives set out in subsection (3); and
 - (c) not interfere with the normal operation of the golf course.

Conditions for application

- (5.04) The owner of a golf course that exists on the date of the coming into force of clause (5)(d) may apply in accordance with subsection (5.05) for approval for subdivision of the golf course, or the adjoining land, if that land is also owned by the owner of the golf course, or both, into no more than 5 lots per parcel, exclusively for single-unit dwelling use as a residential development component in direct association with the golf course to form a golf course development.

Requirements for application

- (5.05) An application to establish a residential development component of a golf course development shall
- (a) indicate how the proposed development is suited to the intended location, by means of a detailed site plan, drawn to scale, and a design brief that includes information about
- (i) the total area and topography of the proposed site, property boundaries, setbacks and location of all existing and proposed buildings on the property,
 - (ii) existing and proposed land uses and the location of any archaeological sites, wildlife habitat areas and natural features, including beaches, sand dunes, wetlands and watercourses,
 - (iii) proposed street design, including pedestrian circulation, safety of access and emergency access,
 - (iv) if municipal or central services are available, the location of the proposed water supply, waste water collection, sewage disposal and treatment,
 - (v) storm water management,
 - (vi) proposed placement of utilities, services and easements,
 - (vii) lot coverage ratio and building height allowance,
 - (viii) potential effects of the proposed development on existing viewscales, and
 - (ix) any additional information the Minister considers necessary; and
- (b) be presented at a public meeting in accordance with the requirements of section 11.

Idem

- (5.1) Notwithstanding clause 4(b), where the intended use is resource-commercial or resource-industrial within a municipality that has an official plan, subdivisions of more than one lot per parcel of land may be approved where an irrevocable agreement has been signed between the developer and a municipal sewerage or water utility to provide central sewerage or central water service, or both if available, to all lots prior to the conveyance of any lot from the approved subdivision.

Idem

- (6) In the case of a Slemon Park subdivision which has more than one lot, and whose lots have areas greater than one acre, the subdivision may be approved for industrial use for those lands owned by the Slemon Park Corporation on July 9, 1994, where an irrevocable agreement has been signed between the Slemon Park Corporation and the developer to provide central sewerage and water service to all lots prior to conveyance of any lot and commencement of the development.

Development permits

- (7) Pursuant to the uses and limitations contained in subsection (4), (4.01), (4.1), or (5.02), development permits may be approved for



- (a) existing parcels of land;
- (b) subdivisions approved prior to July 9, 1994;
- (c) subdivisions approved pursuant to subsections (4), (4.1), (4.01), (5) and (5.1) and remnant parcels resulting from such subdivisions;
- (d) subdivisions approved pursuant to clause (5)(c) and subsection (5.1), where an irrevocable agreement has been signed between the developer and the municipal sewerage utility, municipal water utility or both of them to provide central sewerage service, central water service, or both of them, to the approved subdivision prior to commencement of construction or location of dwellings or buildings on any of the lots;
- (e) subdivisions approved for lands owned by the Slemon Park Corporation pursuant to subsection (6), where an irrevocable agreement has been signed between the Slemon Park Corporation and the developer to provide central sewerage and water service to the approved subdivision prior to commencement of construction or location of dwellings or buildings on any of the lots.

Existing farm dwelling

- (8) Where a lot has been approved pursuant to clause (5)(b) to accommodate an existing farm dwelling, no development permit shall be issued for a dwelling on the remainder of the subdivided parcel.

Municipal official plan

- (9) Subdivisions or development permits approved under subsections (4), (4.1), (4.01), (5), (5.1) and (7) shall, in areas where a municipal official plan is in place, also be subject to all applicable land use and development regulations made pursuant to the municipal official plan.

Municipality with official plan

- (10) A municipality with an official plan may, as an alternative to amending its official plan and bylaws to conform with subsections (2) to (9), otherwise amend its official plan and bylaws where the amendments comply with subsection 7(2) of the Act and
 - (a) are consistent with the objectives set out in subsection (3);
 - (b) satisfy the minimum requirements applicable to official plans pursuant to section 7 of the Act;
 - (c) revoked by EC421/09;
 - (d) with the exception of the community of Miscouche, limit the number of lots in a subdivision for residential use to no more than five lots per existing parcel of land, unless
 - (i) central water service, central sewerage service, or both of them, by a municipal water utility, municipal sewerage utility, or both of them, is available, and
 - (ii) an irrevocable agreement has been signed between the developer and the municipal water utility, municipal sewerage utility, or both of them, to provide central water service, central sewerage service, or both of them, to all lots prior to the conveyance of any lot from the approved subdivision; and
 - (e) require the municipality to report to the Minister, on or before April 30 of each year, the number of lots approved and development permits issued in the previous fiscal year, by type of intended use. (EC693/00; 702/04; 116/05; 212/05; 166/08; 421/09; 670/13; 842/16; 319/17; 674/19; 222/22; 451/22)

E - OFF-SHORE ISLANDS

64. Subdivide land or construct building

- (1) Upon and within any off-shore island, no person shall
- (a) subdivide a parcel of land;
 - (b) construct or locate a building or development on a sand dune or wildlife habitat; or
 - (c) construct or locate on a parcel of land a building or development intended for any use other than a summer cottage having its own water supply and sewage disposal system constructed in accordance with the requirements of the *Environmental Protection Act*.

Off-shore islands

- (2) Subsection (1) shall apply to the following off-shore islands:

- (a) Glenfinnan Island;
- (b) Governor's Island;
- (c) St. Peter's Island;
- (d) Holman Island;
- (e) Murray Islands:
 - (i) Reynolds Island,
 - (ii) Herring Island,
 - (iii) Cherry Island,
 - (iv) Thomas Island,
 - (v) Gordon's Island;
- (f) Boughton Island;
- (g) Grover (Ram) Island;
- (h) Little Courtin Island;
- (i) Bunbury Island;
- (j) Bird Island;
- (k) Oulton's Island;
- (l) Cascumpeque Sand Hills;
- (m) Conway Sand Hills;
- (n) Hog Island Sand Hills;
- (o) George Island.

Conservation officer may enforce

- (3) A conservation officer appointed under the *Wildlife Conservation Act* has the power and authority to enforce subsection (1). (EC693/00; 137/09; 138/10)

65. Designated roads

Revoked by 208/07. (EC693/00; 466/04; 208/07)



65.1 “scenic heritage road”, defined
Revoked by 208/07. (EC466/04; 208/07)

66. Minister’s permission required for alterations
Revoked by 208/07. (EC693/00; 208/07)

G - MORELL RIVER CONSERVATION ZONE

67. Morell River Conservation Zone

- (1) The designation of the Morell River Conservation Zone as shown in Appendix A, Map No. 12 is continued, with the following objectives:
- (a) to maintain the recreational value of the Morell River;
 - (b) to retain its unspoiled state for the use and enjoyment of present and future generations; and
 - (c) to protect it from encroachment of undesirable and incompatible land uses.

Application

- (2) This section applies only to the Morell River Conservation Zone and no other requirements of these regulations apply to the Morell River Conservation Zone.

Definitions

- (3) For the purposes of this section
- (a) **“Conservation Zone”** means the Morell River Conservation Zone established pursuant to this section;
 - (b) **“development”** means
 - (i) a change in the use of land or buildings,
 - (ii) the erection or construction of any structure, including any building, mobile building, trailer or billboard, or
 - (iii) any other act or work, including the cutting of trees, which affects, or may affect the environment or the landscape or the appearance of the same;
 - (c) **“established uses”** means those uses of land or buildings lawfully existing on or before June 19, 1975;
 - (d) **“permit”** means a permit issued pursuant to subsection (6).

Development requires a permit

- (4) No person shall undertake development in the Conservation Zone without a permit.

Obligations of property owner

- (5) No owner of property located within the Conservation Zone shall permit development to be undertaken on that property unless
- (a) the development is authorized by permit; and
 - (b) the owner of the property has inspected the permit.

Minister may grant permit

- (6) The Minister may grant a permit for development within the Conservation Zone where
- (a) the proposed development

- (i) is a scientific project with the object of improving the river, and
- (ii) has been approved in writing by
 - (A) the Morell River Land Use Steering Committee,
 - (B) the Department of Fisheries and Oceans Canada,
 - (C) the Fish and Wildlife Division of the Department of Fisheries, Aquaculture and Environment, and
 - (D) the Planning and Inspection Services Division of the Department of Community and Cultural Affairs; or
- (b) the proposed development
 - (i) is the selective cutting of trees aimed at improving a tree stand, and
 - (ii) the development has been approved in writing by
 - (A) the Forestry Division of the Department of Agriculture and Forestry, and
 - (B) the Morell River Land Use Steering Committee.

Established uses

- (7) Established uses shall be permitted to continue within the Conservation Zone, but no person shall expand, relocate, structurally alter or otherwise undertake development with respect to an existing use.

Conservation officer may enforce

- (8) A conservation officer appointed under the *Wildlife Conservation Act* has the power and authority to enforce subsections (4), (5) and (7). (EC693/00; 138/10)

PART V — FEES

68. Fees

The fees payable for subdivision and development applications are prescribed in Table 12.

TABLE 12 - FEES	
Type of Use/Application	Fee
RESIDENTIAL DEVELOPMENT	
New/Additions/Moving/Accessory	\$250
INDUSTRIAL-COMMERCIAL-INSTITUTIONAL and RECREATIONAL DEVELOPMENT	
New/Additions/Renovations	\$600
RESOURCE DEVELOPMENT	
New/Additions/Renovations	\$500
SUBDIVISION OF LAND	
One or more lots or changes of use	\$110 for the first lot plus \$55 for each additional lot

Preliminary approval extensions	\$30
WIND ENERGY SYSTEMS	
Capacity of 1-20kw	\$100
Capacity of greater than 20kw but less than 50kw	\$200
Capacity of 50kw or greater but less than 100kw	\$300
Capacity of 100kw or greater	\$1,100
GENERAL	
Campground/Mobile Home Park	\$220
Travel Trailer as Primary/Accessory Use on a Lot	\$220
Permit/Approval After-the-Fact	Double the Fee (Min. \$100)

(EC693/00; 176/03; 349/04; 617/04; 180/05; 137/09; 466/09; 281/12; 420/16; 220/20)

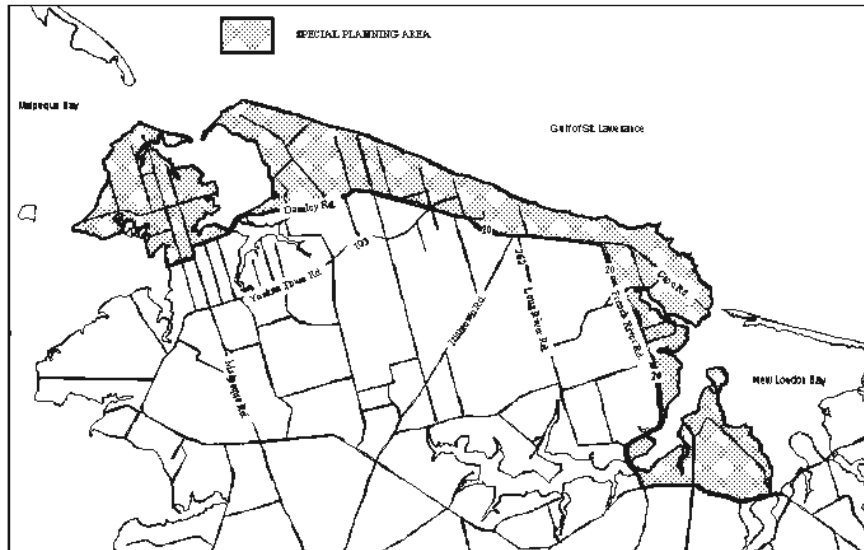
69. Withdrawal of application

Where an applicant withdraws an application before a decision is made on it, the Minister may authorize a refund of any fee paid pursuant to section 68 where, in the opinion of the Minister, the withdrawal of the application will avoid public expense. (EC693/00)

APPENDICES

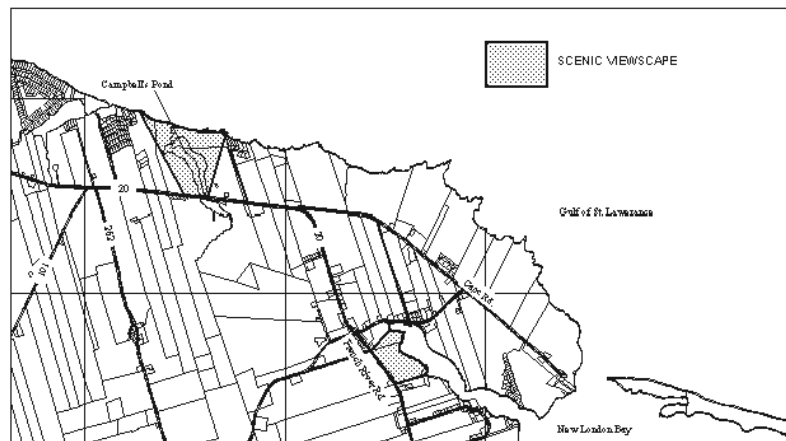
APPENDIX A

MAP #1 - PRINCETOWN POINT - STANLEY BRIDGE SPECIAL PLANNING AREA

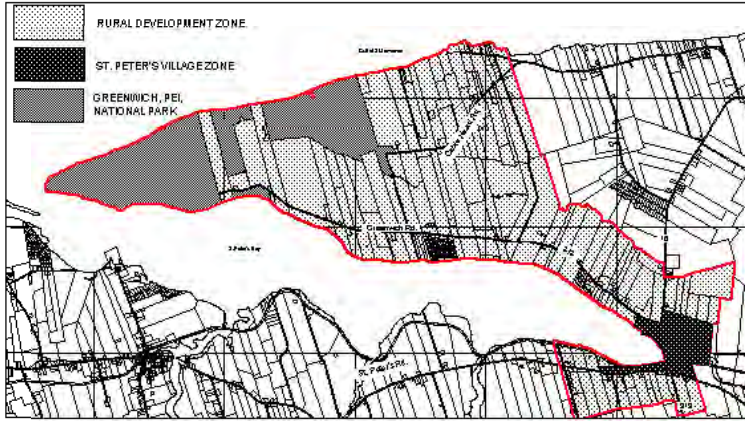


APPENDIX A

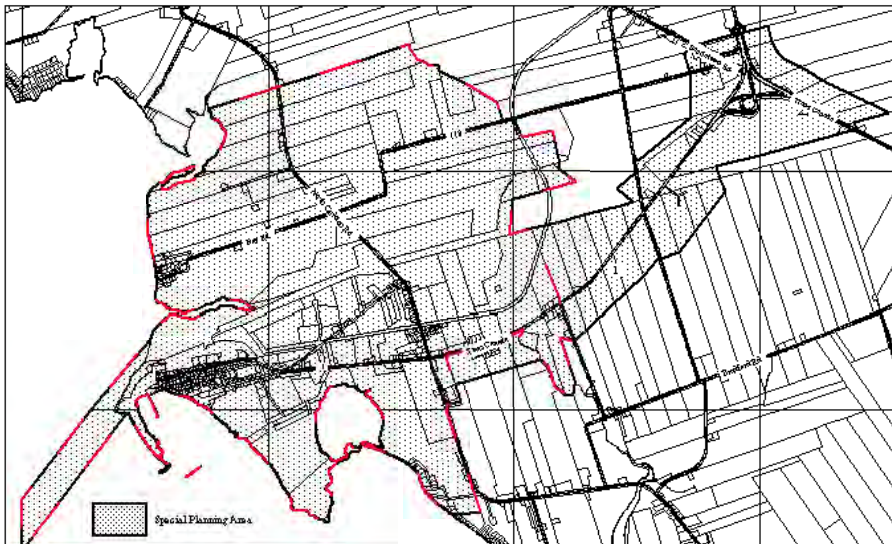
MAP #2 - SCENIC VIEWSCAPE ZONE



APPENDIX A
MAP #3 - GREENWICH SPECIAL PLANNING AREA

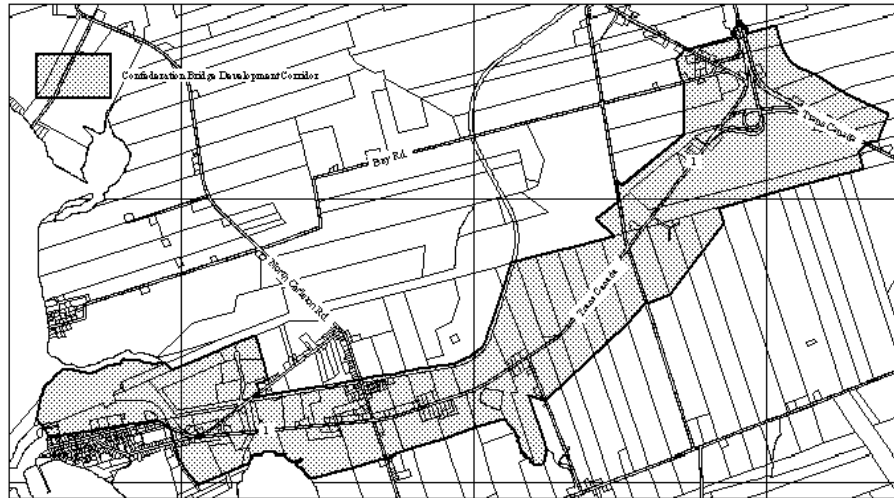


APPENDIX A
Map #4 - BORDEN REGION SPECIAL PLANNING AREA



APPENDIX A

MAP #5 - CONFEDERATION BRIDGE DEVELOPMENT CORRIDOR



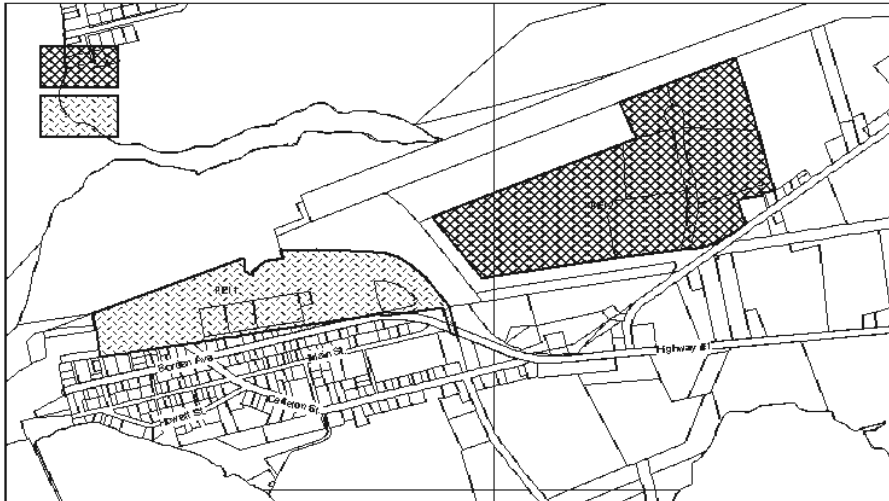
APPENDIX A

MAP #6 - PROPERTIES DESIGNATED AS SCENIC VIEWSCAPES AND RURAL DEVELOPMENT AREAS



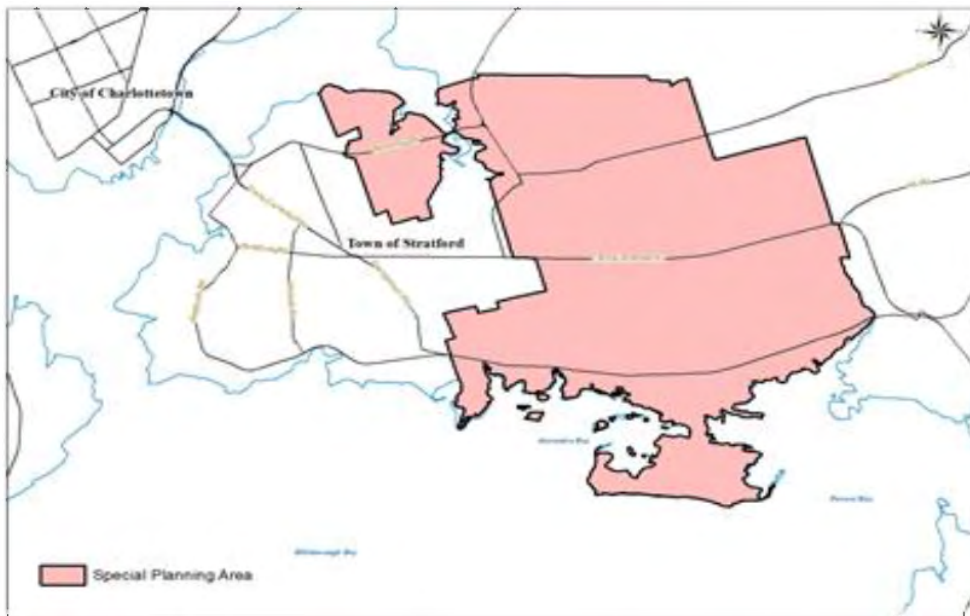
APPENDIX A

MAP #7 - PROPERTIES DESIGNATED FOR FUTURE RESIDENTIAL/RETAIL COMMERCIAL/
COMMERCIAL SERVICE AND COMMERCIAL/LIGHT INDUSTRIAL PURPOSES



APPENDIX A

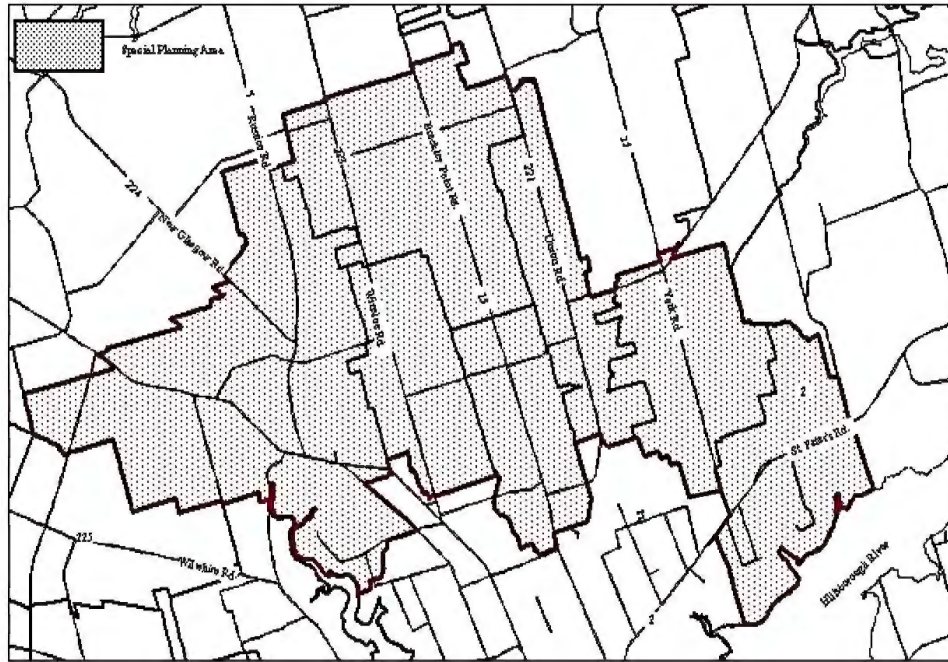
MAP #8 - STRATFORD REGION SPECIAL PLANNING AREA



(EC605/21)

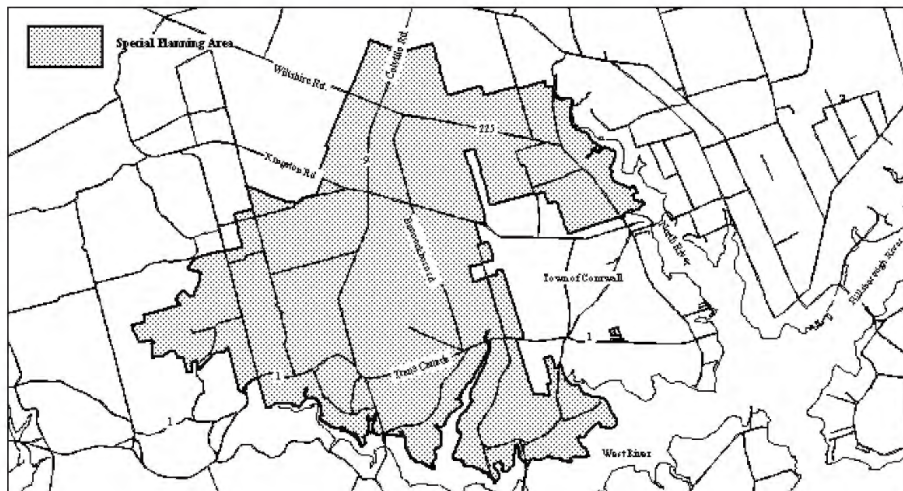


APPENDIX A
MAP #9 - CHARLOTTETOWN REGION SPECIAL PLANNING AREA



(EC707/22)

APPENDIX A
Map #10 - CORNWALL REGION SPECIAL PLANNING AREA



APPENDIX B

SLEMON PARK FUTURE DEVELOPMENT AREA

All that certain parcel of land situate, lying and being in Slemon Park, Township 17, in the County of Prince, Province of Prince Edward Island, shown on a plan of survey by Locus Surveys Ltd., dated December 1, 2003, drawing number 03644, being more particularly described as follows:

Commencing at a calculated point, designated as number 9453 on the above-mentioned survey plan, having coordinates E. 290878.455 and N. 402046.616;

Thence on an azimuth of 276E 00' 32" for a distance of 20.08 feet to a calculated point, designated as number 8780;

Thence on an azimuth of 281E 10' 33" for a distance of 1363.71 feet to a calculated point designated as number 8779;

Thence on an azimuth of 335E 50' 00" for a distance of 618.95 feet to a calculated point, said point designated as number 8761;

Thence on azimuth of 283E 03' 59" for a distance of 981.83 feet to a calculated point, said point designated as number 15263;

Thence on an azimuth of 35E 56' 49" for a distance of 1860.51 feet to a calculated point, said point designated as number 15264;

Thence on an azimuth of 65E 14' 51" for a distance of 161.66 feet to a calculated point, said point designated as number 15265;

Thence on an azimuth of 95E 51' 36" for a distance of 194.38 feet to a calculated point, said point designated as number 15266;

Thence on an azimuth of 35E 55' 10" for a distance of 1711.14 feet to a calculated point, said point designated as number 15267;

Thence on an azimuth of 335E 52' 32" for a distance of 46.15 feet to a calculated point, said point designated as number 15268;

Thence on an azimuth of 4E 52' 12" for a distance of 177.38 feet to a calculated point, said point designated as number 15269;

Thence on an azimuth of 36E 00' 06" for a distance of 6000.00 feet more or less to the ordinary high water mark of Malpeque Bay;

Thence southeasterly along the various courses of the ordinary high water mark of Malpeque Bay for a distance of 2215.00 feet more or less;

Thence on an azimuth of 180E 26' 00" for a distance of 2685.00 feet more or less to a calculated point, said point designated as number 15258;

Thence on an azimuth of 282E 26' 00" for a distance of 1083.19 feet to a calculated point, said point designated as number 15256;

Thence on an azimuth of 191E 53' 00" for a distance of 500.00 feet to a calculated point, said point designated as number 15255;

Thence on an azimuth of 282E 03' 00" for a distance of 786.80 feet to a calculated point, said point designated as number 15254;

Thence on an azimuth 191E 37' 00" for a distance of 546.38 feet to a calculated point, said point designated as number 15253;

Thence on an azimuth 192E 09' 16" for a distance of 599.90 feet to a calculated point, said point designated as number 15252;

Thence on an azimuth of 191E 40' 04" for a distance of 904.85 feet to a calculated point, said point designated as number 14530;

Thence on an azimuth of 191E 48' 25" for a distance of 1038.44 feet to a calculated point, said point designated as number 14529;

Thence on an azimuth 290E 13' 10" for a distance of 977.25 feet to a calculated point designated as number 14532;

Thence on an azimuth of 290E 04' 51" for a distance of 461.98 feet to a calculated point, said point designated as number 14533;

Thence on an azimuth of 215E 17' 58" for a distance of 187.33 feet to a calculated point, said point designated as number 14534;

Thence on an azimuth of 216E 30' 10" for a distance of 783.05 feet to a calculated point, said point designated as number 14535;

Thence on an azimuth of 255E 53' 13" for a distance of 386.82 feet to a calculated point, said point designated as number 14641;

Thence on an azimuth of 304E 56' 32" for a distance of 108.27 feet to a calculated point, said point designated as number 14642;

Thence on an azimuth of 301E 33' 12" for a distance of 139.18 feet to a calculated point, said point designated as number 14643;

Thence on an azimuth of 222E 20' 50" for a distance of 296.09 feet to a calculated point, said point designated as number 14644;

Thence on a curve to the right having an arc distance of 497.08 feet and a radius of 660.00 feet to a calculated point, said point designated as number 14645;

Thence on an azimuth of 191E 17' 06" for a distance of 1502.97 feet to the point of commencement;

Said parcel contains 600 acres of land, a little more or less, being an intended to be **Block B**, as shown on said plan of survey by Locus Surveys Ltd.

All azimuths are north grid azimuths. All grid azimuths and coordinates are referenced to the P.E.I. stereographic projection system, prior to July 1, 1979. All coordinates are expressed in feet.

(EC386/04)



