
FURTHER WRITTEN SUBMISSIONS

Prepared on behalf of the Appellants, Geraldine Johnston-Grinton & Paul Grinton

**IN THE MATTER OF GERALDINE JOHNSTON-GRINTON & PAUL GRINTON v.
TOWN OF THREE RIVERS**

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TAB 1

INTRODUCTION

1. In addition to paragraphs 91-92 in the Appellant's Written Submissions filed November 17, 2023 (the "Written Submissions"), the Appellant's further submit the following submissions to support that the Council's decision does not have merit based on sound planning principles in the field of land use planning and as enumerated in the *Official Plan and Development Bylaw 2023*.
2. The Appellants rely on and adopt the terms defined in the Written Submissions.

SUBSTANTIVE GROUND 1: The Council's decision is not based on sound planning principles.

3. Subsection 24(2) of the *Fire Prevention Act, supra*, discusses the adoption of fire safety codes and standards in Prince Edward Island. Section 24(2) states:

"(2) If a code of fire safety rules or standards for fire safety has been promulgated by any association or body of persons and is available in printed form, the Lieutenant Governor in Council may, upon the recommendation of the Minister, by Order in Council declare such codes or standards to be in force either in whole or in part or with such variations as may be specified in the order."

**See: *Fire Prevention Act, RSPEI 1988, c F-11, at ss.*
 24(2)
 Appellant's Further Pre-Hearing Submissions at
 TAB 2**

4. Section 1 of the *Fire Prevention Act Codes and Standards Order, supra*, lists the codes and standards declared to be in force in Prince Edward Island. Section 1(2) states:

“(2) The following Codes and Standards are declared to be in force in the province and shall be enforced by the Fire Marshal under the Fire Prevention Act R.S.P.E.I. 1988, Cap. F-11:

- (a) 2021 edition of the National Fire Protection Association's NFPA 1 Uniform Fire Code;
- (a.1) 2021 edition of the National Fire Protection Association's NFPA 101 Life Safety Code;
- (a.2) 2015 Edition of the National Research Council's National Fire Code;
- (b) Canadian Standards Association B 139, Installation Code for Oil Burning Equipment;
- (c) Canadian Standards Association B 149.2, Installation Code for Propane Burning Appliances and Equipment;
- (d) Canadian Standards Association B 365, Installation Code for Solid Fuel Burning Appliances and Equipment.”

**See: Fire Prevention Act Codes and Standards Order,
PEI Reg EC16/85, at s. 1
Appellant's Further Pre-Hearing Submissions at
TAB 3**

- **Setback Requirements**

5. Subsection 6.8.3 of the *Development Bylaw #2023-02* lists the setback requirements for a development in the Mixed Use (MU) Zone. Subsection 6.8.3, in part, states:

“	Requirement
Performance Standard	Central Services
Minimum Front Yard Setback	1.2 metres (3.9 ft.)
Minimum Flankage Yard Setback	1.2 metres (3.9 ft.)

<i>Minimum Interior Side Yard Setback</i>	<i>2.5 metres (8.2 ft.)</i>
<i>Minimum Rear Yard Setback</i>	<i>7.5 metres (24.6 ft.)”</i>

**See: *Development Bylaw #2023-02 at s. 6.8.3*
Appellant’s Pre-Hearing Submissions at TAB 6**

6. However, subsection 6.2.1 of the National Fire Protection Association’s NFPA 1141, Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural, and Suburban Areas, 2017 edition (“NFPA 1141”) addresses set back requirements as follows:

“Unless governed by other locally adopted regulations, any building shall be separated from another building by a least 30 ft (9.144 m) and shall be set back at least 30 ft (9.144 m) from a property line”.

**See: Randy K. MacDonald’s Expert Report dated
January 15, 2024
Appellant’s Further Pre-Hearing Submissions at
TAB 4**

7. Further, subsection 6.2.1.1 of the NFPA 1141 states:

“If adjacent buildings are both protected with automatic sprinkler systems meeting NFPA 13 the separation between the structures or separation from a property line shall be permitted to be reduced to 15 ft (4.5 m)”.

**See: Randy K. MacDonald’s Expert Report dated
January 15, 2024
Appellant’s Further Pre-Hearing Submissions at
TAB 4**

8. As such, the setback requirements in the NFPA 1141 conflict with the requirements in the *Development Bylaw #2023-02*.

See: Development Permit Application dated May 12, 2023

Appellant's Pre-Hearing Submissions at TAB 8

9. Subsection 3.10 of the *Development Bylaw 2023* states:

"Where the provisions of this Bylaw conflict with those of any other Town of Three Rivers Bylaw or any regulations or codes of the Province of Prince Edward Island, the higher or more stringent requirement shall prevail."

**See: Development Bylaw #2023-02 at s. 3.10
Appellant's Pre-Hearing Submissions at TAB 6**

10. As such, the Appellants submit that the NFPA 1141 setback requirements prevail as they are the higher and more stringent requirement.

11. Given that the setbacks were not included in the Development Permit Application, the setbacks for the Development are unknown. However, if the setbacks for the Development are as shown in the attachment to the email dated May 2, 2023 from Marcus King to Patrick Donahoe, then the flankage yard setbacks for the Development are 10 ft. (3.1 metres) and 12.0 ft. (3.6 metres) (the "Assumed Flankage Yard Setbacks").

**See: Email with Attachment dated May 2, 2023 from
Marcus King to Patrick Donahoe
Appellant's Further Pre-Hearing Submissions at
TAB 5**

12. On the flankage side of the Development, there are two preexisting buildings, namely a retail building and an apartment building, located on the neighbouring properties bearing PIDs 198325 and 198317 (the "Adjacent Buildings").

**See: Email with Attachment dated May 2, 2023 from
Marcus King to Patrick Donahoe
Appellant's Further Pre-Hearing Submissions at
TAB 5**

13. Subsection 30.3.4.1.1 of the NFPA 101, Life Safety Code, 2021 edition (“Life Safety Code”) states:

“Apartment buildings four or more stories in height or with more than 11 dwelling units, other than those meeting the requirements of 30.3.4.1.2, shall be provided with a fire alarm system in accordance with Section 9.6, except as modified by 30.3.4.2 through 30.3.4.5.”

**See: Randy K. MacDonald’s Expert Report dated
January 15, 2024
Appellant’s Further Pre-Hearing Submissions at
TAB 4**

14. Also, subsection 30.3.5.1 of the Life Safety Code states:

“All buildings shall be protected throughout by an approved, supervised automatic sprinkler system installed in accordance with 30.3.5.1 through 30.3.5.6”.

**See: Randy K. MacDonald’s Expert Report dated
January 15, 2024
Appellant’s Further Pre-Hearing Submissions at
TAB 4**

15. According to the Drawings, the Development is a four-story building with 22 units (the “Building”). As such, the Appellant’s submit that the Building is required to have a fire alarm system and an automatic sprinkler system installed.

**See: Development Permit Application dated May 12, 2023
Appellant’s Pre-Hearing Submissions at TAB 8**

16. Furthermore, the Adjacent Buildings would be required to have an automatic sprinkler system installed for subsection 6.2.1.1 of the NFPA 1141 to take effect.

**See: Randy K. MacDonald's Expert Report dated
January 15, 2024
Appellant's Further Pre-Hearing Submissions at
TAB 4**

17. The Appellants submit that even if both the Building and Adjacent Buildings were to have an automatic sprinkler system installed, the Assumed Flankage Yard Setbacks would be less than the permitted separation from a property line pursuant to requirements in subsection 6.2.1.1 of the NFPA 1141.

**See: Randy K. MacDonald's Expert Report dated
January 15, 2024
Appellant's Further Pre-Hearing Submissions at
TAB 4**

- **Water Supply**

18. Section 4.18 of the Montague Water Sewerage and Water General Rules and Regulations discusses private fire protection. Section 4.18 states:

"Fire protection lines within buildings shall be accessible for inspection, and no connection for any purpose other than fire protection shall be made thereto. No fire protection line shall be connected in such a way as to be served through a customer's metered service without the written permission of the Utility."

**See: Montague Water Sewerage and Water General
Rules and Regulations at s. 4.18
Appellant's Further Pre-Hearing Submissions at
TAB 6**

19. Further, subsection 4.1.1.1 of the National Fire Protection Association's NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting, 2017 edition ("NFPA 1142") addresses water supply requirements as follows:

“For new construction, plans shall be submitted to the fire department or the AHJ for determination of the minimum water supply required before construction is started.”

**See: Randy K. MacDonald’s Expert Report dated
January 15, 2024
Appellant’s Further Pre-Hearing Submissions at
TAB 4**

20. Subsection 1.3.4.3 of the NFPA 1141 states:

“If the fire department is not the AHJ, the AHJ shall consult with the fire department on all matters relative to the enforcement of this standard to ensure that the needs of the fire department are met in providing fire protection”.

**See: Randy K. MacDonald’s Expert Report dated
January 15, 2024
Appellant’s Further Pre-Hearing Submissions at
TAB 4**

21. Subsection 1(c) of the *Building Codes Act* defines “authority having jurisdiction” as follows:

“(c) “authority having jurisdiction” means the Minister or a council of a municipality other than a municipality for which an agreement under subsection 4(3) is in effect, as the context requires;”

**See: *Building Codes Act*, RSPEI 1988, Cap B-5.1, at ss.
4.1.1.1
Appellant’s Further Pre-Hearing Submissions at
TAB 7**

22. As such, the Appellants submit that the Town would have authority having jurisdiction and would be required to consult with the fire department in relation to fire protection. Additionally, the Developer should have been required to submit a

plan to the Town for determination of the minimum water supply required for the Development before construction began.

All of which is respectfully submitted this 23rd day of January, 2024.



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TAB 2



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FIRE PREVENTION ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to March 4, 2023. 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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FIRE PREVENTION ACT

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FIRE PREVENTION ACT

CHAPTER F-11

1. Definitions

In this Act

- (a) “**repealed by 2016 c.48,s.5(2)**;
- (a.1) “**capacity permit**” means a permit issued by the Fire Marshal under section 15;
- (a.2) “**Deputy Fire Marshal**” means the Deputy Fire Marshal of Prince Edward Island;
- (b) “**Fire Marshal**” means the Fire Marshal of Prince Edward Island;
- (c) “**forest**” includes wood, barren or tract covered by underwood or any dry vegetable matter;
- (d) “**inspector**” includes the Deputy Fire Marshal and any other person designated by the Fire Marshal as an inspector;
- (e) “**Minister**” means the member of the Executive Council charged with the administration of this Act;
- (e.1) “**occupier**” has the same meaning as set out in clause 1(a) of the *Occupiers’ Liability Act* R.S.P.E.I. 1988, Cap. O-2;
- (f) “**owner**” includes
 - (i) a person who is registered as the owner of a freehold estate in possession of land,
 - (ii) a person who has purchased or otherwise acquired land and has not become the registered owner thereof, and
 - (iii) a person who holds himself out as the person having the powers and authority of ownership;
- (g) “**repealed by 2016 c.48,s.5(2). 1983, c.16, s.1; 1994, c.18, s.1{eff.} July 14/94; 1997,c.18,s.1,2; 1998,c.89,s.1; 2016 c.48,s.5(2).**”

PART I — ADMINISTRATION

2. Officers

There shall be appointed, pursuant to the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8

- (a) a public officer to be known as the Fire Marshal who is responsible for the administration of this Act;
- (b) a public officer to be known as the Deputy Fire Marshal, who shall assist the Fire Marshal in the administration of this Act; and
- (c) such other officers as the Minister considers necessary for the proper administration of this Act. 1983, c.16, s.2; 1997,c.18,s.1; 1998,c.89,s.2.



3. Functions of Deputy Fire Marshal

- (1) The Deputy Fire Marshal may act in the place of the Fire Marshal
- (a) in the absence of the Fire Marshal from his post of duty;
 - (b) during the Fire Marshal's illness or other physical disability;
 - (c) in case of a vacancy in the office of Fire Marshal; or
 - (d) when ordered to do so by the Fire Marshal,
- and when so acting has all the powers and authority of the Fire Marshal.

Powers

- (2) The Deputy Fire Marshal, when conducting an inquiry into the cause, origin and circumstances of a fire, has the same powers as are given the Fire Marshal under this Act.
1983, c.16, s.3; 1997, c.18, s.1.

4. Designation of inspectors

The Fire Marshal may designate any person as an inspector for the purposes of this Act and shall issue to each inspector a card or certificate as evidence of the designation. *1983, c.16, s.4.*

5. Local assistants

- (1) The Fire Marshal may appoint the following persons as local assistants:
- (a) in a municipality that maintains a fire department,
 - (i) the chief of the fire department, and
 - (ii) any other member of the fire department authorized by the fire chief to act as a local assistant; and
 - (b) in a municipality where no fire department is maintained, the mayor or chairman of council or any other fit and proper person.

Functions of local assistants

- (2) A local assistant
- (a) shall perform the duties required of him by this Act; and
 - (b) may within the jurisdiction for which he is appointed administer this Act and regulations,

but shall commence no proceedings to enforce this Act or regulations unless he obtains the consent of the Fire Marshal. *1983, c.16, s.5.*

6. Duties of Fire Marshal

- (1) The Fire Marshal shall enforce all laws in force in the province relating to
- (a) the prevention of fires;
 - (b) the storage, sale and use of combustibles and explosives;
 - (c) the installation and maintenance of automatic or other fire alarm systems and fire-extinguishing equipment;
 - (d) the construction, maintenance and regulation of fire escapes;
 - (e) the means and adequacy of exit in case of fire from factories, psychiatric facilities, hospitals, churches, schools, halls, theatres, amphitheatres and all other places in

- which numbers of persons work, live, congregate or are detained from time to time for any purpose; and
- (f) the suppression of arson and investigation of the cause, origin and circumstances of fires.

Other functions**(2) The Fire Marshal shall**

- (a) collect and disseminate information with regard to fires in the province;
- (b) investigate conditions under which fires are likely to occur;
- (c) study methods of fire prevention; and
- (d) render such advice and make such recommendations as he may consider advisable with regard to
- (i) the establishment and administration of fire brigades and fire departments,
- (ii) the provision of adequate water supply for fire fighting,
- (iii) the enactment and enforcement by municipalities of bylaws for the prevention of fire or the protection of life and property against fire,
- (iv) the means and adequacy of fire alarms and smoke detectors in buildings and of exits from buildings in case of fire.

Emergency measures

- (3) Where an emergency arises from a fire hazard or from a risk of explosion that causes the Fire Marshal or an inspector to be apprehensive of imminent and serious danger to life or property, or of a panic, he may forthwith take such steps as he thinks advisable to remove the hazard or risk and he may cause the evacuation of any building or area and he may direct the police or fire prevention authorities having jurisdiction to assist him. 1983, c.16, s.6.

7. Powers

- (1) The Fire Marshal, in carrying out his duties under this Act, may exercise the powers of a peace officer but is not empowered to carry a firearm.

Conflict of jurisdiction

- (2) Where there is conflict between the authority of the Fire Marshal and that of an official of any municipality in respect of any matter falling within the functions of the Fire Marshal under this Act, the authority of the Fire Marshal shall prevail.

Assistance

- (3) The Fire Marshal may request the assistance of one or more police officers for the service of any summons or order issued by him.

Idem

- (4) It is the duty of a police officer to provide assistance to the Fire Marshal where requested under subsection (3). 1983, c.16, s.7.

8. Duties in municipalities

Nothing in this Act requires the Fire Marshal or inspectors to perform in any municipality any of the duties prescribed by bylaws of the municipality other than the investigation of or inquiry into the origin of fires. 1983, c.16, s.8.

9. Tax on fire insurers

- (1) — (2) Repealed by 2016,c.48,s.5(3). 1983, c.16, s.9; 1990, c.16, s.1 {eff.} April 1, 1990; 2016,c.48,s.5(3).

PART II — INVESTIGATION OF FIRES

10. Investigation

- (1) The Fire Marshal, an inspector or a local assistant may investigate or cause to be investigated the origin and circumstances of every fire by which
- (a) any person has lost his life or suffered injury; or
 - (b) property has been destroyed or damaged.

Report to Fire Marshal

- (2) Where
- (a) a local assistant making an investigation pursuant to subsection (1) finds that
 - (i) the fire has been caused by negligence or design,
 - (ii) any person lost his life as a result of the fire, or
 - (iii) property in respect of which no contract of insurance was in effect, was damaged or destroyed; or
 - (b) a local assistant is instructed to do so by the Fire Marshal,
- he shall complete the prescribed form setting out the facts relating to the fire, its cause and its origin, and send the completed form to the Fire Marshal immediately following the investigation.

Entry

- (3) The Fire Marshal, an inspector or a local assistant has authority at all times, by day or night, in the performance of the duties imposed upon them by this Act or the regulations, to enter in and upon and to examine any building or premises where a fire has occurred and other buildings and premises adjoining or near the same.

Additional investigation

- (4) The Fire Marshal or an inspector may make an investigation in addition to or in lieu of an investigation made by a local assistant.

Closure of building

- (5) The Fire Marshal, an inspector or a local assistant may
- (a) close a building in which a fire has occurred and prohibit any person other than a police officer in the execution of his duty from entering or remaining in the building until such time as the investigation of the fire is completed; and
 - (b) remove from a building or premises and retain for the purpose of the investigation or any subsequent proceedings anything that in his opinion is material to the investigation.

Evidence

- (6) The Fire Marshal may summon witnesses to appear before him and may require the witnesses to give evidence orally or in writing, upon oath, and to produce documents and things requisite to the full investigation of the matter under inquiry and he shall have the same

power to enforce the attendance of witnesses and to compel them to give evidence as is vested in the Supreme Court.

Proceedings in camera

- (7) An investigation held by or under the direction of the Fire Marshal may, in his discretion, be private. 1983, c.16, s.10.

11. Arson

If the Fire Marshal is of the opinion at any time that there is evidence sufficient to charge a person with

- (a) the crime of arson; or
- (b) an attempt to commit arson,

he shall at once report to the Minister of Justice and Public Safety and Attorney General and furnish him with the evidence, together with the names of the witnesses and the information obtained by him. 1983, c.16, s.11; 2010, c.14, s.3; 2012, c.17, s.2; 2015, c.28, s.3.

12. Inspection

- (1) The Fire Marshal, an inspector or a local assistant may,

- (a) upon complaint of a person interested; or
- (b) when he considers it necessary, without complaint,

inspect all buildings, structures or places within his jurisdiction and for that purpose may at reasonable hours, enter them.

Inspection of heaters and burners

- (2) The Fire Marshal may order the inspection by a person approved by him, of the installation and operation of any oil, gas or solid fuel heaters or burners wherever used, and if they are found to be in a hazardous condition or location, the Fire Marshal may order their use to be discontinued until made safe for use. 1983, c.16, s.12.

13. Order

Where the Fire Marshal has reasonable and probable grounds to believe and does believe that

- (a) a building or structure
 - (i) is in such condition or is so situated that the rapid spread of fire therefrom to other buildings or structures can reasonably be anticipated, or
 - (ii) by reason of disrepair, age or dilapidated condition or for any other cause is specially liable to catch fire,

he may order

- (iii) that the owner remove or destroy the building or structure, or
 - (iv) that the owner or occupier alter or repair the building or structure;
- (b) the nature of the use or occupancy of a building, structure or place is such that there is a special danger of fire, he may order that the owner or occupier alter the use or occupancy of the building, structure or place;
- (c) in or about a building, structure or place
 - (i) combustible or explosive material is so kept as to endanger life or property,
 - or

- (ii) such other inflammable conditions exist as to endanger life or property, he may order that the occupier remove the combustible or explosive material or remedy the inflammable conditions;
- (d) a special fire hazard exists in or about a building, structure or place, he may order that the owner or occupier remove or take proper precautions against the special fire hazard;
- (e) where, in contravention of any applicable code of fire safety rules, there are no suitable and efficient automatic or other approved fire alarms and no suitable and efficient fire extinguishing equipment maintained in a building, structure or place, he may order that the owner or occupier
 - (i) install an approved automatic or other approved fire alarm system and approved fire extinguishing equipment suitable to the use and occupancy of the building or structure, or
 - (ii) change the existing fire alarm system and change or supplement the fire extinguishing equipment to provide reasonable protection from fire to the persons occupying the building or structure;
- (f) there are no fire escapes maintained in a building or structure, or the fire escapes and means of access thereto are not suitable for the safe and rapid evacuation of persons from the building or structure in the event of a fire, he may order that the owner install and maintain in good repair fire escapes and exits suitable to and sufficient for the type and class of building or structure, and that the means of access thereto be by doors opening outward;
- (g) a building or structure, or its occupancy or use, does not comply with codes or standards declared to be in force pursuant to subsection 24(2), he may order that the owner or occupier make such changes as may be specified in the order in order to comply with them. 1983, c.16, s.13; 1994, c.18, s.2 {eff.} July 14/94.

14. Form of order

- (1) Any order made pursuant to section 13 shall
 - (a) be in writing; and
 - (b) allow and fix a reasonable time within which the owner or occupier is to comply with the directions contained in the order.

Conditions

- (2) Any two or more orders may be combined in one order, and an order may be made in the alternative or subject to such conditions with regard to alteration, repair or replacement of a portion of the building, structure or place or such other conditions as are reasonable under the circumstances.

Service

- (3) A copy of an order made pursuant to section 13 shall be delivered to the person to whom it is directed
 - (a) by personal service on him;
 - (b) if he cannot be found, by personal service on a responsible person of the apparent age of eighteen years or more at the usual place of abode or business of the person to whom it is directed; or
 - (c) where he is not a resident of the province, by sending it to him by registered mail at his latest known address. 1983, c.16, s.14; 1994, c.18, s.3 {eff.} July 14/94.

15. Penalty

- (1) Any owner or occupier of buildings or premises who fails to comply with any order of the Fire Marshal, duly made under the authority of this Act, is guilty of an offence and liable upon summary conviction to a fine of not less than \$200 and not more than \$5,000 and in addition thereto to a fine not exceeding \$100 for each day during which the offence continues.

Injunction

- (2) Any act done or commenced contrary to this Act or the regulations, or contrary to an order of the Fire Marshal, may be restrained by injunction in the Supreme Court in an action at the suit of the Minister. 1983, c.16, s.15; 1994, c.18, s.4 {eff.} July 14/94.

15.1 Permit maximum occupancy

- (1) The Fire Marshal may issue a capacity permit for premises on which shall be specified the maximum number of persons who may enter, be in, or remain in the premises at one time.

Posting of permit

- (2) The owner or occupier of a premises for which a capacity permit has been issued shall post the capacity permit in a prominent place within the public area of the premises, and shall ensure that the capacity permit remains so posted. 1994, c.18, s.5 {eff.} July 14/94.

PART III — APPEAL FROM ORDERS**16. Alterations**

- (1) Where an order is made under section 13 any owner or occupier aggrieved by the order may, within ten days of the service on him of the order, in writing require the Fire Marshal to review the order and indicate the reasons why the order should not be revoked.

Decision

- (2) The Fire Marshal shall forthwith review the order, and affirm, modify or revoke it, and cause a copy of his decision to be served upon the aggrieved person.

Appeal to Supreme Court

- (3) If the aggrieved person is dissatisfied with the decision of the Fire Marshal he may, within five days of service upon him of a copy of the decision, apply to a judge of the Supreme Court.

Idem

- (4) The party appealing
- (a) shall file his application with the Prothonotary; and
 - (b) shall within five days of the filing, or within such extended time as the judge may allow, file with the Prothonotary a bond
 - (i) in an amount to be fixed by the judge, in no case less than \$100,
 - (ii) with at least two sufficient sureties to be approved by the judge, and
 - (iii) with the condition that, if he fails to sustain the appeal, he will pay all costs thereon or such costs as may be awarded against him. 1983, c.16, s.16; 2008, c.20, s.72(33).

PART IV — REPORTS AND RECORDS OF FIRES

17. Fire reports

- (1) Every licensed fire insurance company shall furnish to the Fire Marshal on forms provided for the purpose, a statement or report of every fire that occurs in the province and in which that company is interested as insurer.

Details of statement

- (2) The statement shall show
- (a) the name of the insured;
 - (b) the address of the insured;
 - (c) the location of the risk;
 - (d) the value of the building and contents;
 - (e) the amount of insurance carried; and
 - (f) the amount of loss sustained,

and the statement shall be filed in the office of the Fire Marshal within seven days after the end of the calendar month for which it is made.

Statements by persons sustaining loss by fire

- (3) Any person, firm or corporation who sustains or claims to have sustained loss by fire on property in the province shall, upon the request of the Fire Marshal, advise him of the date of the fire and the amount of loss sustained, and furnish him with such further information concerning the fire as he may require.

Insurance adjusters' reports

- (4) A person, firm or corporation engaged in making adjustments of a loss or damage by fire
- (a) shall report the adjustments to the Fire Marshal upon such form as may be prescribed by him; and
 - (b) shall file the same with the Fire Marshal within seven days after the end of each calendar month.

Report of fires of suspicious origin

- (5) Any insurance adjuster and any person, other than a police officer, who has any knowledge that indicates the origin of a fire is open to suspicion shall forthwith make a report to the Fire Marshal or his local assistant giving,
- (a) the location of the premises where the fire occurred;
 - (b) the date of the fire; and
 - (c) such facts and circumstances as have come to his attention and tend to establish the cause or origin of the fire. *1983, c.16, s.17.*

18. Record of fires

- (1) The Fire Marshal shall keep in his office a record of fires occurring in the province together with all facts, statistics and circumstances, including the origin of fires, as are determined by inquiry.

Public inspection

- (2) Records relating to the location, time and date of occurrence, and suggested cause of a fire and name of the owner of the property affected shall be open to public inspection. 1983, c.16, s.18.

PART V — OFFENCES AND PENALTIES**19. General penalty**

A person

- (a) who hinders or disturbs the Fire Marshal, an inspector or a local assistant in the execution of his duties under this Act;
- (b) who contravenes a provision of this Act or of the regulations for which contravention no other provision is made,

is guilty of an offence and liable upon summary conviction to a fine of not less than \$50 and not more than \$1,000. 1983, c.16, s.19.

19.1 Penalty, violation of maximum occupancy

Any owner or occupier of premises who permits more persons than the maximum number specified in the capacity permit for those premises to enter, be in, or remain in the premises at one time, is guilty of an offence and liable upon summary conviction, for a first offence, to a fine of not less than \$200 and not more than \$1,000 and for a subsequent offence, to a fine of not less than \$500 and not more than \$3,000. 1994, c.18, s.6 {eff.} July 14/94.

19.2 Penalty, violation of codes or standards

Any owner or occupier of premises that do not comply with the codes or standards declared to be in force pursuant to subsection 24(2) is guilty of an offence and liable upon summary conviction to a fine of not less than \$200 and not more than \$1,000 and in addition thereto to a fine not exceeding \$100 for each day on which the offence continues. 1994, c.18, s.6 {eff.} July 14/94; 1997, c.18, s.3.

20. Penalty for failure to report

A person whose duty it is to furnish to the Fire Marshal a statement or report referred to in this Act, and who neglects or fails to perform that duty is guilty of an offence and liable upon summary conviction to a fine not exceeding \$200. 1983, c.16, s.20.

21. Idem

A company that neglects or fails to furnish a statement or report required by this Act is guilty of an offence and liable upon summary conviction to a fine of \$25 for each day during which the neglect or failure continues. 1983, c.16, s.21.

22. Failure to pay tax

Repealed by 2016, c.48, s.5(4). 1983, c.16, s.22; 2016, c.48, s.5(4).

23. Limitation period

No information or complaint in respect of an offence under this Act shall be made or laid except within two years after the time when the matter of the information or complaint arose.

1983, c.16, s.23.

PART VI — REGULATIONS

24. Regulations

- (1) The Lieutenant Governor in Council may make regulations for the purposes of this Act and in particular

- (a) prescribing forms and providing for their use;
- (b) governing the sale, installation and maintenance in any building or premises of any appliance, fixture or thing that in the opinion of the Fire Marshal is likely to present a fire hazard;
- (c) governing the manufacture, sale, storage, carriage and disposal of any combustible, explosive or flammable matter;
- (d) governing the locations, construction, occupancy, equipment and general fire safety of factories, psychiatric facilities, hospitals, churches, schools, halls, theatres, stadia, dormitories, homes for seniors, nursing homes, children's homes, apartment houses, public garages, service stations, bulk fuel oil plants, office buildings, and all other places where numbers of persons work, live, congregate or are detained.

← FPA Regs.
Sec 5.2(2)
does not
apply to
incorporated
town's

Adoption of fire safety codes and standards

- (2) If a code of fire safety rules or standards for fire safety has been promulgated by any association or body of persons and is available in printed form, the Lieutenant Governor in Council may, upon the recommendation of the Minister, by Order in Council declare such codes or standards to be in force either in whole or in part or with such variations as may be specified in the order.

← FPA Codes & Standards Order see S.1

Conflicts with municipal bylaws

- (3) Where a municipality has enacted a bylaw to regulate subjects which are regulated by regulations adopted under the provisions of this Act and the bylaw is considered by the Fire Marshal to be less restrictive than the regulations, the provisions of the regulations prevail.
- 1983, c.16, s.24; 2010, c.44, s.14.*

PART VII — REPEALED BY 2020,C.65,S.26

Section 25 to 41 repealed by 2020,c.65,s.26.

PART VIII — RURAL FIRE SERVICES

42. Definitions

In this Part

- (a) “fire district” means an area designated under section 44 for the purpose of obtaining fire protection;



- (b) “**resident**” means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of the fire district;
- (c) “**fire district committee**” means a committee comprised of three residents elected to represent the residents of a fire district;
- (d) “**fire brigade**” means a municipal fire department or a rural fire company;
- (e) “**Minister**” means the Minister of Justice and Public Safety and Attorney General. 1988, c.25, s.10; 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; 2010, c.14, s.3; 2012, c.17, s.2; 2015, c.28, s.3.

43. Object

The object of this Part is to provide a means for the collection of fire taxes in areas of the province which do not have a municipal government. 1988, c.25, s.10.

44. Designation of fire district

- (1) Upon receipt of an application signed by at least twenty-five residents of an area which does not have a municipal government, the Lieutenant Governor in Council, on the recommendation of the Minister, may designate that area as a fire district and appoint an interim fire district committee.

Details of application

- (2) The application referred to in subsection (1) shall include
 - (a) confirmation that the application has been discussed at a public meeting held in the area to be designated and that the residents in attendance at the meeting supported the proposal to designate the area as a fire district;
 - (b) the names and addresses of the petitioners;
 - (c) a boundary plan of the proposed fire district. 1988, c.25, s.10.

45. Annual meeting to set tax rate

- (1) Each year, after negotiating the cost of fire service from a fire brigade, the fire district committee shall call a meeting of the residents at which it shall propose a rate of taxation sufficient to defray the cost of the service and the expenses of the committee.

Notice

- (2) The annual meeting of residents shall be advertised by the fire district committee on at least two occasions and the first of such notices shall be published at least seven days before the date fixed for the meeting.

Determination of rate

- (3) A majority vote of the residents present and voting at the meeting shall determine the rate of taxation to be levied for the calendar year.

Notification to Minister of Finance

- (4) Prior to March 15 in each year the fire district committee shall notify the Minister of Finance of the rate of taxation to be levied in the district for that year.

Collection

- (5) Where a rate of taxation for fire protection is levied pursuant to this section, the tax shall be collected in the manner provided in the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5 for the collection of municipal real property tax.

Failure to notify Minister of Finance of tax rate

- (6) Where the fire district committee fails to notify the Minister of Finance of the tax rate by the date referred to in subsection (4), the Minister shall collect the tax at the rate applicable in respect of the previous year. *1988, c.25, s.10; 1990, c.16, s.2; 1993, c.29, s.4; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, c.3.*

46. Composition

- (1) A fire district committee shall be comprised of a chairman, a secretary and a treasurer.

Term of office

- (2) Members of the fire district committee shall hold office for three years and are eligible for re-election.

Resignation of interim committee

- (3) At the first annual meeting following its appointment the interim committee shall resign to permit the residents to elect a committee. *1988, c.25, s.10.*

47. Regulations

The Lieutenant Governor in Council may make regulations. *1988, c.25, s.10.*

PART IX — GENERAL

48. Civil actions not affected

Nothing in this Act limits or interferes with the right of any party to bring and maintain civil action for damages occasioned by fire, and that right remains and exists as if this Act had not been passed, and shall be in addition to the penalty provided for offences under this Act. *1983, c.16, s.35.*

49. Annual report

The Fire Marshal shall

- (a) submit annually to the Minister a detailed report of his official actions;
- (b) publish such portion of the report as the Minister may direct. *1983, c.16, s.36.*

TAB 3



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FIRE PREVENTION ACT CODES AND STANDARDS ORDER

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to March 31, 2022. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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

Legislative Counsel Office

Tel: (902) 368-4292

Email: legislation@gov.pe.ca



FIRE PREVENTION ACT
Chapter F-11

CODES AND STANDARDS ORDER

Pursuant to subsection 24(2) of the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11, and upon the recommendation of the Minister of Justice and Public Safety and Attorney General, Council made the following Order:

1. Codes and Standards

The following Codes and Standards are declared to be in force in the province and shall be enforced by the Fire Marshal under the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11:

- (a) 2021 edition of the National Fire Protection Association's NFPA 1 Uniform Fire Code;
- (a.1) 2021 edition of the National Fire Protection Association's NFPA 101 Life Safety Code;
- (a.2) 2015 Edition of the National Research Council's National Fire Code;
- (b) Canadian Standards Association B 139, Installation Code for Oil Burning Equipment;
- (c) Canadian Standards Association B 149.2, Installation Code for Propane Burning Appliances and Equipment;
- (d) Canadian Standards Association B 365, Installation Code for Solid Fuel Burning Appliances and Equipment. (EC16/85; 293/92; 663/99; 622/04; 545/19; 251/20; 76/22)

2. Related electrical and building codes

Any provision of an electrical or building construction safety Code that is referred to in any provision of the Uniform Fire Code, Life Safety Code or National Fire Code referred to in clauses 1(a) and (a.1)

- (a) is declared to be in force in the province; and
- (b) shall be enforced by the Fire Marshall under the *Fire Prevention Act*,

to the extent necessary to give effect to any provision of the Uniform Fire Code, Life Safety Code or National Fire Code that refers to the provision of such an electrical or building construction safety Code. (EC16/85; 622/04; 251.20)

TAB 4

REPORT – Appeals #LA23-019



Submitted by;
RKM FIRE Safety Consulting
January 15, 2024



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Introduction

On December 12, 2023, Key Murray Law (KML) contacted RKM Fire Safety Consulting inquiring as to the possibility of obtaining the services of RKM Fire Safety Consulting. Specifically, those services would be to prepare an expert report regarding fire safety and testify at a planning appeal before the Island Regulatory and Appeals Commission.

The purpose of the report would be to provide an opinion in determining if a development permit approved by the Town of Three Rivers was “in compliance with the municipal official plan and bylaws, the provincial and National Building Codes Act, Fire Prevention Act and Regulations and any other applicable legislation”.

RKM Fire Safety Consulting received from KML the following information;

- Record filed by the Town of Three Rivers
- Schedules that formed part of KML’s written submission
- Provincial “Planning Act”
- Town of Three Rivers “Official Plan”
- Town of Three Rivers “Development Bylaw”
- Island Regulatory and Appeals Commission’s “Rules of Practice and Procedure”
- Supplemental Record filed by the Town of Three Rivers

Definitions

Story Height - The vertical distance from the upper surface of a floor and upper surface of the floor or roof next above. *(Source – NFPA 5000.3.3.321.2)*

Stories in Height - The story count starting with the level of exit discharge and ending with the highest occupiable level containing the occupancy considered. *(Source – Life Safety Code 101.3.3.280)*

Stories in Height (commentary) - Stories below the level of exit discharge are not counted as stories for determining the stories in height of a building. *(Source – Life Safety Code 101.A.3.3.280)*

Apartment Building - A building or portion thereof containing three or more dwelling units with independent cooking and bathroom facilities. *(Source – Life Safety Code 101.3.3.37.3)*

Level of Exit Discharge - The story that is either (1) the lowest story from which not less than 50 percent of the required number of exits and not less than 50 percent of the required egress capacity from such a story discharge directly outside at the finished ground level; or (2) where no story meets the conditions of item (1), the story that is provided with one or more exits that discharge directly to the outside to the finished ground level via the smallest elevation change. *(Source – Life Safety Code 101.3.3.88.1)*

Authority Having Jurisdiction (AHJ) - An organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure. *(Source – Life Safety Code 101.3.2.2)*

Code & Standards Adoption

To combat the tragedies of fire within the Province of Prince Edward Island the Provincial Government has adopted several Codes and Standards. These documents are the corner stone of fire safety and have protected our residents and visitors alike for decades.

It is important to note that both the *2021 edition of the National Fire Protection Association's NFPA 1 Uniform Fire Code* and *2021 edition of the National Fire Protection Association's NFPA 101 Life Safety Code* have been formally adopted. *(Please refer to Appendices #1)*

The adoption of *2021 edition of the National Fire Protection Association's NFPA 1 Uniform Fire Code* also references several other NFPA Codes and Standards.

NFPA 1 Uniform Fire Code (2021) Chapter 2 "Referenced Publications" provides a complete list of referenced documents. *(Please refer to Appendices #2)*

The enhanced content of NFPA 1, Chapter 2, clarifies the legal adoption of reference documents whereby stating; *"Chapter 2 is a list of the codes and standards that are referenced in the chapters of NFPA 1. These references are mandatory. Locating the list in a single chapter simplifies the use of the Code, making it easier for adopting jurisdictions to update the references in only one location, rather than throughout the Code. The editions of the referenced publications listed in Chapter 2 are legally referenced editions, unless the jurisdiction, when adopting the Code, modifies or updates the list of codes and standards".*

Building Height

The proposed building is to be constructed at 8 School St., Montague, within the Town of Three Rivers. It is anticipated that the building will consist of 22-unit apartments with 3,837 sq. ft. of ground floor commercial space. A lower level will provide vehicle parking with access at the rear of the building.

With a major variance approved for an additional 4.8 ft., the building height is proposed to be 40'-10½" measured from the main floor level on School St. to the top of the parapet.

Given a grade difference from the front of the property along School St. towards the rear on Riverside Dr., it may create confusion in determining story height of the building. In determining story height, the Life Safety Code 101.3.3.280 addresses this matter stating *"the story count starting with the level of exit discharge and ending with the highest occupiable level containing the occupancy considered"*. (Please refer to Appendices #3)

Further, commentary to Life Safety Code 101.A.3.3.280 states *"Stories below the level of exit discharge are not counted as stories for determining the stories in height of a building"*. (Please refer to Appendices #4)

Level of Exit Discharge

In determining the level of exit discharge, the enhanced content of Life Safety Code 101.3.3.88.1 provides a detailed explanation stating; *"The story that is either (1) the lowest story from which not less than 50 percent of the required number of exits and not less than 50 percent of the required egress capacity from such a story discharge directly outside at the finished ground level; or (2) where no story meets the conditions of item (1), the story that is provided with one or more exits that discharge directly to the outside to the finished ground level via the smallest elevation change"*. (Please refer to Appendices #5)

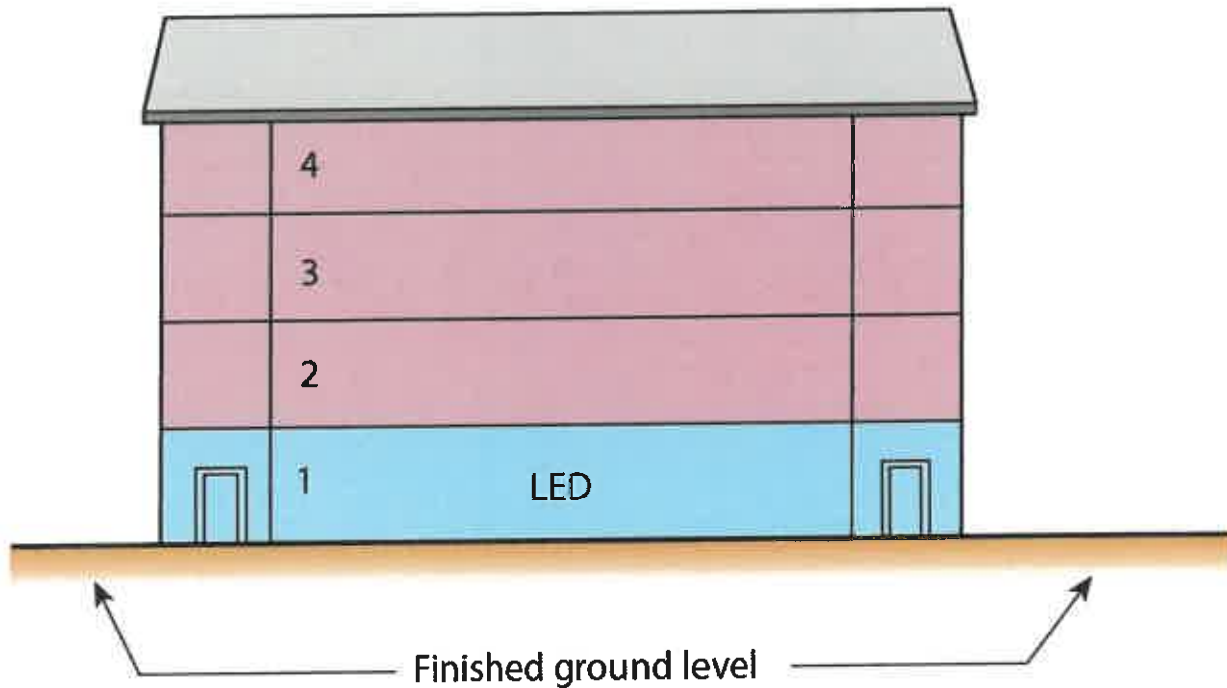
The definition of the term level of exit discharge is related to terminology used to describe building height and number of stories relative to the finished ground level. See 3.3.96, Finished Ground Level (Grade). (See Life Safety Code 101.3.3.96)

The definition of level of exit discharge provides no allowance for having more than one level of exit discharge for a building. There is no primary or secondary level of exit discharge — only the level of exit discharge. The level designated as the level of exit discharge is used, for example, as the lowest floor for purposes of determining stories in height (see 4.6.3). Requirements related to minimum construction type are based on the number of stories in height used for a particular occupancy (see the __.1.6 subsection of most of the occupancy chapters — for example, 12.1.6 for new assembly occupancies). (See Life Safety Code 101.4.6.3)

The examples that follow demonstrate the application of the definition of the term level of exit discharge to a variety of building exit discharge arrangements.

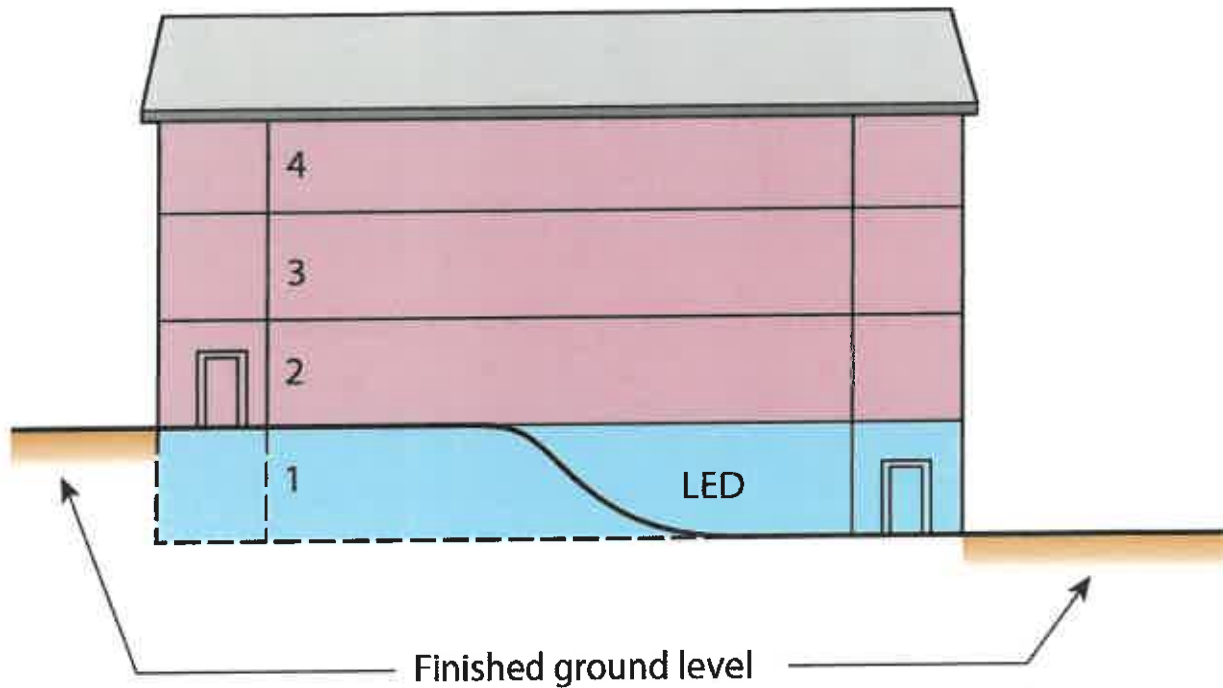
Example 1: Level of Exit Discharge with Level Ground

The exhibit depicts a four-story building. The finished ground level varies little in elevation from building side to building side. The first story is the lowest story from which not less than 50 percent of the required number of means of egress and not less than 50 percent of the required egress capacity from that story discharge directly outside at the finished ground level. As such, it is designated as the level of exit discharge (LED).



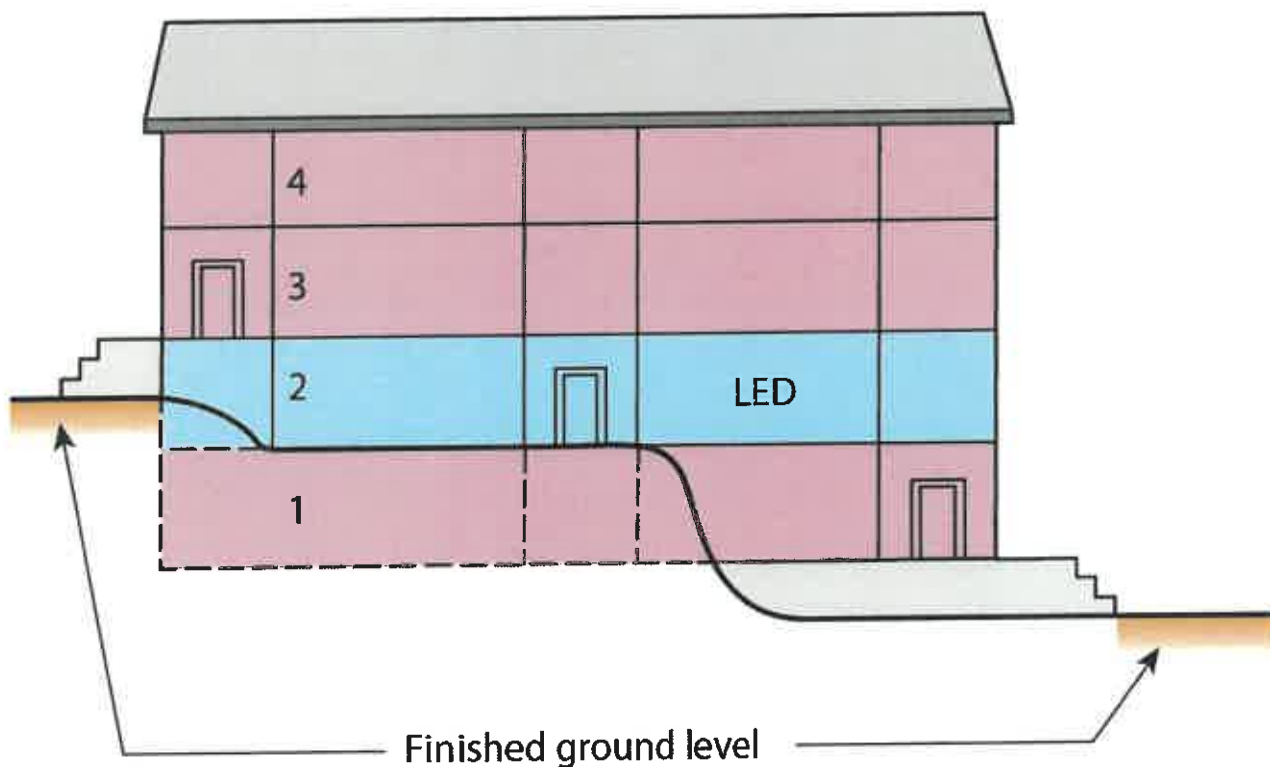
Example 2: Level of Exit Discharge with Varying Ground Level

The exhibit depicts a four-story building similar to that described in Example 1. The finished ground level varies in elevation from building side to building side. Both the first story and the second story are stories from which not less than 50 percent of the required number of means of egress and not less than 50 percent of the required egress capacity from that story discharge directly outside at the finished ground level. The definition of level of exit discharge directs the Code user to designate the lowest such story (designated in the exhibit as story 1) as the level of exit discharge (LED).



Example 3: Level of Exit Discharge with Varying Ground Level and Least Elevation Difference

The exhibit depicts a four-story building where the finished ground level varies significantly in elevation such that three of the floors have exits that discharge to the outside at or near finished ground level. Based on occupant load, each floor requires three means of egress that are supplied by three equally sized exit stairs and exit stair enclosure doors. Each of the exit stair enclosure doors from the three exit discharge floors provides less than 50 percent of the required number of means of egress discharging from that floor, so the specification of item (1) of the definition of level of exit discharge in 3.3.88.1 is not met. Per item (2) of 3.3.88.1, the level of exit discharge is the exit discharge story with the smallest elevation change needed to reach the finished ground level. The floors designated in the exhibit as 1 and 3 require travel over stairs to reach the finished ground level. The floor designated as 2 discharges directly at the finished ground level and is classified as the level of exit discharge (LED). (Source – Life Safety Code 101.3.3.88.1 Enhanced Content)



In reference to the submitted drawings by Coles, issued for the development permit, illustrate the level of exit discharge to be that of the main floor level. Based on the above Life Safety Code requirements the writer is in agreement whereby the main floor level being designated as the level of exit discharge.

Additionally, as in accordance with the Life Safety Code 101.3.3.280, the proposed building should be considered as a four (4) story building with the parking level not constituting a story. The accurate number of building stories is clearly supported in drawing 2-A300 submitted by Coles.



19 Harley St., Charlottetown

July 17, 2019

Fire Suppression

The Town of Three Rivers has acknowledged the importance of fire suppression within its "Official Plan".

This matter is clearly stated in section **"9.3 Development Bylaw"** whereby stating *"Council shall enact a Development Bylaw as an implementation mechanism for the goals, objectives, and policies of this Official Plan. In accordance with the Planning Act R.S.P.E.I. 1988, P-8, the Development Bylaw may address elements including:*

7) Building standards, addressing fire suppression and architectural controls;" (Please refer to Appendices #6)

Information provided within the Supplemental Record of January 5, 2024 confirm the installation of an automatic sprinkler system. Additionally, the Life Safety Code (2021 edition) addresses both the installation of an automatic sprinkler system and automatic fire alarm system.

In review of the Life Safety Code chapter 30 entitled **"New Apartment Buildings"**, section 30.3.4.1.1 states *"Apartment buildings four or more stories in height or with more than 11 dwelling units, other than those meeting the requirements of 30.3.4.1.2, shall be provided with a fire alarm system in accordance with Section 9.6, except as modified by 30.3.4.2 through 30.3.4.5". (Please refer to Appendices #7)*

And, section 30.3.5.1. states *"All buildings shall be protected throughout by an approved, supervised automatic sprinkler system installed in accordance with 30.3.5.1 through 30.3.5.6". (Please refer to Appendices #8)*

It is important to note that the Town of Three Rivers acknowledges potential occurrences where their "Development Bylaw" could be in conflict with other Bylaws, regulations or codes.

Development Bylaw section **"3.10 Licenses, Permits and Compliance with Other Bylaws"** states *"Where the provisions of this Bylaw conflict with those of any other Town of Three Rivers Bylaw or any regulations or codes of the Province of Prince Edward Island, the higher or more stringent requirement shall prevail". (Please refer to Appendices #9)*

The significance of this requirement may come into play with respect to fire code requirements involving NFPA and the National Research Council National Building Code (NBC) and sibling code National Fire Code (NFC).



19 Harley St., Charlottetown

July 17, 2019

Operational Concerns

During a Town of Three Rivers Special Council Meeting on February 11, 2019, Montague Volunteer Fire Department's Deputy Fire Chief Mr. Jock Beck raised particular important concerns stating; *... "He also expressed concern over the proposed four stories of the apartment complex given the capabilities of the MVFD. He suggested that the Town should consult with the Fire Departments on large scale projects in their areas". (Please refer to Appendices #10)*

Again, on February 11, 2019, Deputy Chief Beck authored a letter addressed to the Members of Three Rivers Planning Board expressing his concerns in stating; *"The suggestion that anything should be constructed in housing that exceeds three stories in height should be rejected given our present capability for rescue beyond that height". (Please refer to Appendices #11)*

During the Town of Three Rivers Regular Council Meeting of July 10, 2023, Councillor MacFarlane brought to the Mayor and Council's attention; *"There is a letter on file and here from the Montague Volunteer Fire Department that says that the department would only be able to handle a building up the three stories. This building is four stories on the north side and three stories on the South side".*

As communities grow in population so does the need for additional building construction to support the increasing population. With sound planning practices in play supports buildings being constructed at increased heights. As well, construction of broader buildings known as Box Stores.

When such type construction is proposed it is imperative that the local Fire Department be consulted. This consultation process will ensure the Fire Department having sufficient equipment, training and water supply to combat a fire involving the proposed building. Additionally, it is important that such factors as fire apparatus access to the proposed building meets applicable NFPA 1 Uniform Fire Code requirements.

At the time of this report the writer is unaware of any such involvement by the Montague Volunteer Fire Department (MVFD) with regards to the proposed building.

In dealing with high level rescue of trapped occupants, the main staple piece of apparatus is that of an ariel device. An ariel device is a versatile piece of apparatus in that they provide rescue capabilities as well capable in flowing a master stream(s) on to a fire from an elevated position.

Ariel devices are widely used involving incidents of broad buildings whereby providing quick access to a roof along with providing firefighting capabilities.

Over the last several decades some municipalities have determined with the increasing volume of higher and broader buildings being constructed within their communities, the procurement of an ariel device had become necessary. Fire departments such as the former Parkdale Fire Department, Crossroads Fire Department, North River Fire Department and recently New Glasgow and North Shore Fire Departments all identified this need and placed in service ariel devices.

With continued growth within the Town of Three Rivers, it would be of benefit for the Montague Volunteer Fire Department to purchase a used ariel device.



Home Hardware Store, Charlottetown

October 3, 2023

Development Plan Review Process

Encompassed in the development plan review process is the important piece of ensuring the fire protection infrastructure has been successfully evaluated. This particular evaluation needs to involve the local fire department.

As previously noted, Deputy Fire Chief Jock Beck commented on this very concern whereby “He suggested that the Town should consult with the Fire Departments on large scale projects in their areas”. (Please refer to Appendices #10)

Review of NFPA 1141 entitled “Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural, and Suburban Areas” (2017 edition) section 1.3.4.3. addresses this matter whereby; *“If the fire department is not the AHJ, the AHJ shall consult with the fire department on all matters relative to the enforcement of this standard to ensure that the needs of the fire department are met in providing fire protection”.* (Please refer to Appendices #12)

With many different Codes and Standards to be evaluated during a plan review process, it is understandable that at some point those Codes and Standards may conflict with each other. As previously shared, the Town of Three Rivers has provided clarity as to what Bylaw, regulation or code shall prevail as outlined in there “Development Bylaw”. (Please refer to Appendices #9)

Included in Mr. Lee Kenebel’s “Executive Summary” of July 10, 2023 addressed to Mayor and Council states; *“The lot has frontage on three roads where the required yard setbacks would be 3.9ft. on each side. As the site is a ‘Through Lot’ the front yard setback applies equally to the front and rear of the building”.* Further, Mr. Lee Kenebel states; *“In summary, the proposal meets the policies and aims of the Three Rivers Official Plan 2023 & Development Bylaw 2023 and approval of the development, together with the variance is recommended”.*

Mr. Kenebel has confirmed setbacks to be in compliance with the Town of Three Rivers Development Bylaw 2023.

During the writer’s review of applicable NFPA 1141 “Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural, and Suburban Areas” (2017 edition), section 6.2.1 addresses set back requirements by stating; *“Unless governed by other locally adopted regulations, any building shall be separated from another building by a least 30 ft (9.144 m) and shall be set back at least 30 ft (9.144 m) from a property line”.* (Please refer to Appendices #13)

This specific Code section is significant whereby NFPA permits locally adopted regulations to govern setbacks or in the absence of locally adopted regulations NFPA provides minimum requirements.

Although NFPA permits locally adopted regulations to govern, the Town of Three Rivers provides a concise remedy when Bylaws, regulations or codes are in conflict whereby the higher or more stringent requirement shall prevail as per section 3.10 of the Town of Three Rivers Development Bylaw which states; *“Where the provisions of this Bylaw conflict with those of any other Town of Three Rivers Bylaw or any regulations or codes of the Province of Prince Edward Island, the higher or more stringent requirement shall prevail”.* (Please refer to Appendices #9)

The newly constructed foundation of 8 School St is only 12 ft. from the property line of 559 Main St., as shown on diagram C100 (Site Plan), dated 2023-05-02. The writer estimates the separation distance between the foundation of 8 School St. and exterior wall of 559 Main St. to be approximately 24 ft.

NFPA 1121 also takes into consideration what conditions need to be in place so as to provide a reduction in building separation distance. NFPA 1121.6.2.1.1 states; *"If adjacent buildings are both protected with automatic sprinkler systems meeting NFPA 13 the separation between the structures or separation from a property line shall be permitted to be reduced to 15 ft (4.5 m)". (Please refer to Appendices #14)*

As indicated by Development Officer, Mr. Lee Kenebel, during the Town of Three Rivers Regular Council Meeting of July 10, 2023 whereby Mr. Kenebel stated "You are correct, this is sprinklered and that's becoming a more common feature and obviously we've heard tonight about the considerations of fire in these larger structures and we likely we will see more and more of them come through as we try to achieve higher densities within the allocated sites". *(Please refer to Appendices #15)*

However, in order to obtain a reduced separation distance, as stated in NFPA 1121.6.2.1.1, the existing apartment building situated at 559 Main St. would also be required to be protected throughout by an approved automatic sprinkler system. The installation of an automatic sprinkler system within 559 Main St. has not been confirmed.

In the event that both buildings were to be protected by means of an automatic sprinkler system the building separation distance, as per NFPA 1121.6.2.1.1, cannot be achieved due to the proposed apartment building being constructed only 12 ft. from the property line.

The development permit review process requires on-going communications within several internal and external entities. From a fire service perspective, being involved during the infancy stages provides valuable opportunity to address concerns and whereby making appropriate corrections at the most opportune time.

Perhaps, the most important consideration required during the process is that of life safety, with equal responsibility being shared.

The development permit review process lacked consultation with the Montague Volunteer Fire Department which was confirmed by Councillor MacFarlane during the Town of Three Rivers – Regular Council Meeting – July 10, 2023. *(Please refer to Appendices #16)*

In combating a fire, it is imperative to establish a sufficient water source. In an effort for the fire department to have a full understanding of the amount of water required, the following information needs to be collected so as to establish a required fire flow.

- Occupancy hazard
- Type of construction
- Structure dimensions
- Exposures

Typically, this information is provided during the development permit review process. As a requirement, NFPA 1142.4.1.1.1 addresses this matter stating; *"For new construction, plans shall be submitted to the fire department or the AHJ for determination of the minimum water supply required before construction is started"*. (Please refer to Appendices #17)

To assist in the determination of a required fire flow the Fire Marshal may be of assistance pursuant to the Provincial Fire Prevention Act section 6 whereby;

6 "Duties of the Fire Marshal"

"Other Functions"

(2) The Fire Marshal shall

(d) render such advice and make such recommendations as he may consider advisable with regard to
(ii) the provision of adequate water supply for fire fighting,

(Please refer to Appendices #18)

Conclusion

Resulting from a comprehensive review of the material provided and other related documents the writer shares the following opinion.

The question regarding the height of the proposed building has been determined in accordance with the Life Safety Code which is consistent with that of Coles whereby the proposed building be considered four-stories.

As previously noted, there are opposing setback requirements. Given, NFPA grants locally adopted regulations to govern while the Town of Three Rivers Development Bylaw identifies how conflicting requirements are to be decided upon. The determination in how the matter becomes addressed lies outside the scope of this review.

In effort to ensure sufficient fire protection, it is paramount that Montague Volunteer Fire Department be engaged during the planning process as in accordance with NFPA 1142.

Relating to the Montague Volunteer Fire Department, it is to the writer's personal knowledge that MVFD is a well organized, equipped, trained and managed fire department. MVFD has and continues to be held in high esteem throughout the Island fire service.

Appendices

- #1 – Provincial “Codes and Standards Order”
- #2 – NFPA 1.2.2 “Referenced Publications”
- #3 – (Definition) Life Safety Code 101.3.3.280 “Stories in Height”
- #4 – (Commentary) Life Safety Code 101.A.3.3.280 “Stories in Height”
- #5 – (Definition) Life Safety Code 101.3.3.88.1 “Level of Exit Discharge”
- #6 – Town of Three Rivers, Official Plan, “9.3 Development Bylaw 7)”
- #7 – Life Safety Code 101.30.3.4.1.1
- #8 – Life Safety Code 101.30.3.5.1
- #9 – Town of Three Rivers, Development Bylaw “3.10 Licenses, Permits and Compliance with Other Bylaws”
- #10 – Meeting Minutes, Town of Three Rivers, Special Council Meeting, February 11, 2019
- #11 – Letter authored by Mr. John Beck Deputy Fire Chief dated February 11, 2019
- #12 – NFPA 1141.1.3.4.3
- #13 – NFPA 1141.6.2.1
- #14 – NFPA 1141.6.2.1.1
- #15 – Meeting Minutes, Town of Three Rivers, Regular Council Meeting, July 10, 2023
- #16 – Meeting Minutes, Town of Three Rivers, Regular Council Meeting, July 10, 2023
- #17 – NFPA 1142.4.1.1.1
- #18 – Prince Edward Island Fire Prevention Act, “6. Duties of the Fire Marshal – Other functions (2)(d)(ii)”

Appendices #1



FIRE PREVENTION ACT Chapter F-11

CODES AND STANDARDS ORDER

Pursuant to subsection 24(2) of the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11, and upon the recommendation of the Minister of Justice and Public Safety and Attorney General, Council made the following Order:

1. Codes and Standards

The following Codes and Standards are declared to be in force in the province and shall be enforced by the Fire Marshal under the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11:

- (a) 2021 edition of the National Fire Protection Association's NFPA 1 Uniform Fire Code;
- (a.1) 2021 edition of the National Fire Protection Association's NFPA 101 Life Safety Code;
- (a.2) 2015 Edition of the National Research Council's National Fire Code;
- (b) Canadian Standards Association B 139, Installation Code for Oil Burning Equipment;
- (c) Canadian Standards Association B 149.2, Installation Code for Propane Burning Appliances and Equipment;
- (d) Canadian Standards Association B 365, Installation Code for Solid Fuel Burning Appliances and Equipment. (EC16/85; 293/92; 663/99; 622/04; 545/19; 251/20; 76/22)

2. Related electrical and building codes

Any provision of an electrical or building construction safety Code that is referred to in any provision of the Uniform Fire Code, Life Safety Code or National Fire Code referred to in clauses 1(a) and (a.1)

- (a) is declared to be in force in the province; and
- (b) shall be enforced by the Fire Marshall under the *Fire Prevention Act*,

to the extent necessary to give effect to any provision of the Uniform Fire Code, Life Safety Code or National Fire Code that refers to the provision of such an electrical or building construction safety Code. (EC16/85; 622/04; 251.20)

Appendices #2

2.2 NFPA Publications.

National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471.

NFPA 2, *Hydrogen Technologies Code*, 2020 edition.

NFPA 4, *Standard for Integrated Fire Protection and Life Safety System Testing*, 2021 edition.

NFPA 10, *Standard for Portable Fire Extinguishers*, 2018 edition.

NFPA 11, *Standard for Low-, Medium-, and High-Expansion Foam*, 2016 edition.

NFPA 12, *Standard on Carbon Dioxide Extinguishing Systems*, 2018 edition.

NFPA 12A, *Standard on Halon 1301 Fire Extinguishing Systems*, 2018 edition.

NFPA 13, *Standard for the Installation of Sprinkler Systems*, 2019 edition.

NFPA 13D, *Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes*, 2019 edition.

NFPA 13R, *Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies*, 2019 edition.

NFPA 14, *Standard for the Installation of Standpipe and Hose Systems*, 2019 edition.

NFPA 15, *Standard for Water Spray Fixed Systems for Fire Protection*, 2017 edition.

NFPA 16, *Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems*, 2019 edition.

NFPA 17, *Standard for Dry Chemical Extinguishing Systems*, 2021 edition.

NFPA 17A, *Standard for Wet Chemical Extinguishing Systems*, 2021 edition.

NFPA 20, *Standard for the Installation of Stationary Pumps for Fire Protection*, 2019 edition.

NFPA 22, *Standard for Water Tanks for Private Fire Protection*, 2018 edition.

NFPA 24, *Standard for the Installation of Private Fire Service Mains and Their Appurtenances*, 2019 edition.

NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, 2020 edition.

NFPA 30, *Flammable and Combustible Liquids Code*, 2021 edition.

NFPA 30A, *Code for Motor Fuel Dispensing Facilities and Repair Garages*, 2021 edition.

NFPA 30B, *Code for the Manufacture and Storage of Aerosol Products*, 2019 edition.

NFPA 31, *Standard for the Installation of Oil-Burning Equipment*, 2020 edition.

NFPA 32, *Standard for Drycleaning Facilities*, 2016 edition.

NFPA 33, *Standard for Spray Application Using Flammable or Combustible Materials*, 2018 edition.

NFPA 34, *Standard for Dipping, Coating, and Printing Processes Using Flammable or Combustible Liquids*, 2018 edition.

NFPA 35, *Standard for the Manufacture of Organic Coatings*, 2016 edition.

NFPA 36, *Standard for Solvent Extraction Plants*, 2017 edition.

NFPA 37, *Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines*, 2021 edition.

NFPA 40, *Standard for the Storage and Handling of Cellulose Nitrate Film*, 2019 edition.

NFPA 45, *Standard on Fire Protection for Laboratories Using Chemicals*, 2019 edition.

NFPA 51, *Standard for the Design and Installation of Oxygen–Fuel Gas Systems for Welding, Cutting, and Allied Processes*, 2018 edition.

NFPA 51B, *Standard for Fire Prevention During Welding, Cutting, and Other Hot Work*, 2019 edition.

NFPA 52, *Vehicular Natural Gas Fuel Systems Code*, 2019 edition.

NFPA 54, *National Fuel Gas Code*, 2021 edition.

NFPA 55, *Compressed Gases and Cryogenic Fluids Code*, 2020 edition.

NFPA 56, *Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems*, 2020 edition.

NFPA 58, *Liquefied Petroleum Gas Code*, 2020 edition.

NFPA 59, *Utility LP-Gas Plant Code*, 2021 edition.

NFPA 59A, *Standard for the Production, Storage, and Handling of Liquefied Natural Gas (LNG)*, 2019 edition.

NFPA 61, *Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities*, 2020 edition.

NFPA 68, *Standard on Explosion Protection by Deflagration Venting*, 2018 edition.

NFPA 69, *Standard on Explosion Prevention Systems*, 2019 edition.

NFPA 70®, *National Electrical Code®*, 2020 edition.

- NFPA 72®, *National Fire Alarm and Signaling Code*®, 2019 edition.
- NFPA 75, *Standard for the Fire Protection of Information Technology Equipment*, 2020 edition.
- NFPA 76, *Standard for the Fire Protection of Telecommunications Facilities*, 2020 edition.
- NFPA 80, *Standard for Fire Doors and Other Opening Protectives*, 2019 edition.
- NFPA 82, *Standard on Incinerators and Waste and Linen Handling Systems and Equipment*, 2019 edition.
- NFPA 85, *Boiler and Combustion Systems Hazards Code*, 2019 edition.
- NFPA 86, *Standard for Ovens and Furnaces*, 2019 edition.
- NFPA 88A, *Standard for Parking Structures*, 2019 edition.
- NFPA 90A, *Standard for the Installation of Air-Conditioning and Ventilating Systems*, 2021 edition.
- NFPA 90B, *Standard for the Installation of Warm Air Heating and Air-Conditioning Systems*, 2021 edition.
- NFPA 91, *Standard for Exhaust Systems for Air Conveying of Vapors, Gases, Mists, and Particulate Solids*, 2020 edition.
- NFPA 92, *Standard for Smoke Control Systems*, 2018 edition.
- NFPA 96, *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, 2021 edition.
- NFPA 99, *Health Care Facilities Code*, 2021 edition.
- NFPA 99B, *Standard for Hypobaric Facilities*, 2021 edition.
- NFPA 101®, *Life Safety Code*®, 2021 edition.
- NFPA 102, *Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures*, 2016 edition.
- NFPA 105, *Standard for Smoke Door Assemblies and Other Opening Protectives*, 2019 edition.
- NFPA 110, *Standard for Emergency and Standby Power Systems*, 2019 edition.
- NFPA 111, *Standard on Stored Electrical Energy Emergency and Standby Power Systems*, 2019 edition.
- NFPA 115, *Standard for Laser Fire Protection*, 2020 edition.
- NFPA 120, *Standard for Fire Prevention and Control in Coal Mines*, 2020 edition.
- NFPA 122, *Standard for Fire Prevention and Control in Metal/Nonmetal Mining and Metal Mineral Processing Facilities*, 2020 edition.

NFPA 130, *Standard for Fixed Guideway Transit and Passenger Rail Systems*, 2020 edition.

NFPA 140, *Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations*, 2018 edition.

NFPA 150, *Fire and Life Safety in Animal Housing Facilities Code*, 2019 edition.

NFPA 160, *Standard for the Use of Flame Effects Before an Audience*, 2021 edition.

NFPA 170, *Standard for Fire Safety and Emergency Symbols*, 2018 edition.

NFPA 204, *Standard for Smoke and Heat Venting*, 2018 edition.

NFPA 211, *Standard for Chimneys, Fireplaces, Vents, and Solid Fuel–Burning Appliances*, 2019 edition.

NFPA 220, *Standard on Types of Building Construction*, 2021 edition.

NFPA 221, *Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls*, 2021 edition.

NFPA 232, *Standard for the Protection of Records*, 2017 edition.

NFPA 241, *Standard for Safeguarding Construction, Alteration, and Demolition Operations*, 2019 edition.

NFPA 251, *Standard Methods of Tests of Fire Resistance of Building Construction and Materials*, 2006 edition.

NFPA 252, *Standard Methods of Fire Tests of Door Assemblies*, 2017 edition.

NFPA 253, *Standard Method of Test for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source*, 2019 edition.

NFPA 257, *Standard on Fire Test for Window and Glass Block Assemblies*, 2017 edition.

NFPA 259, *Standard Test Method for Potential Heat of Building Materials*, 2018 edition.

NFPA 260, *Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture*, 2019 edition.

NFPA 261, *Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes*, 2018 edition.

NFPA 265, *Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile or Expanded Vinyl Wall Coverings on Full Height Panels and Walls*, 2019 edition.

NFPA 286, *Standard Methods of Fire Tests for Evaluating Contribution of Wall and Ceiling Interior Finish to Room Fire Growth*, 2019 edition.

NFPA 288, *Standard Methods of Fire Tests of Horizontal Fire Door Assemblies Installed in Horizontal Fire Resistance–Rated Assemblies*, 2017 edition.

- NFPA 289, *Standard Method of Fire Test for Individual Fuel Packages*, 2019 edition.
- NFPA 301, *Code for Safety to Life from Fire on Merchant Vessels*, 2018 edition.
- NFPA 302, *Fire Protection Standard for Pleasure and Commercial Motor Craft*, 2020 edition.
- NFPA 303, *Fire Protection Standard for Marinas and Boatyards*, 2021 edition.
- NFPA 307, *Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves*, 2021 edition.
- NFPA 312, *Standard for Fire Protection of Vessels During Construction, Conversion, Repair, and Lay-Up*, 2021 edition.
- NFPA 318, *Standard for the Protection of Semiconductor Fabrication Facilities*, 2018 edition.
- NFPA 326, *Standard for the Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair*, 2020 edition.
- NFPA 385, *Standard for Tank Vehicles for Flammable and Combustible Liquids*, 2017 edition.
- NFPA 400, *Hazardous Materials Code*, 2019 edition.
- NFPA 403, *Standard for Aircraft Rescue and Fire-Fighting Services at Airports*, 2018 edition.
- NFPA 407, *Standard for Aircraft Fuel Servicing*, 2017 edition.
- NFPA 408, *Standard for Aircraft Hand Portable Fire Extinguishers*, 2017 edition.
- NFPA 409, *Standard on Aircraft Hangars*, 2016 edition.
- NFPA 410, *Standard on Aircraft Maintenance*, 2020 edition.
- NFPA 415, *Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways*, 2016 edition.
- NFPA 418, *Standard for Heliports*, 2016 edition.
- NFPA 423, *Standard for Construction and Protection of Aircraft Engine Test Facilities*, 2016 edition.
- NFPA 484, *Standard for Combustible Metals*, 2019 edition.
- NFPA 495, *Explosive Materials Code*, 2018 edition.
- NFPA 498, *Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives*, 2018 edition.
- NFPA 501, *Standard on Manufactured Housing*, 2017 edition.

NFPA 501A, *Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities*, 2017 edition.

NFPA 502, *Standard for Road Tunnels, Bridges, and Other Limited Access Highways*, 2020 edition.

NFPA 505, *Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operations*, 2018 edition.

NFPA 601, *Standard for Security Services in Fire Loss Prevention*, 2020 edition.

NFPA 652, *Standard on the Fundamentals of Combustible Dust*, 2019 edition.

NFPA 654, *Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids*, 2020 edition.

NFPA 655, *Standard for Prevention of Sulfur Fires and Explosions*, 2017 edition.

NFPA 664, *Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities*, 2020 edition.

NFPA 701, *Standard Methods of Fire Tests for Flame Propagation of Textiles and Films*, 2019 edition.

NFPA 703, *Standard for Fire-Retardant-Treated Wood and Fire-Retardant Coatings for Building Materials*, 2021 edition.

NFPA 704, *Standard System for the Identification of the Hazards of Materials for Emergency Response*, 2017 edition.

NFPA 731, *Standard for the Installation of Premises Security Systems*, 2020 edition.

NFPA 750, *Standard on Water Mist Fire Protection Systems*, 2019 edition.

NFPA 780, *Standard for the Installation of Lightning Protection Systems*, 2020 edition.

NFPA 801, *Standard for Fire Protection for Facilities Handling Radioactive Materials*, 2020 edition.

NFPA 804, *Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants*, 2020 edition.

NFPA 805, *Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants*, 2020 edition.

NFPA 820, *Standard for Fire Protection in Wastewater Treatment and Collection Facilities*, 2020 edition.

NFPA 855, *Standard for the Installation of Stationary Energy Storage Systems*, 2020 edition.

NFPA 909, *Code for the Protection of Cultural Resource Properties – Museums, Libraries, and Places of Worship*, 2017 edition.

NFPA 914, *Code for the Protection of Historic Structures*, 2019 edition.

NFPA 1031, *Standard for Professional Qualifications for Fire Inspector and Plan Examiner*, 2014 edition.

NFPA 1037, *Standard on Fire Marshal Professional Qualifications*, 2016 edition.

NFPA 1122, *Code for Model Rocketry*, 2018 edition.

NFPA 1123, *Code for Fireworks Display*, 2018 edition.

NFPA 1124, *Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles*, 2017 edition.

NFPA 1125, *Code for the Manufacture of Model Rocket and High-Power Rocket Motors*, 2017 edition.

NFPA 1126, *Standard for the Use of Pyrotechnics Before a Proximate Audience*, 2021 edition.

NFPA 1127, *Code for High Power Rocketry*, 2018 edition.

NFPA 1141, *Standard for Fire Protection Infrastructure for Land Development in Wildland, Rural, and Suburban Areas*, 2017 edition.

NFPA 1142, *Standard on Water Supplies for Suburban and Rural Fire Fighting*, 2017 edition.

NFPA 1144, *Standard for Reducing Structure Ignition Hazards from Wildland Fire*, 2018 edition.

NFPA 1192, *Standard on Recreational Vehicles*, 2021 edition.

NFPA 1194, *Standard for Recreational Vehicle Parks and Campgrounds*, 2021 edition.

NFPA 1221, *Standard for the Installation, Maintenance, and Use of Emergency Services Communications Systems*, 2019 edition.

NFPA 1730, *Standard on Organization and Deployment of Fire Prevention Inspection and Code Enforcement, Plan Review, Investigation, and Public Education Operations*, 2019 edition.

NFPA 1901, *Standard for Automotive Fire Apparatus*, 2016 edition.

NFPA 1906, *Standard for Wildland Fire Apparatus*, 2016 edition.

NFPA 1925, *Standard on Marine Fire-Fighting Vessels*, 2018 edition.

NFPA 1963, *Standard for Fire Hose Connections*, 2019 edition.

NFPA 2001, *Standard on Clean Agent Fire Extinguishing Systems*, 2018 edition.

NFPA 2010, *Standard for Fixed Aerosol Fire Extinguishing Systems*, 2020 edition.

NFPA 2113, *Standard on Selection, Care, Use, and Maintenance of Flame-Resistant Garments for Protection of Industrial Personnel Against Short-Duration Thermal Exposures from Fire*, 2020 edition.

NFPA 5000®, *Building Construction and Safety Code*®, 2021 edition.

Appendices #3

Code



NFPA 101 – LIFE SAFETY CODE (2021)

3.3.280 * Stories in Height.

The story count starting with the level of exit discharge and ending with the highest occupiable story containing the occupancy considered. (SAF-FUN)

 Add to Reference Panel

Open in Book View

Appendices #4

Code



NFPA 101 – LIFE SAFETY CODE (2021)

A.3.3.280 Stories in Height.

Stories below the level of exit discharge are not counted as stories for determining the stories in height of a building.



Add to Reference Panel

Open in Book View

Appendices #5

Code



NFPA 101 — LIFE SAFETY CODE (2021)

3.3.88.1 * Level of Exit Discharge.

The story that is either (1) the lowest story from which not less than 50 percent of the required number of exits and not less than 50 percent of the required egress capacity from such a story discharge directly outside at the finished ground level; or (2) where no story meets the conditions of item (1), the story that is provided with one or more exits that discharge directly to the outside to the finished ground level via the smallest elevation change. (SAF-MEA)

ENHANCED CONTENT

Expand

Add to Reference Panel

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Appendices #6

9.2. Amendments and Review

9.2.1. Plan Review

As required by the Planning Act R.S.P.E.I. 1988, P-8, Council will review this Plan at intervals no shorter than five years to evaluate the extent to which the goals and objectives are achieved. Following the review, Council will by resolution confirm or amend the Plan.

9.2.2. Trigger for Review

Where Council is considering a major expansion to sewer or water servicing beyond the boundaries contemplated in this Plan, Council shall initiate a review of the Official Plan. With consideration for the expanded infrastructure, the Plan review shall consider:

- a) Amending land use designations in the vicinity of the proposed infrastructure;
- b) Whether amendments are required to servicing policies;
- c) Whether adjustments to settlement areas are required, as applicable;
- d) Necessary adjustments to implementing bylaws, including the Development Bylaw, for the properties eligible to connect to the expanded servicing infrastructure.

9.2.3. Criteria for Amendments

Policies in this section are intended to provide guidance to Council and the Planning Board for evaluating Official Plan Amendment applications.

- 1) Amendments to this Official Plan shall be evaluated against the following criteria:
 - a) Conformity with the provisions of the Planning Act R.S.P.E.I. 1988, P-8 and associated Regulations;
 - b) Conformity with the Guiding Principles and Objectives of this Official Plan;
 - c) That the proposed development will not create undue negative impacts on adjacent properties; and
 - d) That the proposed development will not generate unreasonable or undesirable financial burdens on the Town of Three Rivers.

9.3. Development Bylaw

Council shall enact a Development Bylaw as an implementation mechanism for the goals, objectives, and policies of this Official Plan. In accordance with the Planning Act R.S.P.E.I. 1988, P-8, the Development Bylaw may address elements including:

- 1) Regulate development to advance the general welfare, health, safety and convenience of persons in the municipality;
- 2) Define the areas to be regulated;
- 3) Establish land use zones, including permitted uses of land and structures;

- 4) Subdivision of land;
- 5) Development and services;
- 6) Development charges;
- 7) Building standards, addressing fire suppression and architectural controls;
- 8) Development permits;
- 9) Environmental protection, including that issuance of a permit is conditional upon compliance with the Environmental Protection Act;
- 10) Access to highways;
- 11) Mobile homes;
- 12) Parking areas;
- 13) Summer cottages;
- 14) Fees; and
- 15) Enforcement.

9.3.1. Rezoning Applications

Every landowner has the opportunity to apply to the Town of Three Rivers for a change in zoning on a property, or to change provisions within the applicable zone.

- 1) Applications for rezoning will be evaluated against the following criteria:
 - a) Conformity with the provisions of the Planning Act R.S.P.E.I. 1988, P-8 and associated regulations;
 - b) Conformity with the policies of this Official Plan, including the applicable policy designation;
 - c) That the proposed development will not create undue negative impacts on adjacent properties; and
 - d) That the proposed development will not generate unreasonable or undesirable financial burdens on the Town of Three Rivers.

9.3.2. Variances

- 1) The Town of Three Rivers may consider variances to zoning provisions in the Development Bylaw where strict compliance would represent an inappropriate burden to the landowner. The Town may authorize such variance from the provision of the zoning regulations as, in its opinion, is desirable and consistent with the general intent and purpose of the Official Plan and the regulations to which the variance applies.



Appendices #7



2021 N



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30.3.4 Detection, Alarm, and Communications Systems.

30.3.4.1 General.

30.3.4.1.1

Apartment buildings four or more stories in height or with more than 11 dwelling units, other than those meeting the requirements of 30.3.4.1.2, shall be provided with a fire alarm system in accordance with Section 9.6, except as modified by 30.3.4.2 through 30.3.4.5.

30.3.4.1.2

A fire alarm system shall not be required in buildings where each dwelling unit is separated from other contiguous dwelling units by fire barriers (see Section 8.3) having a minimum 1-hour fire resistance rating, and where each dwelling unit has either its own independent exit or its own independent stairway or ramp discharging at the finished ground level.

30.3.4.2 Initiation.

30.3.4.2.1

Initiation of the required fire alarm system shall be by manual means in accordance with 9.6.2, unless the building complies with 30.3.4.2.2.

30.3.4.2.2

Initiation of the required fire alarm system by manual means shall not be required in buildings four or fewer stories in height, containing not more than 16 dwelling units, and protected throughout by an approved, supervised automatic sprinkler system installed in accordance with 30.3.5.1.

30.3.4.2.3

In buildings protected throughout by an approved, supervised automatic sprinkler system in accordance with 30.3.5, required fire alarm systems shall be initiated upon operation of the automatic sprinkler system.

Appendices #8



2021 N



30.3.4.6.5

Where carbon monoxide detectors are installed in accordance with 30.3.4.6.4, the alarm signal shall be automatically transmitted to an approved on-site location or to an off-premises location in accordance with *NFPA 72*.

30.3.5 Extinguishment Requirements.

30.3.5.1 General.

All buildings shall be protected throughout by an approved, supervised automatic sprinkler system installed in accordance with 30.3.5.1 through 30.3.5.6.



30.3.5.1.1

Where an automatic sprinkler system is installed, the system shall be in accordance with Section 9.7, as modified by 30.3.5.5.



30.3.5.1.2

In apartment buildings up to and including four stories in height, that are located in buildings not exceeding 60 ft (18.3 m) in height above grade plane, systems in accordance with *NFPA 13R* shall be permitted.

30.3.5.2 Attics.

Where located in a building of Type III, Type IV, or Type V construction designed in accordance with 4.6.3(5) and where the roof assembly is located more than 55 ft (17 m) above the lowest level of required fire department vehicle access, attics shall comply with 30.3.5.2.1, 30.3.5.2.2, and one of the following:

- (1) Attics shall be provided with sprinkler protection.
- (2) Attics shall be constructed with noncombustible materials.
- (3) Attics shall be constructed with fire-retardant-treated wood
- (4) Attics shall be filled with noncombustible insulation



Appendices #9

- i. An amendment to a Zoning map established in this Bylaw; or
 - ii. An amendment to the text of this Bylaw.
- 2) The appellant shall file a Notice of Appeal with the Commission within 21 days after the date of the decision being appealed.
- 3) For the purposes of provision (2), where an appeal is filed in respect of an amendment to this Bylaw, the 21-day period for filing a notice of appeal commences on the date that the Council of Three Rivers gave final reading to the amendment to the Bylaw.
- 4) The Notice of Appeal under provision (2) shall be made in writing and shall state the grounds for the appeal and the relief sought.
- 5) A person filing an appeal under provision (2) shall, within seven days of filing an appeal with the Commission, serve a copy of the Notice of Appeal to the Council of the Town of Three Rivers.
- 6) Despite the provisions of this section, no appeal may be filed respecting a decision of Council 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.

3.10. Licenses, Permits and Compliance with Other Bylaws

- 1) Nothing in this Bylaw shall exempt any person from complying with the requirements of any other Bylaw in force within the Town, or from obtaining any license, permission, permit, authority, or approval required by any other Bylaw of the Town, or statute or regulation of the Province of Prince Edward Island or the Government of Canada.
- 2) Where the provisions of this Bylaw conflict with those of any other Town of Three Rivers Bylaw or any regulations or codes of the Province of Prince Edward Island, the higher or more stringent requirement shall prevail.

3.11. Enforcement

- 1) The Development Officer, or Designate, is authorized, with cause, to enter any land, building, or structure in the Town, provided that:
 - a) Such entry is not excessive or by force;
 - b) The entry occurs at a reasonable time; and
 - c) The entry is for the purpose of making an inspection or examination relating to this Bylaw.

Appendices #10

Minutes

Town of Three Rivers

Special Council Meeting

Date: February 11, 2019
Time: 6:00 pm

Members Present Eddie MacAulay, Wayne Spin, Debbie Johnston, John MacFarlane, Jane King, Alan Munro, Gerard Holland, Ronnie Nicholson, Cameron MacLean, David McGrath, Cindy MacLean, Cody Jenkins, Isaac MacIntyre,
Others Present CAO Jill Walsh, Andrew Daggett, about 17 public, 1 media.

1. Call to Order

Mayor MacAulay called the meeting to order at 6:00 pm.

2. Approval of Agenda

Moved By Cody Jenkins

Seconded By Wayne Spin

To approve the agenda.

Carried (19-16)

3. Disclosure of Conflict of Interest

There were no declarations of conflict.

4. Delegations, Special Speakers and Public Input

4.1 Letters received

Mayor MacAulay referenced the four letters received and asked the writers of the letters if they wanted to speak to their submissions. None spoke at this time as all felt the letters said what they wanted to express.

4.1.2 Letters received after the agenda was sent out

4.2 Jock Beck

Mr. Beck spoke to the rezoning application on behalf of the Montague Volunteer Fire Department (MVFD). He suggested that a through street from MacIntyre Ave. to Main Street via the Wightman Street right-of-way would decrease traffic on MacIntyre rather than increasing it. It would give residents an option to go that way and also give a secondary exit and emergency route to bypass the Queens Road/Main Street intersection. He also expressed concern over the proposed four stories of the apartment complex given the capabilities of the MVFD. He suggested that the Town should consult with the Fire Departments on large scale projects in their areas.

4.3 Don Sutherland

Mr. Sutherland expressed his concern about a through street and thought it would bring heavier traffic to MacIntyre Ave. rather than easing it. He stated that the residents were told when Connolly Cres was developed that no access through from MacIntyre Ave to Main Street would be granted. He suggested that the developer place the apartment building behind the Superstore.

4.4 Boyd Munn

Mr. Munn expressed his concern that the property to be rezoned was sufficiently large to allow for three more similarly sized units beyond the one being proposed.

4.5 Norm Coffin

Mr. Coffin purchased his home at 316 Connolly Cres about a year ago and expressed concern about the size of the property proposed to be rezoned, expressing that many more units could be built with no further input from the public if the rezoning is approved. He questioned if a portion of the property closer to the Superstore could be rezoned and accessed from Main Street.

4.6 Other comments

Councillor Nicholson - suggested that access should be from Main Street and there might be a need for a fence for separation.

Jock Beck - thought Council should consider constructing a sidewalk from Queens Road to at least the hospital.

Dot Campbell – suggested it would be beneficial to plan ahead so actions taken now would contribute toward the eventual development of the whole piece of land.

5. Decision on Rezoning of Property PID 934364

After much discussion and some suggestions from the Council and public, Mayor MacAulay requested that the discussion go back to the Planning Board for input from the developer, residents, Dept. of Transportation and the Planning Board, with a recommendation to come to the March meeting of Council.

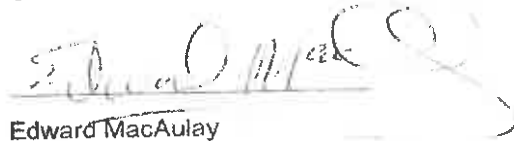
6. Adjournment

Mayor MacAulay adjourned the meeting at 6:44.



Jill Walsh

CAO



Edward MacAulay

Mayor

Appendices #11

February 11, 2019

Members of Three Rivers Planning Board

Ladies and Gentlemen:

It is my pleasure to appear before this meeting as you contemplate the various factors impacting on the proposed project .

The operations carried out by the Fire Department follow logical progressions .They include, among others, planning, assessment, equipment acquisition, recruitment, training, operation, and co-operation. All these keep in mind necessary redundancy , flexibility and a measure sometimes of open-minded ingenuity.

Many of these factors must be considered in municipal planning as well

Future planning would surely suggest that cul-de- sacs should be replaced by through streets when ever possible from a snow removal and fire protection supply point of view. Creation of portions of land which may be difficult to access seems counter- productive. Apparatus turning radius, water supply, snow piling, exit planning, and many other factors come into play.

The suggestion that anything should be constructed in housing that exceeds three stories in height should be rejected given our present capability for rescue beyond that height.

The idea that significant project planning should seek input from the agency tasked with its protection prior to project approval seems sensible. In many cases, those agencies would defer to Provincial Authorities but perhaps would still be able to offer helpful suggestions.

Respectfully submitted,



John M. Beck

Deputy Chief

Montague Volunteer Fire Brigade

Appendices #12



2017 N



1.3.3.4

Buildings with equivalency, alternatives, or modifications approved by the AHJ shall be considered as conforming with this standard.

1.3.3.5

Each application for an alternative fire protection feature shall be filed with the AHJ and shall be accompanied by such evidence, letters, statements, results of tests, or other supporting information as required to justify the request. The AHJ shall keep a record of actions on such applications, and a signed copy of the AHJ's decision shall be provided for the applicant.

1.3.4 Requirements.

1.3.4.1

This standard shall be enforced by the authority having jurisdiction (AHJ) designated by the governing body.

1.3.4.2*

The AHJ shall have the authority to apply the requirements in this standard that are specifically addressed for buildings or other structures that are deemed to possess significant life or property loss potential.

1.3.4.3

If the fire department is not the AHJ, the AHJ shall consult with the fire department on all matters relative to the enforcement of this standard to ensure that the needs of the fire department are met in providing fire protection.

1.3.4.4 Provisions in Excess of Standard Requirements.

Nothing in this standard shall be construed to prohibit a better development plan, building construction type, fire protection infrastructure, or an otherwise safer condition than that specified by the minimum requirements of this standard.

1.3.4.5

The AHJ shall use recognized fire protection measures to meet local conditions because this standard does not set forth general fire

RM

Appendices #13



2017 N



access to within 30 ft (9.144 m) of an exterior wall.

6.2 Building Separation.

6.2.1

Unless governed by other locally adopted regulations, any building shall be separated from another building by at least 30 ft (9.144 m) and shall be set back at least 30 ft (9.144 m) from a property line.

6.2.1.1

If adjacent buildings are both protected with automatic sprinkler systems meeting NFPA 13 the separation between the structures or separation from a property line shall be permitted to be reduced to 15 ft (4.5 m).

6.2.1.2

If an accessory building is 400 ft² (37 m²) or less in ground floor area, the separation from the principal structure shall be permitted to be reduced to 15 ft (4.5 m) where both buildings have a separation from a property line of at least 30 ft (9.144 m).

6.2.1.3

If an accessory building is 400 ft² (37 m²) or less in ground floor area, the separation from a property line shall be permitted to be reduced to 15 ft (4.5 m) where the accessory building has a separation from the principal structure of at least 30 ft (9.144 m).

6.2.2

Any building that exceeds two stories or 30 ft (9.144 m) in height above average adjacent ground elevation and is not protected by an automatic sprinkler system installed and maintained according to NFPA 13 or NFPA 13R, shall be separated from any other structure by at least 50 ft (15.2 m) and shall be set back at least 30 ft (9.144 m) from a property line.

RM

Appendices #14



2017 N



access to within 30 ft (9.144 m) of an exterior wall.

6.2 Building Separation.

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RM

Appendices #15

9

Being that it's sprinkled, there was no discussion with fire department by the way, but being that it's sprinkled, for like safety concerns, I guess that would fit.

But there are still some things as Doctor Johnson brought up this evening. Perhaps were all the I's dotted and T's crossed and the whole thing. So before I make any decision on this I would like to definitely see what the Department of Transportation has to say about the traffic flow. We do know there's an issue of traffic in this area. So I would like to get a final on that as well. Thank you.

Speaker 2 – Mayor Johnston

Would you like to speak to that, the traffic? There is a condition here.

Speaker 11 – Development Officer Lee Kenebel

Thank you Your Worship. We do know that this area is zoned for higher densities. We've gone through the full plan process to designate that within this area. So we've known for quite a long time, many years, that higher density development and associated higher increase in traffic would follow. That's inevitable where we are requiring spaces to be provided with every unit. So we are going to see those.

I appreciate the concern regarding the traffic study. It is obviously aligned at Main St. as a whole, and it's not specific to this development. The conditions requiring entranceway permits and to secure those additional permits is no different than securing a building permit or any other permits that would be required and that could end up facilitating further discussion with highways. But we wouldn't consider it a reason to withhold a decision when that process under different legislation would be in place.

You are correct, this is sprinklered and that's becoming a more common feature and obviously we've heard tonight about the considerations of fire in these larger structures and we likely we will see more and more of them come through as we try to achieve higher densities within the allocated sites.

Have we dotted the I's and crossed the T's? I believe we have. Absolutely we have, otherwise this wouldn't be before you today.

We know the variance letter worked because we've had representation tonight on that very same subject. Were all the variance letters sent out? I physically measured every property within 100 meters and then we used the software to calculate that too, and we got the same number and the same number of properties out of it.

I can't comment any further than that, as far as I can assure council and Your Worship that the letters were sent out to those properties. I'm not sure what more we could do there.

Again, know we're working on a tree bylaw. That's an active piece of work. It's not obviously ready for tonight, so and it wasn't ready to take into account at the time of Planning Board. What influence that would have had on development? I can honestly

Appendices #16

8

Condition 1: The permit is valid for 12 months from the date of issue.

Condition 2: The methodologies for erosion and sediment control for before/during/after the construction process detailed on Drawing C100 shall be implemented upon the commencement of the development and remain in place until completion of the development hereby approved.

Condition 3: This applicant is required to secure any access/entrance permits through the Department of Transportation and Infrastructure.

Condition 4: The approved plans are:

- The completed application form.
- Drawings A001, A002, A030, A100, A101, A102, A200, A300, A301 and C100 dated May 12, 2023

Speaker 9 – Councillor Munro

So moved.

Speaker 2 – Mayor Johnston

Moved by Councillor Munro. Second. Do we have a seconder for the motion?

Speaker 8 – Councillor John Van Dyke – Chair of Planning Board Committee

I'll second it.

Speaker 2 – Mayor Johnston

OK. All in favor of the motion? Any questions or discussion of the motion? Go ahead.

Speaker 10 – Councillor MacFarlane

Thank you Your Worship. I do have some considerations on this. I would like to see the response from the Department of Transportation on the traffic flow as a consideration. I assume that the building is sprinkled?

Unknown Speaker

Correct.

Speaker 10 – Councillor MacFarlane

There is a letter on file and here from the Montague Volunteer Fire Department that says that the department would only be able to handle a building up the three stories. This building is four stories on the north side and three stories on the South side.

We did have another building that was proposing five stories and the developer dropped it down to three stories. The APM building (mumbling).

Being that it's sprinkled, there was no discussion with fire department by the way, but being that it's sprinkled, for like safety concerns, I guess that would fit.

But there are still some things as Doctor Johnson brought up this evening. Perhaps were all the I's dotted and T's crossed and the whole thing. So before I make any decision on this I would like to definitely see what the Department of Transportation has to say about the traffic flow. We do know there's an issue of traffic in this area. So I would like to get a final on that as well. Thank you.

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Appendices #17



2022 N



Calculating Minimum Water Supplies

4.1 General.

4.1.1

Prior to calculating the minimum water supply for a structure, the structure shall be surveyed to obtain the following information:

- (1) Occupancy hazard
- (2) Type of construction
- (3) Structure dimensions (length, width, and height)
- (4) Exposures, if any

4.1.1.1

For new construction, plans shall be submitted to the fire department or the AHJ for determination of the minimum water supply required before construction is started.

4.1.1.2

Changes made in the structural design, dimensions, occupancy, or contents of a planned or existing structure that affect the occupancy hazard or the construction type shall require that the structure be resurveyed to determine if changes are necessary in the minimum water supply required.

4.1.1.3

If there are changes in automatic fire suppression systems in a structure that would affect the protection afforded, the property owner(s) shall notify the AHJ in writing of such changes, including temporary impairment.

4.1.2*

The methodology in this chapter shall be used to calculate the required minimum water supply necessary for structural firefighting purposes.

RM

Appendices #18

3. Functions of Deputy Fire Marshal

- (1) The Deputy Fire Marshal may act in the place of the Fire Marshal
- (a) in the absence of the Fire Marshal from his post of duty;
 - (b) during the Fire Marshal's illness or other physical disability;
 - (c) in case of a vacancy in the office of Fire Marshal; or
 - (d) when ordered to do so by the Fire Marshal,
- and when so acting has all the powers and authority of the Fire Marshal.

Powers

- (2) The Deputy Fire Marshal, when conducting an inquiry into the cause, origin and circumstances of a fire, has the same powers as are given the Fire Marshal under this Act. *1983, c.16, s.3; 1997, c.18, s.1.*

4. Designation of inspectors

The Fire Marshal may designate any person as an inspector for the purposes of this Act and shall issue to each inspector a card or certificate as evidence of the designation. *1983, c.16, s.4.*

5. Local assistants

- (1) The Fire Marshal may appoint the following persons as local assistants:
- (a) in a municipality that maintains a fire department,
 - (i) the chief of the fire department, and
 - (ii) any other member of the fire department authorized by the fire chief to act as a local assistant; and
 - (b) in a municipality where no fire department is maintained, the mayor or chairman of council or any other fit and proper person.

Functions of local assistants

- (2) A local assistant
- (a) shall perform the duties required of him by this Act; and
 - (b) may within the jurisdiction for which he is appointed administer this Act and regulations,
- but shall commence no proceedings to enforce this Act or regulations unless he obtains the consent of the Fire Marshal. *1983, c.16, s.5.*

6. Duties of Fire Marshal

- (1) The Fire Marshal shall enforce all laws in force in the province relating to
- (a) the prevention of fires;
 - (b) the storage, sale and use of combustibles and explosives;
 - (c) the installation and maintenance of automatic or other fire alarm systems and fire-extinguishing equipment;
 - (d) the construction, maintenance and regulation of fire escapes;
 - (e) the means and adequacy of exit in case of fire from factories, psychiatric facilities, hospitals, churches, schools, halls, theatres, amphitheatres and all other places in

- which numbers of persons work, live, congregate or are detained from time to time for any purpose; and
- (f) the suppression of arson and investigation of the cause, origin and circumstances of fires.

Other functions

- (2) The Fire Marshal shall
- (a) collect and disseminate information with regard to fires in the province;
 - (b) investigate conditions under which fires are likely to occur;
 - (c) study methods of fire prevention; and
 - (d) render such advice and make such recommendations as he may consider advisable with regard to
 - (i) the establishment and administration of fire brigades and fire departments,
 - (ii) the provision of adequate water supply for fire fighting,
 - (iii) the enactment and enforcement by municipalities of bylaws for the prevention of fire or the protection of life and property against fire,
 - (iv) the means and adequacy of fire alarms and smoke detectors in buildings and of exits from buildings in case of fire.

Emergency measures

- (3) Where an emergency arises from a fire hazard or from a risk of explosion that causes the Fire Marshal or an inspector to be apprehensive of imminent and serious danger to life or property, or of a panic, he may forthwith take such steps as he thinks advisable to remove the hazard or risk and he may cause the evacuation of any building or area and he may direct the police or fire prevention authorities having jurisdiction to assist him. 1983, c.16, s.6.

7. Powers

- (1) The Fire Marshal, in carrying out his duties under this Act, may exercise the powers of a peace officer but is not empowered to carry a firearm.

Conflict of jurisdiction

- (2) Where there is conflict between the authority of the Fire Marshal and that of an official of any municipality in respect of any matter falling within the functions of the Fire Marshal under this Act, the authority of the Fire Marshal shall prevail.

Assistance

- (3) The Fire Marshal may request the assistance of one or more police officers for the service of any summons or order issued by him.

Idem

- (4) It is the duty of a police officer to provide assistance to the Fire Marshal where requested under subsection (3). 1983, c.16, s.7.

8. Duties in municipalities

Nothing in this Act requires the Fire Marshal or inspectors to perform in any municipality any of the duties prescribed by bylaws of the municipality other than the investigation of or inquiry into the origin of fires. 1983, c.16, s.8.

Respectfully submitted;

A handwritten signature in black ink, reading "Randy MacDonald". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Randy K. MacDonald
RKM Fire Safety Consulting

TAB 5

Walsh-Doucette, Michelle (Charlottetown)

From: Marcus King <mking@colesassociates.com>
Sent: May 2, 2023 5:09 PM
To: Patrick Donahoe
Cc: Nazmi Lawen
Subject: 221003 - 22 Unit Apartment Montague
Attachments: 221003 - 22 Unit School Street - Civil Site Plan (2023-05-02).pdf

Afternoon Patrick,

Just wanted to run this plan by you quickly before we get too deep into the design. We are designing an apartment building along Fraser Street and are looking at parking spaces for the retail space that we are adding to the building. Currently we have the 33 stalls required for the residential units located in a basement parking bay, but for the approx. 3800ft² or retail space we are adding 25 more parking spaces along the building exterior as per the bylaw. Attached to this email is a copy of the plans currently. Is the proposed location and proximity of the exterior parking stalls in a style that would be acceptable to the municipality? Wanted to double check before all of the time was put in designing a layout that won't work.

Let me know what your thoughts are,

Marcus King, E.I.T.
Civil & Municipal Designer



201-85 Fitzroy Street, Charlottetown, PE, C1A 1R6, Canada
Office: 902-368-2300
Direct: 902-370-6277
www.colesassociates.com

TAB 6

Montague Sewerage and Water Collection & Treatment Corp.

GENERAL RULES AND REGULATIONS

Approved by: Town Council

Date of Approval: April 12, 2021

1. Application

- 1.1.** As required by Water and Sewerage Act, Section 16, the following Rules and Regulations have been approved by Montague Sewerage and Water Collection & Treatment Corp.
- 1.2.** These Rules and Regulations are subject to the Water and Sewerage Act as well as to directives of and special contracts approved by The Montague Water and Sewer Utility.

2. Interpretation

- 2.1.** In these Rules and Regulations, unless the context otherwise requires, the expression:

Commission means The Island Regulatory and Appeals Commission

Council means Council of the Town of Three Rivers.

Customer means a person, firm, or corporation who or which requests or is supplied with water or sewerage or water and sewerage service at a specific location or locations.

Domestic Service means the type of water or sewerage or water and sewerage service supplied to the owner or his authorized agent or to the occupant or tenant of any space or area occupied for the distinct purpose of a single-family house, each unit of a multiple-unit dwelling, individual apartment, flat and the like, furnished with separate kitchen facilities provided with running water.

Due Notice means the requirement that forty-eight (48) hours written notice be given by the Utility to a customer before any action is taken against the customer for failure to comply with any of these Rules and Regulations.

General Service means any type of water or sewerage service other than domestic service, fire protection service and municipal service.

Municipality means the Town of Three Rivers.

Service means water or sewerage or water and sewerage service.

Shall in the context of these Rules and Regulations means the imperative and that an act must be done.

Utility means the Montague Sewerage and Water Collection & Treatment Corp.

3. General

3.1. Disputes

If any Dispute arises between the Utility and a customer over the interpretation or application of these rules and Regulations, either party may refer the matter to the Council for decision, and the council may, notwithstanding anything contained in these rules and regulations, make such order as it may deem appropriate.

3.2. Application for Service

The Utility may, before rendering service, require an application form signed by a prospective customer.

As stated in the Sewage and Water Act, a person along whose lands run sewer or water mains shall be deemed to receive service, be supplied with water or provided with sewerage disposal, as the case may be, notwithstanding that such sewer or water mains are not physically connected by lateral lines to any residence, building or other structure situate upon the said lands of such person. 1989, c.9, s.2 {eff. June 12, 1980}.

3.3. Plumbing Permit

In the case of an owner of an existing building or premises applying for service, no service shall be provided until the Utility has been provided with a Certificate of Approval issued by the Plumbing Inspector.

3.4. Plumbing to be Satisfactory

All plumbing, pipes, fittings, vents, fixtures, and other devices such as Grease interceptors for conveying, distributing, controlling or utilizing water or sewerage which are used by a customer and are not the property of the Utility shall be installed according to the requirements of the current edition of the Canadian Plumbing Code. Except for construction or testing purposes, the water shall not be turned on until the applicant for service has satisfied the requirements. The supply of water may be refused or discontinued to any customer at any time, if, in the opinion of the Utility, the plumbing, pipes, fittings, vents, fixtures and other devices as herein before mentioned, or any of them, fail to comply with the above requirements, or if any part of the water or sewerage system of such customer is in any unsuitable, dirty, unsanitary, or inaccessible place. Service shall not be re-established until such condition is corrected to the satisfaction of the Utility.

3.5. Refusal of Service

Service shall be refused or suspended to any customer who has failed to discharge any of his/her/its liabilities to the Utility.

3.6. Condemned Premises

Services shall be immediately discontinued to any property condemned under any Federal or Provincial statute or municipal bylaw.

3.7. Season for Laying Pipe

The Utility shall not, on application or otherwise, lay any pipe at any season of the year which, in the opinion of the Utility, is deemed unsuitable for such construction.

3.8. Access to Customer's Premises

Representatives of the Utility shall have the right of access to a customer's property or premises at all reasonable hours for the purpose of inspecting any water or sewerage pipes or fittings, or appliances, or for the purpose of installing, removing, repairing, reading, or inspecting water meters. The Utility shall have the right to suspend service to any customer who refuses such access.

3.9. Prohibited Appliances

Service may be refused or suspended by the Utility to any customer who installs or uses any device or appurtenance, as for example: booster pumps, quick-opening or quick-closing valves, water-operated pumps or siphons, standpipes or large outlets which may occasion sudden large demands of short or long duration, thereby requiring oversize meters and pipelines, or affect the stability or regulation of water pressure in the Utility's system. A permit to install or use any such device or appurtenance must be obtained from the Utility. The permit shall specify what special arrangements, such as elevated storage tanks, surge tanks or equalizing tanks, etc., must be provided by the customer.

3.10. Interference with Utility Property

No person, unless authorized by the Utility in writing, shall draw water from, open, close, cut, break or in any way injure or interfere with any fire hydrant, water or sewerage pipe or main or other property of the Utility, or obstruct the free access to any hydrant, stop cock, meter, building, etc., provided however that nothing in this section shall be deemed to prevent an officer or member of the Fire Department engaged in the work of such Department, from using any hydrant or other source of water supply of the Utility for such purpose.

3.11. Improper Use of Waste of Water

No Customer shall permit the improper use or waste of water nor shall he sell or give to any person except upon such conditions and for such purposes as may be approved in writing but the Utility.

3.12. Repair of Leaks

Leaks due to broken water or sewerage services, worn tap washers, toilet valves or other causes shall be promptly repaired. If, after being notified, a customer refuses or unduly delays in having the repairs or alterations made, the Utility may suspend the service if, in its opinion, such action is necessary to prevent improper use or wastage of the service.

3.13. Cooling Water

Water shall not be used for cooling purposes by any customer of the Utility except where the system or equipment to be supplied is of the recirculating conservation type with make-up water only being added. In the case of refrigeration equipment, including air conditioning systems, no system having a water consumption rate more than 0.45 litres per minute per metric ton of capacity shall be provided with cooling water. This Regulation shall apply to all new installations and to any existing systems when they are to be enlarged, renewed, or replaced.

3.14. Suspension of Service for Violation

Whenever, in the opinion of the Utility, violation of any of these Rules and Regulations is existing or has occurred, the Utility may cause the service to be suspended from the premises where such violation is existing or has occurred and may keep the same so suspended until satisfied that the cause for such action has been removed.

3.15. Suspension of Service

In every case calling for a suspension of service, due notice must be given to the customer concerned.

3.16. Liability of the Utility

3.16.1. The Utility shall endeavor to maintain reasonable continuity of service. If the service is interrupted, the cause of such interruption or other condition shall be removed or corrected and normal operating conditions restored as soon as possible.

3.16.2. The Utility shall not be responsible for any damage, direct or consequential, loss or liability that a customer may sustain by reason of interruption of service, variation of pressure or on account of the turning off or turning on of the water for any purpose, drawing a vacuum on the system by fire pumpers, intermittent flow of the sewerage system or flooding of basements as a result of stoppages in the sewerage system unless caused by the negligence of the Utility.

3.16.3. Interruptions in service shall not relieve the customer from any charge for service.

3.17. Jurisdiction of the Utility

The Utility shall have jurisdiction over all services and extensions including those on a customer's premises up to and including the first clean out point immediately inside the premises.

4. Services

4.1. Installation of Shut-off

Every water service to a premise shall have a shut-off valve in an accessible position at the point of entry to the premises.

4.2. Individual Service

Except with the special written approval of the Utility, each separate residential building, or premises, not including multiple apartment buildings exceeding two (2) units, shall have a separate water service with a curb stop and a separate sewerage connection directly to the sewerage main.

4.3. Security Deposits

Each applicant for service may be required to deposit with the Utility a sum of money equal to the estimated charges for four (4) month's service. The deposit shall be held by the Utility as collateral security for the payment of bills. When this deposit is held, at the option of the Utility, for a period in excess of one (1) year, simple interest at a rate based on the nearest one-half percent (1/2%) of the bank's prime lending rate as of the first(1st) banking day of each year shall be credited to the account when refunded. The deposit, less any amount owed to the Utility, shall be returned to the customer after service has been discontinued and upon the surrender of the deposit receipt.

4.4. Deposits on Custom Work

Whenever a customer requests that the Utility do work for which such customer is required to pay, and the Utility agrees to do the work, the Utility may require, before the work is started, a sum of money equal to the Utility's estimate of the probable cost of the said work. When the actual cost is determined, and adjustment in the payment shall be made. Service shall not be established or continued by the Utility until all charges are paid.

4.5. Non-Negotiable Cheques

A charge may be made for each non-negotiable cheque.

4.6. Service Pipes

Upon receipt of an application for service to any premises located on any portion of a street within the service area of the Utility, which is served by a main water pipe or a main sewerage pipe, and which premises are not already provided with service, the Utility shall install or permit to be installed a water service pipe or a sewerage connection which it considers to be of a suitable size and capacity. The customer may engage an independent contractor to install connections which the Utility considers to be of a suitable size and capacity. No water pipe smaller than 19 mm in diameter shall be laid for any water service and no sewerage pipe less than 100 mm in diameter shall be laid for any sewerage connection. Any work carried out by an independent contractor for the customer shall be under the inspection and supervision of the Utility. An inspection fee, as approved from time to time by resolution of Council, shall apply to work installed by an independent contractor.

4.7. Cost of Service Pipes

In cases where mains are existing, the whole cost of supplying and laying a 19 mm water service pipe and fittings and a 100 mm sewerage connection pipe between the Utility main and the property line of the property to be serviced shall be paid by the Utility, From the property line to the premises, the cost shall be paid by the Customer.

4.8. Cost of Oversized Service Pipes

In cases where mains are existing, for water services larger than 19 mm and sewerage connections larger than 100 mm, the whole cost shall be borne by the Utility from the Utility main to the property line of the property to be serviced. From the property line to the premise, the whole cost shall be paid by the Customer.

4.9. No Water Service Without Sewerage Services

Water service shall not be extended to a premise unless sanitary sewer facilities are also installed or are presently available to the premises in question.

4.10. Relocation of Service

After service has been installed by the Utility, no relocation of or alteration to, the portion of the service installed shall be made except at the expense of the customer or other persons requesting such removal or alteration.

4.11. Multiple Service Connection

In the event of more than one (1) service being required to the same property, such as a sprinkler system connection or an additional general service connection or connections, the full cost of the additional services to the system mains, any necessary repairs and maintenance to the additional services between the main and the customer's premises and any necessary repairs and replacement to any portion of the streets or sidewalks or property of the municipality damaged in providing such additional services shall be paid by the customer. The decision as to the necessity of the additional services shall be made by the Utility.

4.12. Duplicate Municipal Servicing

In the case of adjacent municipalities, there shall be no duplication of service. Streets which form the borderline between such municipalities shall be serviced by one (1) sewerage utility only. In every case where service is to be provided by another municipality, approval shall be obtained in writing from the municipality in which the customer is located and further approved by the Commission before.

4.13. Service Outside Municipal Limits

Provided Utility service is available customers outside municipal limits may be supplied with service. The complete cost for service from the existing main shall be at the customer's expense.

4.14. Unauthorized Extensions, Additions or Connections

No person shall, without the written consent of the Utility, make or cause to be made any connection to any pipe or main or any part of the water or sewerage system of the Utility or in any way obtain or use water therefrom in any manner other than as set out in these Rules and Regulations.

4.15. Cross Connections Prohibited

Connections of any customer's installation served by the Utility to any other source of water supply is prohibited, except with the written permission of the Utility with the terms and conditions of interconnection clearly defined. Failure to comply with this Regulation shall entitle the Utility to suspend the service and due notice is not required.

4.16. Contaminated Interconnection

No connection shall be permitted to any installation, equipment, or source in such a manner as may allow any contamination to pass from such installation, equipment, or source into the Utility's water supply system. If any such connection exists, the Utility may discontinue the supply of water to such customer, and due notice is not required.

4.17. Repairs to Service Lines

If a leak, stoppage, or other trouble occurs on a water or sewerage line, it shall be repaired as soon as possible. The following work shall be carried out at the expense of the Utility:

- (I) Repairs necessitated by a leak or other trouble occurring between the water or sewerage main and the property line.
- (II) Repairs necessitated by a leak or other trouble occurring between the property line and the customer's premises which has been caused by the installation having insufficient grade or because of poor workmanship.
- (III) Repairs necessitated by tree roots occurring between the water or sewerage main and the property line.

The following work shall be carried out at the expense of the customer:

- (I) Repairs necessitated by normal wear and tear occurring between the property line and the customer's premises.
- (II) Repairs necessitated by any stoppage attributable to the improper use of the water or sewerage facilities occurring between the main and the customer's premises.
- (III) Repairs necessitated by tree roots occurring between the property line and the customer's premises.

4.18. Private Fire Protection

Fire protection lines within buildings shall be accessible for inspection, and no connection for any purpose other than fire protection shall be made thereto. No fire protection line shall be connected in such a way as to be served through a customer's metered service without the written permission of the Utility.

4.19. Water for Construction

The Utility may furnish water to persons requiring a supply thereof for the construction of buildings or other works. Such persons shall deposit with the Utility such sum as may be determined by the Utility as sufficient to defray the cost of making the necessary connection to the service mains, together with the cost of any meter to be installed to measure the water consumed. Upon completion of the work and return of the meter to the Utility, an adjustment shall be made after deducting the cost, if any, of repairing the meter and of testing the same, and after determining the base and connection charges and the consumption rates in respect to such installation.

4.20. Sewerage Line Check Valve

In the case of a building so located that any plumbing fixture in the building is below street level or so as to be affected by a back flow on the sewerage line, such premises shall be equipped with a suitable check valve. The complete cost of the check valve, its installation and maintenance are the responsibility of the customer. The Utility shall give notice on an annual basis, in a form to be determined by the Utility, to all customers of the advisability of installing a sewerage line check valve. If, after the issuance of such notice, the customer chooses not to install a check valve and a backup occurs in the customer's premises, the customer shall be responsible for any damages sustained.

4.21. Prohibited Sewage

No person shall discharge or permit or cause to be discharged directly or indirectly into any sanitary or combined sewer any of the following:

- (I) Storm water, surface water, ground water, roof run-off, surface drainage or the like.
- (II) Matter having a temperature of more than 66°C.
- (III) Gasoline, benzene, naphtha, fuel oil, motor oil, grease, acetone, solvents or other flammable or explosive matter.
- (IV) Ashes, cinders, sand, mud, straw, shavings, metals, glass, rags, feathers, tar, disposable wipes, plastics, wood, cellulose, garbage, excluding properly shredded garbage, or other solids of a type or quantity capable of causing obstruction to the flow in sewers or other interference with the proper operation of pumping facilities or sewerage treatment equipment.
- (V) Matter having a pH lower than 5.5 or higher than 9.5 or where the pH becomes lower than 5.5 or higher than 9.5 if the matter is diluted by any liquid.
- (VI) Matter that may cause the death or injury to any person or capable of causing damage or hazard to structures, equipment or personnel of the sewage works.

- (VII) Hydrogen sulphide, carbon bisulphite, ammonia, trichloroethylene, sulphur dioxide, formaldehyde, chlorine, bromine, pyridine, or any other matter that has or may cause an offensive odour or can create a public nuisance.
- (VIII) Any matter in which the BOD exceeds three hundred (300) parts per million.
- (IX) Animal wastes such as hair, wool, fur, feathers, intestines or stomach casings, paunch manure, intestinal contents, hides or parts thereof, hooves, toenails, horns, bones, and fleshing's.
- (X) Matter containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process or constituting a hazard to humans or animals. Included in this category are waters or wastes containing metals or chemicals such as cyanide, hexavalent chromium, phenols, copper whose concentrations are more than:

Chromium as CR (hexavalent) 3 ppm

Cyanide as HCN 2 ppm

Phenol equivalents (primary treatment) 50 ppb

Phenol equivalents (secondary treatment) 100 ppb

Copper as Cu 1 ppm

5. Billing and Metering

5.1. Payment of Bills

All bills shall be payable within thirty (30) days after the date rendered for metered customers and non-metered customers. If not so paid it shall be deemed to be in arrears. No customer shall be billed more than maximum charge per billing cycle per service unit.

5.2. Prorating of Rates

In the case of a customer not receiving service for a full billing period, the flat rate or base charge shall be computed on a pro-rata basis for the period involved.

5.3. Number of Billings

No customer shall be billed more than twelve (12) minimum charges in any twelve (12) month period.

5.4. Suspension of Service for Non-Payment of Bills

The Utility may suspend service to unmetered customers whose bills remain unpaid for more than sixty (60) days and metered customers whose bills remain unpaid for more than thirty (30) days after the date rendered, provided that due notice is given.

5.5. Curb Stop Charge

In all cases where service has been discontinued by means of a curb stop for non-payment of bills or on account or for violation of any section of these Rules and Regulations, service shall not be restored until all arrears together with a twenty-dollar (\$20) charge, as approved from time to time by resolution of Council, has been paid. If turn-off and turn-on is carried out during normal working hours at a customer's request, a twenty-dollar (\$20) charge will be made. Connection fee as approved from time to time by resolution of Council will be made, and if not paid, shall be included in any subsequent bill for service. If turn off or turn on of a service is requested to be carried out after normal working hours, the charge for such call out shall be based on normal charge out rates for time and equipment involved but shall not exceed three (3) hour charge out for any one call.

5.6. Delayed Payment Charge

All bills shall be computed according to the rates fixed by the Island Regulatory and Appeals Commission, and if any bill is not paid within thirty (30) days after the date rendered, as indicated by the postmark, or such date as may be clearly shown upon the bill, whichever is the later, it shall be subject to a delayed payment charge.

The following charges apply:

- (I) For customers of Montague Sewerage and Water Collection the charge shall be equal to 2% per month of the amount of such bill, but in no case shall the amount of the penalty be less than twenty-five cents (\$0.25).

5.7. Owner of Premises Billed

Charges for service shall be billed to the owner of the premises.

5.8. Rates During Vacancy

In the case of a premises being vacant, the owner shall be billed for the period until the new tenant becomes responsible for the service.

5.9. Multiple of Joint Use Premises

Billing of a multiple of joint use premises may be carried out either by billing each individual customer according to the applicable rate schedule or by billing the total premises, at the option of the Utility.

5.10. Water to be supplied by Meter

Except when water is used for construction purposes for a hydrant, under the supervision of the Utility, and except as otherwise provided in these Rules and Regulations, all service other than that for the Domestic Service and Fire Protection Service shall be metered.

5.11. Meter Size

The Utility shall determine the size and type of meter to be installed in each case.

5.12. Meter Ownership

All billing for metered water shall be through meters owned by the Utility.

5.13. Installation and Removal of Water Meters

Water meters shall be installed and removed only by employees of the Utility, and no other person shall install, alter, change, or remove a meter without the written permission of the Utility. The connections for such water meters shall be installed to the required standard of, and without expense to, the Utility.

5.14. Location of Water Meters

The Utility may refuse service to, or suspend the service of, any customer who does not provide a place which, in the opinion of the Utility, is suitable for installation of a water meter.

5.15. Meter Protection

Where the premises of a customer are of such a nature that a water meter cannot be properly installed in a building or if the building is not sufficiently insulated to ensure the safety of the meter, the Utility may require the construction of a suitable insulated enclosure in which the water meter can be installed. Service to such premises may be refused or suspended until such an enclosure is installed.

5.16. Exterior Reading Meters

All new Meters shall be Exterior Readers. All installation costs will be borne by the customer.

5.17. Water Meter Readers

Each Meter Reader or Utility Inspector shall be provided with a suitable form of identification issued by the Utility which he shall exhibit upon request.

5.18. Estimated Readings for Billing Purposes

If the Utility is unable to obtain a water meter reading for billing purposes, after exercising due diligence in the usual practice of water meter reading, the bill for that service shall be estimated in accordance with the best data available, subject however to the provision that, in no circumstance, shall an estimate reading be used for more than two (2) consecutive billing periods. If an estimated bill is rendered for two (2) consecutive billing periods, the Utility shall notify the customer by registered mail that arrangements must be made for the Utility to obtain a reading, and failing such arrangements, the Utility may suspend service until such arrangements are made. When such water meter readings have been obtained, the previous estimated bill or bills shall be adjusted accordingly.

5.19. Disputed Water Meter Accuracy

- 5.19.1. A customer may request that his water meter be tested by the Utility.
- 5.19.2. The Utility employee shall decide whether the meter will be tested on site or at a testing place.
- 5.19.3. The Utility may charge the customer a fee, in an amount as approved from time to time by resolution of Council, to defray the cost of removing the meter, replacing it with another meter tested and sealed by the Utility and testing the meter.
- 5.19.4. If the water meter, upon testing by the Utility, is within the prescribed accuracy limits of not more than four percent (4%) deviation, the Utility shall retain the customer's deposit.
- 5.19.5. If the water meter is found to be outside the prescribed accuracy limits, the Utility shall return the deposit to the customer and the bill for service rendered to such customer shall be adjusted accordingly for a period not exceeding six (6) months.

5.20. Damage to Utility's Water Meter and Seals

- 5.20.1. Every customer shall be responsible for any damage to the water meter and seal on his premises resulting from negligence, hot water or steam, the action of frost or from any other cause not the fault of the Utility or its employees. The cost for any repairs or replacement of the Utility's water meter or seal shall be borne by the customer.
- 5.20.2. The Utility's meter or seal shall not be tampered with or broken by an unauthorized person.
- 5.20.3. If the Utility's meter or seal has been broken by an unauthorized person in order that an illegal connection can be made, the Utility shall disconnect the customer as soon as possible and due notice is not required.
- 5.20.4. If the Utility's water meter or seal is broken, or the water or sewerage system is tampered with or the water meter does not register correctly, the bill for that service shall be estimated on the basis of past consumption in a corresponding period or on the basis of the best data available.

5.21. Municipal Departments

Water and sewerage facilities used by the municipality for any purpose shall be billed to the municipality by the Utility at the rates and charges established herein and under these Rules and Regulations.

5.22. Fire Protection Service Charge

The Utility shall annually render to the municipality not later than the last day of June an account for fire protection service. Such account shall be calculated in the manner set out in the Utility's Schedule of Rates.

5.23. Payments Re Adjoining Municipalities

Unless otherwise ordered by the Commission, customers located in one (1) municipality and receiving service from another, shall pay charges in accordance with the rates prescribed for the municipality in which they are located. The Utility in the municipality in which such customer is located shall be billed and be responsible for the payment of charges to the adjoining utility for such services as may be provided by that utility.

6. Extension of Services

6.1. Customer Contributions

Unless otherwise ordered by the Council, property owners or customers shall, in cases where service is not available, contribute towards the cost of extending mains, including service laterals to the property line, on the following basis:

- I. In the case of water service, One Hundred percent (100%) of the total cost.
- II. In the case of sewerage service, One Hundred percent (100%) of the total cost.

Such contributions shall, in cases of developed, non-serviced land, be based on a property owner's lot frontage in relation to the total frontage of the service extension.

6.2. Customer Contribution Frequency

A customer contribution shall not be made more than once in the case of a sewerage line on any frontage. No charge shall be made where service has been provided in the past.

6.3. Corner Lots

In the case of a corner lot, if service is placed on more than one (1) side, the owner shall contribute towards the cost of the longest side only.

6.4. Orderly Extension of Services

The Utility shall provide service facilities to new street extensions or development areas on an orderly and following basis only. If any person is desirous of obtaining service when not available on this basis, such service may be provided to the person by the person paying, in addition to the charges set forth in Regulation 6.1, the full cost of the construction from the existing main to the new street extension or development area.

6.5. Individual Service Extensions

Where extensions of individual services are being provided, the property owner or customer shall be billed only for the size of the mains required to give adequate service to the premises concerned. The Utility shall be responsible for the additional costs incurred.

6.6. Extensions Over Private Property

In cases where service extensions are required over private property to serve other than owners of that property, such extensions shall be subject to separate negotiation and agreement between the Utility, the customer, and the property owner.

6.7. Extensions Through Public Rights-of-Way-Intersections

The total cost of service extensions through public right-of-way or intersections in new development areas shall be allocated in accordance with Regulation 6.1. In other areas, the total cost shall be borne by the Utility.

6.8. Extensions Past Municipal Land

The total cost of service extensions past municipal land in new development areas shall be allocated in accordance with Regulation 6.1, with the Utility's share of the costs charged against the municipality. In other areas, the total cost shall be charged against the municipality.

6.9. Extensions Past Vacant Property-Liens

In situations where service facilities are extended past lots not requiring service at the time of the extension, but capable of being served, the Utility may place a lien against the property and that part of the construction need not be paid until service is provided, or the property is sold, or five (5) years have elapsed since the completion of the extension covered by the lien, whichever occurs first.

6.10. Interest on Liens

In cases where the utility charges a lien against property, interest at a rate of two (2) percentage points above a rate based on the nearest one-half (1/2 %) of the bank's prime lending rate as of the first (1st) banking day of each year shall be charged against the property.

6.11. Contracted Work

Where the Utility does not carry out its own construction, any contract work shall be done for, on behalf of, and with the approval in writing of the Utility.

6.12. Use of Independent Contractors

In a case where construction is to be carried out on behalf of the Utility by an independent contractor, the customer is to be party to any decision relative to accepting any quotation by the Utility, or alternately, the Utility may allow the customer to have plans and specifications prepared, and after being approved by the Utility, an acceptable contractor shall be authorized by the Utility to proceed with construction under its inspection and supervision. An inspection fee, as approved from time to time by resolution of Council, shall apply to laterals installed by an independent contractor.

6.13. Signed Agreements

Where construction is estimated to cost in excess of one thousand (\$1,000.), a signed agreement shall be entered into between the Utility and the customer. Where construction is estimated to cost less than this amount, the Utility may require a signed agreement between itself and the customer.

6.14. Service Laterals

In the case of service extensions, laterals, from mains to property lines, shall be installed when mains are installed.

TAB 7



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

BUILDING CODES ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to November 29, 2023. 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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BUILDING CODES ACT

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BUILDING CODES ACT

CHAPTER B-5.1

1. Definitions

In this Act,

- (a) “**Appeal Board**” means the Appeal Board whose members are designated or appointed under section 25;
- (b) “**architect**” means a person authorized to practice architecture pursuant to the *Architects Act* R.S.P.E.I. 1988, Cap. A-18.1;
- (c) “**authority having jurisdiction**” means the Minister or a council of a municipality other than a municipality for which an agreement under subsection 4(3) is in effect, as the context requires;
- (d) “**building**” means a building as prescribed in the regulations;
- (e) repealed by 2022, c.55, s.1(c);
- (f) “**building official**” means a person appointed as a building official under subsection 8(2) or (3) and includes the Chief Building Official appointed under subsection 8(1);
- (g) “**code**” means a specified building code adopted in regulations made under subsection 32(1) and includes any changes or modifications made to the specified building code by the regulations;
- (h) “**construction**” means anything done for the purposes of erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere;
- (i) “**constructor**” means a person who contracts with an owner to undertake or direct a project on behalf of the owner, and includes an owner who contracts with more than one person for the work on a project or personally undertakes or directs the work on a project or part of a project;
- (j) “**Council**” means the Prince Edward Island Building Standards Council continued under section 6;
- (k) “**court**” means the Supreme Court of Prince Edward Island;
- (l) “**dangerous premises**” means a building or other premises that meets the criteria set out in subsection 16(1);
- (m) “**demolition**” means anything done for the purposes of the removal of a building or any material part of a building;
- (n) “**Fire Marshal**” means the Fire Marshal appointed under the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11;
- (o) “**former Act**” means the *Provincial Building Code Act* R.S.P.E.I. 1988, Cap. P-24;
- (p) “**Minister**” means the Minister of Housing, Land and Communities;

- (q) “**occupant**” means a tenant, lessee or other person in possession or occupancy of a building or premises;
- (r) “**owner**” means a person who holds title to real property and includes
 - (i) any person who has entered into an agreement to purchase the real property, and
 - (ii) an executor, administrator, trustee, agent or other person managing the real property on behalf of the owner;
- (s) “**permit**” means a valid and subsisting permit issued under this Act or the regulations in respect of construction or demolition or the occupancy or use of a building;
- (t) “**professional**” means a professional engineer or architect and includes a person or group of persons prescribed in the regulations;
- (u) “**professional engineer**” means a member or licensee of the Association of Professional Engineers of Prince Edward Island. *2017,c.61,s.1; 2019,c.1,s.3; 2022,c.55,s.1; 2023,c.20,s.2.*

2. Application

- (1) Subject to subsection (2), this Act and the regulations apply to
 - (a) the design, construction, erection, placement, use and occupancy of new buildings;
 - (b) the alteration, demolition, removal and relocation and changes to the use and occupancy of existing buildings; and
 - (c) the work necessary to correct unsafe conditions in existing buildings.

Exemption

- (2) This Act and the regulations or a specified provision of either of them do not apply to any building or class of buildings prescribed in the regulations. *2017,c.61,s.2.*

3. Conflict

Where a conflict or inconsistency exists between a provision of this Act or the regulations and another enactment, the provision of this Act or the regulations prevails to the extent of the conflict or inconsistency. *2017,c.61,s.3.*

4. Administration and enforcement

- (1) Subject to subsection (2), the Minister is responsible for the administration and enforcement of this Act and may, in writing,
 - (a) designate persons to act on the Minister’s behalf; and
 - (b) delegate to any person any of the functions of the Minister under this Act.

Administration and enforcement in municipality

- (2) Subject to subsection (3), a council of a municipality shall be responsible for the administration and enforcement of this Act in the municipality.

Agreement respecting enforcement

- (3) A council of a municipality and the Minister may enter into an agreement providing for the administration and enforcement of this Act in the municipality by the Minister and, in that case, the Minister shall be responsible for the administration and enforcement of this Act in the municipality.

Forms

- (4) The Minister may establish forms, other than those forms, if any, set out in the regulations or in a code adopted in the regulations, for the purposes of this Act. 2017,c.61,s.4.

5. Public information

- (1) Subject to the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F.-15.01, information respecting matters under this Act in the control of the Department under the administration of the Minister is accessible to the public.
- (2) Subsections (2) to (4) not proc.

Prince Edward Island Building Standards Council**6. Council continued**

- (1) The Prince Edward Island Building Standards Council is hereby continued.

Membership

- (2) The Council consists of the following members appointed by the Lieutenant Governor in Council:
- (a) a representative of the Association of Professional Engineers of the Province of Prince Edward Island;
 - (b) a representative of the Construction Association of Prince Edward Island;
 - (c) a representative of the Architects Association of Prince Edward Island;
 - (d) a representative of the Federation of Prince Edward Island Municipalities;
 - (e) a representative of ResourceAbilities;
 - (f) a representative of the Prince Edward Island chapter of the Canadian Home Builders' Association;
 - (g) not more than one additional member.

Designation of chairperson, vice-chairperson

- (3) The Lieutenant Governor in Council may designate one of the members of the Council named in clauses (2)(a) to (f) as chairperson and another as vice-chairperson of the Council.

Term of appointment

- (4) Subject to subsection (5), the term of a member appointed to the Council under subsection (2) is three years.

Continuation of term

- (5) The term of a member of the Council who was appointed prior to the coming into force of this section that has not expired on the coming into force of this section continues in accordance with the terms of that appointment until it expires or is terminated under this Act.

Reappointment

- (6) Subject to subsection (7), a member of the Council may be reappointed.

Ineligibility

- (7) A person who has served two consecutive terms as a member of the Council is not, during the twelve months following the completion of the person's second term, eligible for reappointment to the Council.

Advisor

- (8) A representative from each of the Department of Housing, Land and Communities and the Department of Transportation and Infrastructure shall act in an advisory capacity to the Council.

Remuneration

- (9) The Lieutenant Governor in Council may prescribe the remuneration to be paid to those members of the Council who are not employees of Government. *2017, c.61, s.6; 2021, c.8, s.3; 2022, c.55, s.2; 2023, c.20, s.2.*

7. Duties and functions of Council

- (1) The Council shall
- (a) advise the Minister on matters concerning this Act and the regulations;
 - (b) provide a liaison between the Minister and other persons or bodies interested in construction standards, as directed by the Minister; and
 - (c) perform any duties or functions relating to building and construction standards assigned to it by the Minister.

Annual report

- (2) On or before February 1 in each year the Council shall make, prepare and present a report to the Minister setting out the activities of the Council during the preceding calendar year. *2017, c.61, s.7.*

Building Officials**8. Appointment of Chief Building Official**

- (1) The Minister may appoint a Chief Building Official who, for the purpose of carrying out the provisions of this Act and the regulations, shall perform the duties and may exercise the powers of a building official set out in this Act and the regulations.

Appointment of building officials

- (2) The Minister may appoint persons who are qualified in accordance with the regulations as building officials.

Building officials for municipal council

- (3) A council of a municipality, other than a municipality in respect of which an agreement under subsection 4(3) is in force, shall appoint one or more persons who are qualified in accordance with the regulations as building officials for the purposes of administering this Act and the regulations in the municipality.

Qualifications

- (4) A building official shall possess the qualifications related to education and experience specified in the regulations.

Limitation

- (5) A building official shall inspect only those classes or types of buildings or construction which he or she is qualified or authorized, in accordance with the regulations, to inspect.

Identification

- (6) Each building official
- (a) shall be issued identification by the authority by which he or she was appointed;
 - (b) shall carry his or her identification at all times when engaged in any duty or function under this Act or the regulations; and
 - (c) shall produce his or her identification to any person upon request. *2017, c.61, s.8.*

9. Repealed by 2022, c.55, s.10.

Permits**10. Application for permit**

- (1) An owner, or a constructor on behalf of an owner, may apply for a permit by submitting the prescribed information on the form established by the Minister to the Chief Building Official or, in respect of a building or real property located in a municipality referred to in subsection 8(3), to the appropriate building official for the municipality.

Fee

- (2) An application submitted under subsection (1) shall be accompanied by the prescribed fee.

Review of application

- (3) The building official to whom an application is submitted under subsection (1) shall review the application and shall issue a permit for the proposed construction, demolition or other work if the building official is satisfied that
- (a) based on the information provided with the application, the proposed construction, demolition or other work will comply with this Act and the regulations;
 - (b) the accompanying documents, if any, required for the application contain the prescribed information;
 - (c) the application is otherwise complete; and
 - (d) the prescribed fee has been paid.

Revocation of permit

- (4) A building official may revoke a permit issued under this Act
- (a) if it was issued based on mistaken, false or incorrect information;
 - (b) if, within 2 years after the date of its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the building official, been substantially commenced;
 - (c) if the construction or demolition in respect of which the permit was issued has been, in the opinion of the building official, substantially suspended or discontinued for a period of more than 12 months;
 - (d) if it was issued in error; or
 - (e) if the holder of the permit requests in writing that it be revoked.

Posting of permit

- (5) The owner or a person acting on behalf of the owner shall post a permit or a copy of the permit in a prominent place on the property or premises in respect of which the permit was issued. *2017, c.61, s.10.*

11. Prohibition

No person shall

- (a) commence construction or order the construction of a building;
- (b) demolish or order the demolition of a building; or
- (c) change the use of a building,

unless

- (d) a permit for the work has been issued by a building official; and
- (e) the proposed work conforms to
 - (i) the requirements of this Act and the regulations, and
 - (ii) the terms and conditions of the permit. *2017, c.61, s.11.*

Inspections**12. Inspection**

- (1) For the purpose of ensuring compliance with this Act and the regulations, a permit or an order, a building official may, at any reasonable time,
- (a) enter and inspect any building in an area in which the building official has authority to conduct inspections;
 - (b) require documents or objects relevant to the inspection to be produced for inspection or for the purpose of obtaining copies or extracts of them;
 - (c) conduct tests, make inquiries and take samples, measurements, photographs, or video recordings as the building official considers necessary; and
 - (d) perform any other duties relating to inspections prescribed by the regulations.

Accompanying person

- (2) A building official may be accompanied by any person who has special or expert knowledge of any matter for the purpose of assisting the building official to carry out an inspection.

Removal of documents

- (3) For the purposes of conducting an inspection, a building official may remove documents respecting the building or real property and may make copies or extracts from them or any part of them.

Receipt

- (4) A building official shall provide a receipt for any documents removed under subsection (3) to the person who provided the documents.

Return of documents

- (5) A document removed under subsection (3) shall be returned within 14 business days from the time when the documents were removed.

Copy admissible in evidence

- (6) A copy or extract of any document removed for the purposes of inspection and certified by a building official is admissible in evidence in any proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original, without proof of the appointment, authority or signature of the person purporting to have certified the copy or extract. *2017, c.61, s.12.*

13. Right of entry

- (1) Every owner or occupant shall allow a building official to enter any building, premises or work site at any reasonable time for the purposes of administering and enforcing this Act and the regulations.

Prohibition

- (2) No person shall impede, obstruct or interfere with, or attempt to impede, obstruct or interfere with, a building official who is carrying out or attempting to carry out an inspection under section 11.

Refusal of consent

- (3) A refusal of consent to enter a room or place that is used as a dwelling is not and shall not be construed to be impeding, obstructing or interfering with a building official for the purposes of subsection (2).

Not a representation, etc.

- (4) An inspection by a building official is not and shall not be construed to be a representation, guarantee, warranty or confirmation by the authority having jurisdiction of the quality or standard of construction of the building or that the building has been constructed in accordance with this Act and the regulations. *2017, c.61, s.13.*

14. Notice to inspect

- (1) An owner, or a constructor on behalf of the owner, shall notify a building official in accordance with the regulations or a bylaw referred to in subsection (2) that construction work is ready for inspection at each stage of construction prescribed in the regulations.

Additional inspections

- (2) Where a bylaw of a municipality, other than a municipality for which an agreement under subsection 4(3) is in effect, provides for additional inspections at specified stages of construction and requires notice to be provided to the municipality at those specified stages of construction, an owner or constructor referred to in subsection (1) shall also comply with the requirements of the bylaw.

Timing of inspection

- (3) On receipt of the notice referred to in subsection (1) or (2), a building official shall carry out the required inspection within the period of time prescribed in the regulations or the bylaw, as the case may be. *2017, c.61, s.14.*

Orders

15. Order of building official

- (1) Where a building official is of the opinion that any provision of this Act or the regulations is being contravened, the building official may issue to the owner or constructor of the building an order in writing requiring compliance with the contravened provision.

Expiry

- (2) An order issued under subsection (1) shall specify that it shall be carried out immediately or before the expiry of a specified period.

Effect of order

- (3) Where an order issued under subsection (1) specifies
- (a) that it be carried out immediately, all work on the building or the part of it specified in the order, other than the work necessary to carry out the order, shall stop until the order is complied with to the satisfaction of a building official; and
 - (b) the period within which it is to be carried out, and it is not carried out within that period, all work on the project or the part of it specified in the order, other than the work necessary to carry out the order, shall stop until the order is complied with to the satisfaction of a building official.

Order not to cover construction work

- (4) A building official may issue an order to an owner or a constructor prohibiting the covering or enclosing of construction work pending an inspection.

Order to uncover construction work

- (5) A building official may, for the purposes of inspection, issue an order to the owner or constructor that construction work be uncovered if
- (a) the construction work was covered or enclosed contrary to an order issued under subsection (4);
 - (b) a notice to inspect under section 14 was not received;
 - (c) a notice to inspect under section 14 was received, but the owner or constructor ordered or allowed the construction work to be covered or enclosed before the prescribed period of time had elapsed;
 - (d) the construction work was carried out without a valid building permit issued under this Act; or
 - (e) the building official has reasonable grounds to believe that the construction work does not comply with this Act and the regulations.

Compliance order

- (6) Where construction or demolition has been undertaken in contravention of this Act or the regulations, a building official may issue a compliance order to the owner or constructor requiring
- (a) the cessation of the construction or demolition;
 - (b) the alteration of the construction or demolition so as to remove or remedy the contravention; or
 - (c) the doing of anything to make the building or real property safe.

Requirements

- (7) A compliance order issued under subsection (6) shall specify the work required and state the time within which the owner or constructor is required to comply with the order.

Prohibition

- (8) Subject to the regulations, no person shall
- (a) allow the initial occupancy of a building or part of it; or
 - (b) change the occupancy of a building or part of it,
- unless a building official has issued a statement that the building or part of it, as the case may be, is ready for occupancy. *2017, c.61, s.15; 2022, c.55, s.4.*

16. Dangerous premises

- (1) A building or real property constitutes a dangerous premises if the building or real property
- (a) poses an actual or potential risk of fire;
 - (b) poses an actual or potential danger to the safety of persons or the safety of property;
 - (c) has undergone unapproved building modifications; or
 - (d) is structurally unsound.

Order respecting dangerous premises

- (2) Where a building official is satisfied that a building or real property constitutes a dangerous premises, the building official may issue an order to the owner to have the building repaired or demolished, or take any other action that the building official considers necessary in order to terminate the danger.

Idem

- (3) Where a building official is satisfied that the condition of a building or real property referred to in subsection (1) poses a significant danger that requires immediate action, the building official may issue an order requiring that the work necessary to terminate the danger be carried out immediately.

Order not subject to review or appeal

- (4) An order issued pursuant to subsection (3) is not subject to review by the Chief Building Official under section 24 and may not be appealed under section 25.

More stringent bylaw

- (5) A council of a municipality, other than a municipality in respect of which an agreement under subsection 4(3) is in force, may pass a bylaw that establishes more stringent standards respecting dangerous premises in the municipality than those set out in subsection (1). *2017, c.61, s.16.*

17. Requirement to comply

- (1) A person to whom an order under section 15 or 16 is issued shall comply with the order.

Service of order

- (2) An order issued by a building official shall be served on the owner and on any other person named in the order. *2017, c.61, s.17.*

18. Content of order

- (1) An order of a building official shall
- (a) be in writing;
 - (b) be signed by the building official;
 - (c) state the location of the building or real property or part of the building or real property in respect of which the order is issued;
 - (d) state the action required to be taken and the reasons for it;
 - (e) state the time period within which the action shall be completed; and
 - (f) if the order is one which may be reviewed under section 24, state the period during which the order may be reviewed and the process for requesting a review.

Effect of order

- (2) While an order issued by a building official under this Act is in effect, no person shall perform any construction or demolition on the building or real property or the part of the building or real property in respect of which the order was issued except
- (a) the work that is necessary to carry out the requirements of the order; and
 - (b) work that is related to or associated with the work referred to in clause (a) and that is also required to make the building or real property safe.

Costs of carrying out order

- (3) The costs of carrying out the work specified in an order of a building official under this Act are the responsibility of the owner of the building or real property in respect of which the order was issued. *2017, c. 61, s. 18.*

19. Report required for demolition work

- (1) An authority having jurisdiction may request a report from an architect, an engineer, a building official or the Fire Marshal for the purposes of evaluating the condition of a building that is suspected of being dangerous or structurally unsound.

Idem

- (2) Except in the case of an emergency, or where an order has been issued under subsection 16(3), a person acting on behalf of an authority having jurisdiction shall not proceed with demolition work unless the authority has received a report referred to in subsection (1) from an architect, an engineer, a building official or the Fire Marshal confirming that the building is dangerous or structurally unsound and that demolition is required.

Standing of report

- (3) Where the report referred to in subsection (2) confirms that the building is dangerous or structurally unsound, it is, in the absence of evidence to the contrary, proof that the building is dangerous or structurally unsound and that demolition is required.

Costs

- (4) Any costs associated with the provision of the report referred to in subsection (2) are the responsibility of the owner of the building that is the subject of the report. *2017, c. 61, s. 19.*

20. Tenants of building affected by order

- (1) Every tenant or occupant of a building or part of a building in respect of which an order has been made by a building official or the court shall, at all reasonable times, permit the owner and the employees of the owner to enter and *re-enter* the tenant's or occupier's area of the building for the purpose of carrying out the actions specified in the order. *2017,c.61,s.20.*

Enforcement of Orders**21. Enforcement of orders**

- (1) Where a person contravenes or fails to comply with an order issued under section 15 or subsection 16(2), the authority having jurisdiction whose building official issued the order may, at the expense of the owner, carry out the actions specified in the order.

Cost is a debt

- (2) The cost of carrying out the actions specified in the order of a building official under section 15 or subsection 16(2) is a debt due to the authority having jurisdiction.

Order for costs

- (3) After taking remedial action under subsection (1) the authority having jurisdiction may issue an order for the costs of the remedial action against the person to whom the original order of the building official was given.

Filed order has effect as judgment

- (4) An order for cost of remediation under subsection (3) may be filed with the Registrar of the Court of Appeal and the Supreme Court at any time 30 days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment.

Prohibition

- (5) Notwithstanding any other Act, no person shall refuse entry to, obstruct or interfere with a building official or a person acting on behalf of the authority having jurisdiction who enters or attempts to enter the building or real property to which the order relates for the purposes of this section. *2017,c.61,s.21; 2022,c.55,s.5.*

22. Enforcement of emergency order

- (1) Before or after an order under subsection 16(3) is served, the authority having jurisdiction may, at the expense of the owner, carry out the actions specified in the order to terminate the danger giving rise to the emergency.

Cost is a debt

- (2) The cost of carrying out the actions specified in an order under subsection 16(3) is a debt due to the authority having jurisdiction.

Order for costs

- (3) After taking remedial action under subsection (1) the authority having jurisdiction may issue an order for the cost of the remedial action against the person to whom the original order of the building official was given.

Filed order has effect as judgment

- (4) An order for cost of remediation under subsection (3) may be filed with the Registrar of the Court of Appeal and the Supreme Court at any time 30 days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment.

Prohibition

- (5) Notwithstanding any other Act, no person shall refuse entry to, obstruct or interfere with a building official or a person acting on behalf of the authority having jurisdiction who enters or attempts to enter the building or real property to which the order relates for the purposes of this section.

Service following specified actions

- (6) If the order under subsection 16(3) was not served before the specified actions were taken to terminate the danger, the building official who issued the order shall serve a copy of the order as soon as possible after the actions have been taken, together with a statement by the building official describing the actions taken by the authority having jurisdiction and the details of the amounts expended in taking those actions.

Service of statement

- (7) If the order under subsection 16(3) was served before the specified actions were taken to terminate the danger, the building official who issued the order shall serve, as soon as possible after the specified actions have been taken, a copy of the statement referred to in subsection (6), in the same manner as the order was served. *2017,c.61,s.22.*

23. Proceedings to prohibit continuation or repetition of contravention

- (1) Despite any other remedy or penalty imposed under this Act, if an order made by a building official, a decision of the Appeal Board or any provision of this Act or the regulations is contravened, an authority having jurisdiction may, on notice to the owner of the building or real property to which the order, decision or contravention relates, apply to the court
- (a) for an order prohibiting the continuation or repetition of the contravention;
 - (b) for an order directing the removal or destruction of any building or part of a building in respect of which the contravention continues, and stating that on failure to comply with the order the authority may, at the expense of the owner, remove or destroy the building or part of the building; and
 - (c) for any other order required to enforce the order, decision or provision in respect of which the application was made and as to costs and the recovery of the expense of the removal or destruction as the court considers fit.

Enforcement of order

- (2) The court may grant an order under subsection (1) and the order may be enforced in the same manner as any other order or judgment of the court. *2017,c.61,s.23.*

Review and Appeals

24. Request for review of decision or order

- (1) A person who is aggrieved by a decision of a building official under section 10 or an order issued by a building official under section 15 or subsection 16(2) may request a review of the decision or order by the Chief Building Official by submitting a request for review in the

form approved by the Minister to the Chief Building Official within 10 days after receipt of the decision or order.

Review by Chief Building Official

- (2) On receipt of a request for review under subsection (1), the Chief Building Official shall
- (a) review the decision or order of the building official;
 - (b) make recommendations with respect to the decision or order of the building official; and
 - (c) provide the recommendations referred to in clause (b), including the reasons for them, to the building official and the person who requested the review.

Response by building official

- (3) The building official whose decision or order is the subject of a review under this section shall, within a reasonable time after receipt of the recommendations of the Chief Building Official, confirm or vary the decision or order and give notice of the confirmation or variation to the person who requested the review.

Appeal of decision or order

- (4) Where the decision or order referred to in subsection (1) was issued or made by the Chief Building Official, a person aggrieved by the order or decision may appeal the order or decision to the Appeal Board in accordance with section 25. 2017, c.61, s.24; 2022, c.55, s.6.

25. Appeal to Appeal Board

- (1) A person may appeal a decision or order of a building official that was confirmed or varied under subsection 24(3), or a decision or order referred to in subsection 24(4), by serving a notice of appeal in the form approved by the Minister within 30 days of receipt of the decision or order on the chairperson of the Council.

Members of Appeal Board

- (2) The Appeal Board is constituted as follows:
- (a) from the Council,
 - (i) the representative of the Association of Professional Engineers of the Province of Prince Edward Island,
 - (ii) the representative of the Construction Association of Prince Edward Island,
 - (iii) the representative of the Architects Association of Prince Edward Island; and
 - (b) one person appointed by the Minister.

Idem

- (3) The members of the Appeal Board
- (a) shall designate a chairperson from among their number;
 - (b) may determine the rules for their proceedings; and
 - (c) are not bound by strict rules of evidence or the provisions of the *Evidence Act* R.S.P.E.I. 1988, Cap. E-11.

Notice of appeal

- (4) On receipt of a notice of appeal, the chairperson of the Council shall forward the notice to the chairperson of the Appeal Board for consideration.

Consideration by Appeal Board

- (5) The Appeal Board shall consider the matter and, within 30 days,
- (a) may by order confirm, revoke or vary the order or decision appealed from; and
 - (b) shall provide notice of its decision and the reasons for it to the person who filed the appeal and to the building official.

Appeal not a stay

- (6) An appeal filed under subsection (1) does not operate as a stay of an order of a building official except as the chairperson of the Appeal Board or the chair person of the Council directs.

Decision final

- (7) The decision of the Appeal Board under subsection (5) is final and binding and shall not be appealed. *2017, c. 61, s. 25.*

Municipal Bylaws**26. Authority of municipal council**

- (1) A council of a municipality, other than a municipality for which an agreement under subsection 4(3) is in effect, may, respecting the matters set out in subsection (3), make bylaws that are
- (a) not inconsistent with this Act and the regulations; and
 - (b) where the bylaws impose a standard that varies from a standard set out in this Act or the regulations, not less stringent than the standard set out in the Act or the regulations.

Enforcement in municipality

- (2) A council of a municipality, other than a municipality for which an agreement under subsection 4(3) is in effect, may by bylaw declare a part or a provision of a code adopted under this Act in force in the municipality, notwithstanding that the part or provision is not in force in an area of the province where the Minister is the authority having jurisdiction.

Bylaw-making powers

- (3) A council of a municipality, other than a municipality for which an agreement under subsection 4(3) is in effect, may, by bylaw,
- (a) prescribe the stages of construction for which an inspection is required for different classes of buildings in addition to those set out in the regulations;
 - (b) prescribe standards for construction and demolition work in the municipality
 - (i) that relate to matters not provided for in a code adopted under this Act, or
 - (ii) that are more stringent than the technical requirements set out in the code;
 - (c) prescribe fees for services provided in accordance with this Act and the regulations;
 - (d) prescribe the responsibilities and obligations of the municipality with respect to construction or demolition work in addition to the responsibilities and obligations set out in this Act; and
 - (e) prescribe the responsibilities and obligations of owners, constructors, subcontractors and professionals to the municipality with respect to construction or demolition work in the municipality in addition to the responsibilities and obligations set out in this Act. *2017, c. 61, s. 26.*

Offences and Penalties

27. Offence and penalty

- (1) An individual who contravenes a provision of this Act or the regulations is guilty of an offence punishable on summary conviction and is liable
- (a) to a fine of not less than \$500 and not more than \$10,000; or
 - (b) to a term of imprisonment of not more than 12 months, or to both a fine and imprisonment.

Continuing offence

- (2) Where an offence by an individual continues after a conviction under subsection (1), each day or part of a day on which the offence continues constitutes a separate offence for which the minimum fine is \$500 multiplied by the number of days during which the offence continues.

Corporate penalty

- (3) A corporation that contravenes a provision of this Act or the regulations is guilty of an offence punishable on summary conviction and is liable to a fine of not less than \$1,000 and not more than \$50,000.

Continuing offence

- (4) Where an offence by a corporation continues after a conviction under subsection (3), each day or part of a day on which the offence continues constitutes a separate offence for which the minimum fine is \$1,000 multiplied by the number of days during which the offence continues.

Fines payable to enforcing municipality

- (5) Any fines resulting from an offence under this Act which took place within the boundaries of a municipality, other than a municipality in respect of which an agreement under subsection 4(3) is in effect, shall accrue to that municipality. *2017, c.61, s.27.*

28. Limitation period

- (1) Subject to subsection (2), a prosecution for an offence under this Act or the regulations shall be commenced within two years after
- (a) the date on which the offence is alleged to have been committed; or
 - (b) the date on which the authority having jurisdiction becomes aware of the alleged offence,
- whichever is later.

Extension of time

- (2) When a request for review is made under section 24, the time period referred to in subsection (1) shall be extended by the elapsed time between
- (a) the date of the request for review; and
 - (b) the date of the review, or, if an appeal is made to the Appeal Board, the date of the final disposition of the appeal. *2017, c.61, s.28.*

29. Compliance not required without service

- (1) No person to whom an order is directed pursuant to this Act or the regulations is required to comply with the order until the order has been served on the person.

Service of orders

- (2) Any order issued pursuant to this Act or the regulations is deemed to be sufficiently served
- (a) when a copy is personally served on the person to whom it is directed;
 - (b) if a copy is sent by facsimile or by other electronic means to the person to whom it is directed, when an acknowledgement of receipt is received;
 - (c) five days after a copy is sent by mail addressed to the person to whom it is directed at the last known address for that person;
 - (d) in the case of a registered owner of real property, five days after a copy is sent by mail to the address for the registered owner shown on the last revised assessment roll; or
 - (e) where the address of the person to whom it is directed is unknown, by posting the order in a conspicuous place on the property.

Service on corporation

- (3) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (2) is deemed to be service on the corporation for the purposes of this Act.

Order is proof of its legality

- (4) Any order issued pursuant to this Act or the regulations shall be proof in the absence of evidence to the contrary in proceedings in any court not only that the order was legally made, but also that every administrative prerequisite necessary to enable the making of the order was done and satisfied, and no further proof than the mere production of the original order or a copy of it certified by the authority having jurisdiction is necessary. *2017,c.61,s.29; 2022,c.55,s.7.*

30. Evidentiary status of order

An order that has been served in accordance with section 29 and purports to be signed by a building official shall be

- (a) received in evidence by any court of competent jurisdiction or the Appeal Board without proof of the signature;
- (b) proof in the absence of evidence to the contrary of the facts stated in the order or demand; and
- (c) in a prosecution for a contravention of this Act or the regulations, proof in the absence of evidence to the contrary that the person named as owner in the order or demand is the owner. *2017,c.61,s.30.*

31. Immunity

No action lies for damages or otherwise against any of the following persons or entities in relation to anything done or purported to be done in good faith, or in relation to anything omitted to be done in good faith, in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or the regulations by the person or entity:

- (a) the Government;
- (b) the Minister;
- (c) a building official;
- (d) repealed by 2022,c.55,s.8;

- (e) the Chief Building Official;
 - (f) a member or former member of a council of a municipality;
 - (g) a member or former member of the Council or the Appeal Board;
 - (h) any person who is acting under or has acted under the authority of this Act or the former Act or the instructions of a person or entity referred to in this section.
- 2017,c.61,s.31; 2022,c.55,s.8.*

32. General regulations

- (1) The Lieutenant Governor in Council may make regulations that establish or adopt by reference one or more building codes governing minimum standards for the design, construction and demolition of buildings and, without limiting the generality of the foregoing, may make regulations that
- (a) declare a specified edition of the National Building Code of Canada or the National Energy Code of Canada for Buildings to be in force, in whole or in part, as amended from time to time and with any amendments, revocations, modifications or exemptions specified in the regulations;
 - (b) require compliance with a code established or adopted by the regulations;
 - (c) provide for the manner in which applications for the issuance of a permit may be made and the content of the applications;
 - (d) prohibit or restrict any occupation or use of any land or building;
 - (e) prescribe fees, or a formula or method for the determination of fees, for the issuance of a permit and for inspections;
 - (f) provide for the circumstances in which the fee paid for a permit may be refunded;
 - (g) prescribe standards for construction, reconstruction and demolition that relate to matters not provided for in , or that are more stringent than, a code adopted pursuant to clause (a);
 - (h) establish systems of classification with respect to the occupancy or use of a building or part of a building, and provide for an application process for permits to change the classification of a building or part of a building with respect to occupancy or use;
 - (i) prescribe the responsibilities and obligations of owners, constructors, subcontractors and professionals with respect to construction, reconstruction or demolition work in addition to the responsibilities and obligations set out in this Act.

Application of regulations

- (2) A regulation made under subsection (1) may provide that it applies to the entire province or to any part of it, including any municipality.

Regulations

- (3) The Lieutenant Governor in Council may make regulations
- (a) prescribing professions for the purposes of clause 1(t);
 - (b) respecting the information and documents to be made accessible to the public by means of the registry established under section 5;
 - (c) prescribing additional duties of building officials;
 - (d) prescribing the required qualifications for building officials and the different qualifications necessary to inspect different classes of buildings;
 - (e) requiring building officials who are not employees of Government to hold professional liability insurance of a prescribed type and amount;

- (f) repealed by 2022,c.55,s.9;
- (g) repealed by 2022,c.55,s.9;
- (h) prescribing fees, or a formula or method by which fees may be calculated, for services provided under this Act;
- (i) specifying the content of the notice, the manner in which the notice shall be given and the period within which the inspection shall be carried out after receipt of a notice to inspect for the purposes of section 14;
- (j) defining any word or expression used in but not defined in this Act for the purposes of this Act, the regulations or both;
- (k) respecting any matter that the Lieutenant Governor in Council considers necessary for the administration of this Act. 2017,c.61,s.32; 2022,c.55,s.9.

Transitional Provisions

33. Authorization continues

- (1) An authorization issued by a council of a municipality to a person that is substantially equivalent to an appointment under subsection 8(3) of this Act and that is valid and in force on the coming into force of this Act continues in force for a period of 5 years from the date this Act comes into force, unless sooner cancelled or revoked by the municipality that issued it.

Idem

- (2) Subject to subsection (3), a person referred to in subsection (1) shall, within the five-year period specified in that subsection, acquire the qualifications related to education and experience specified in the regulations in order to qualify as a building official under this Act.

Exception

- (3) Notwithstanding the requirements of section 8 and the regulations, a person referred to in subsection (1) is not required to comply with subsection (2) if the person, on the coming into force of this Act,
 - (a) has been employed to inspect pursuant to and enforce Part 9 of the National Building Code of Canada for at least 6 years out of the past 8 years; or
 - (b) has been employed to inspect pursuant to and enforce Part 3 of the National Building Code of Canada and the National Energy Code of Canada for Buildings for at least 8 years out of the past 10 years.

Applicable code

- (4) For the purposes of subsection (3), references to the National Building Code and the National Energy Code of Canada for Buildings include any previous edition of either of those codes, as applicable, that was in force during the person's employment. 2017,c.61,s.33.

Consequential Amendments

34. not proc

35. *Planning Act*

(1) The *Planning Act* R.S.P.E.I. 1988, Cap. P-8, is amended by this section.

(2) Section 1 of Act is amended by the addition of the following after clause (e):

(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*;

(3) Section 8 of the Act is amended

(a) by the repeal of subclause (1)(f)(i);

(b) in clause (1)(g),

(i) by the deletion of the word “permits” wherever it occurs and the substitution of the words “development permits”, and

(ii) in subclause (g)(ii), by the addition of the words “or may expire” after the words “and revoked”;

(c) by the repeal of subclause (1)(k)(ii) and the substitution of the following:

(ii) requiring development permits for them;

(d) in clause (1)(n),

(i) in subclause (i), by the deletion of the words “, maintenance, design and construction”, and

(ii) in subclause (iii), by the deletion of the words “permits for summer cottage construction” and the substitution of the words “development permits for summer cottage development”; and

(e) in clause (1)(o), by the deletion of the words “a subdivision approval, development permit or building permit” and the substitution of the words “a subdivision approval or development permit”.

(4) Subclause 28(1.1)(a)(i) of the Act is repealed and the following substituted:

(i) a development permit,

(i.1) an occupancy permit, in relation to a matter under this Act or the regulations,

Repeal and Commencement

36. Repeal

The *Provincial Building Code Act* R.S.P.E.I. 1988, Cap. P 24, is repealed.

