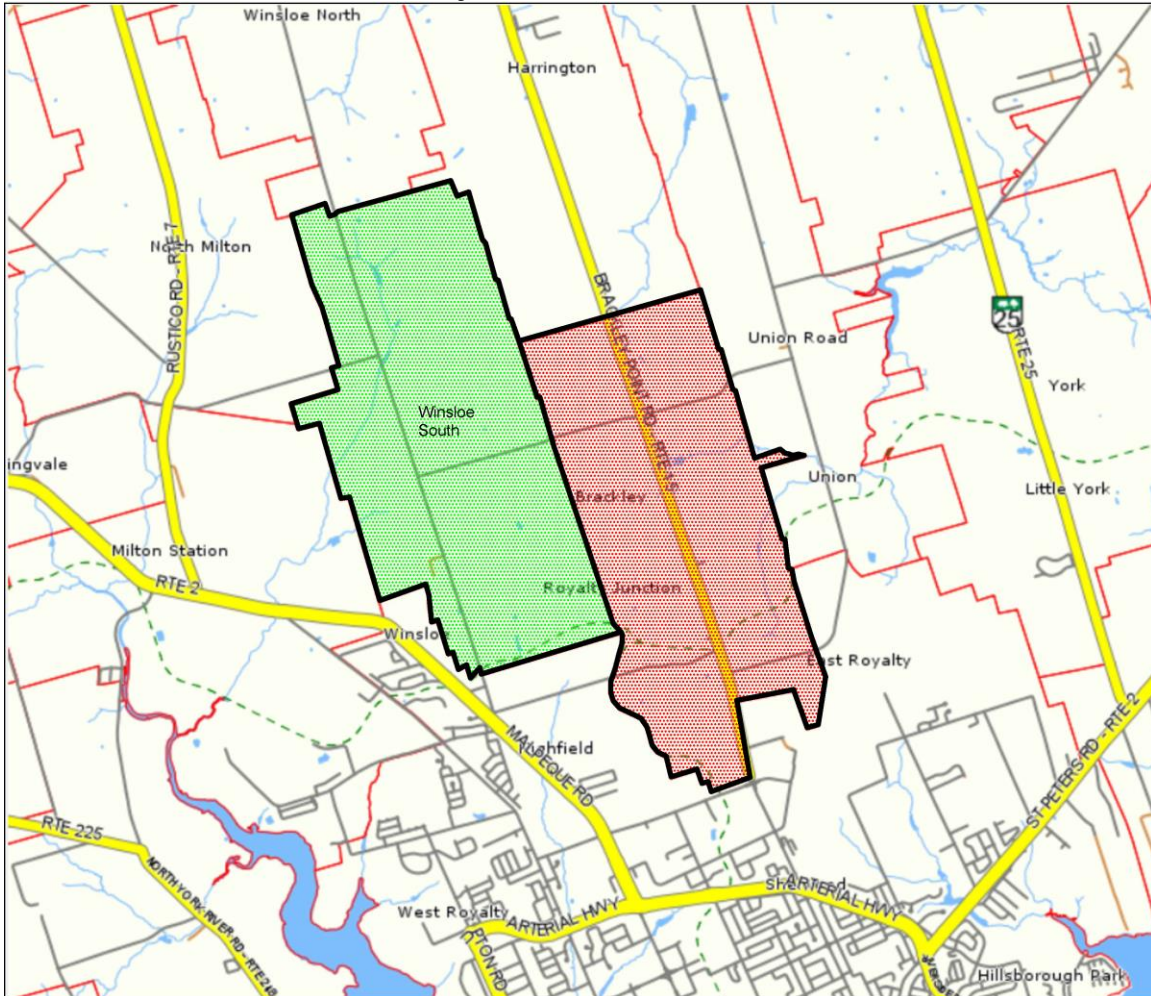


# RURAL MUNICIPALITY OF BRACKLEY

## Zoning & Subdivision Control (Development) Bylaw

### Bylaw # 2018-3



May 2019

Prepared by:  
**Rural Municipality of  
Brackley  
and  
Derek A. French  
Professional Services Inc.**

**RURAL MUNICIPALITY OF BRACKLEY**  
**Zoning & Subdivision Control (Development) Bylaw**

**TABLE OF CONTENTS**

<b>1.0</b>	<b>INTRODUCTION.....</b>	<b>1</b>
1.1	Title	
1.2	Authority	
1.3	Planning Area	
1.4	Scope	
<b>2.0</b>	<b>DEFINITIONS .....</b>	<b>2</b>
<b>3.0</b>	<b>ZONES AND ZONING MAP .....</b>	<b>16</b>
3.1	Zones	
3.2	Interpretation of Zoning Boundaries	
3.3	Zoning Map	17
3.4	Permitted Uses	
3.5	Special Permitted Uses	
3.6	Certain Words	
3.7	Defined Terms	
3.8	Units of Measure	
3.9	Appendices	
<b>4.0</b>	<b>ADMINISTRATION .....</b>	<b>18</b>
4.1	Approval Authority	
4.2	Development Permit Required	
4.3	No Development Permit Required	19
4.4	Moving of Buildings	
4.5	Permit Applications	
4.6	Payment of Fees	20
4.7	Development Permit	
4.8	Site Plan	
4.9	Drainage Plan	21
4.10	Other Information	22
4.11	Conditions on Permits	
4.12	Development Agreement	
4.13	Authorization for Inspection	23
4.14	Permits Posted	
4.15	Municipality Posting of Development Permits	
4.16	Fire Marshal's Approval	24

4.17	Development Restrictions	
4.18	Construct in Accordance with Application	25
5.0	<b>GENERAL PROVISIONS FOR ALL ZONES .....</b>	26
5.1	Accessory Buildings and Structures	
5.2	Building to be Erected on a Lot	27
5.3	Building to be Moved	
5.4	Existing Non-conforming Buildings	
5.5	Existing Non-conforming Lots	
5.6	Non-conforming Uses	28
5.7	Lot Frontage	29
5.8	Mixed Use	30
5.9	Public Utilities	
5.10	Petroleum Storage	
5.11	Entrance Way Permit	
5.12	Temporary Permit	31
5.13	Accessibility	
5.14	Height Regulation Exemptions	
5.15	Licenses, Permits and Compliance with Other Bylaws	32
5.16	Side Yard Waiver	
5.17	Outdoor Swimming Pools	
5.18	Visibility at Street Intersections	33
5.19	Renewable Energy System	
5.20	Recreational Trailer or Vehicle	34
5.21	Shipping Containers	
5.22	Summer Cottages	
5.23	Mobile and Mini Homes	
5.24	Tiny Homes	
5.25	Accessory Apartment	
5.26	Conformity with Existing Setbacks	35
5.27	Special Requirements for Bed and Breakfast Operations	36
5.28	Signs	
5.29	Site Work	
5.30	Environmental Protection Act	
5.31	Unsightly Properties Act	37
6.0	<b>PARKING REQUIREMENTS .....</b>	38
6.1	Parking Requirements	
6.2	Parking Area Standards	
6.3	Loading Space	39

7.0	<b>AGRICULTURAL (A1) ZONE .....</b>	40
7.1	General	
7.2	Permitted Uses	
7.3	Special Permitted Uses	
7.4	Lot Requirements	41
7.5	Special Requirements	
7.6	Residential-Commercial Operation	42
7.7	Intensive Livestock Operations	
8.0	<b>GENERAL COMMERCIAL (C1) ZONE .....</b>	44
8.1	General	
8.2	Permitted Uses	
8.3	Special Permitted Uses	
8.4	Lot Requirements	45
8.5	Special Requirements General Commercial (C1) Zone	
8.6	Temporary Commercial Permits	46
9.0	<b>RECREATION AND OPEN SPACE (O1) ZONE .....</b>	47
9.1	General	
9.2	Permitted Uses	
9.3	Lot Requirements	
10.0	<b>ENVIRONMENTAL RESERVE (O2) ZONE .....</b>	48
10.1	General	
10.2	Permitted Uses	
10.3	Zone Requirements	
11.0	<b>PUBLIC SERVICE and INSTITUTIONAL (PSI) ZONE .....</b>	49
11.1	General	
11.2	Permitted Uses	
11.3	Special Permitted Uses	
11.4	Lot Requirements	
11.5	Special Requirements Public Service and Institutional (PSI) Zone	50
12.0	<b>INDUSTRIAL (M1) ZONE.....</b>	51
12.1	General	
12.2	Permitted Uses	
12.3	Special Permitted Uses	
12.4	Servicing	52
12.5	Lot Requirements	
12.6	Exceptions to Maximum Building Heights	

12.7	Special Requirements: Industrial Zone Adjacent to Residential Zones or Agricultural Zones	53
12.8	Environmental Impact Assessment	
13.0	<b>VARIANCE</b> .....	54
14.0	<b>GENERAL PROVISIONS FOR SUBDIVIDING LAND</b> .....	55
14.1	Permission to Subdivide	
14.2	Procedure	
14.3	Survey Required	57
14.4	Subdivision Approval	
14.5	Conveying Interest in a Lot	58
14.6	Special Requirements – Agricultural (A1) Zone	
14.7	Changes to Existing Lots	
14.8	Subdivision Agreement	
14.9	Final Approval	59
14.10	Severances / Consolidation	60
14.11	Development Permits	
14.12	Rescinding or Altering Approval	
15.0	<b>ZONING and OFFICIAL PLAN AMENDMENTS</b> .....	61
15.1	Amendment Applications	
15.2	Amendment Procedures	
16.0	<b>APPEALS</b> .....	64
17.0	<b>PENALTIES</b> .....	64
18.0	<b>REPEAL</b> .....	64
18.1	Effective Date	
18.2	Repeal	
	<b>Appendices</b> .....	65
	A - Zoning Map .....	66
	B - Fee Schedule .....	67
	C – Province-Wide Minimum Development Standards Regulations .....	68
	D – Public Meeting .....	73

# **RURAL MUNICIPALITY OF BRACKLEY**

## **Zoning & Subdivision Control (Development) Bylaw**

### **1.0 INTRODUCTION**

#### **1.1 Title**

This Bylaw shall be known and may be cited as the Rural Municipality of Brackley Zoning & Subdivision Control (Development) Bylaw or the Development Bylaw.

#### **1.2 Authority**

This Bylaw is enacted under the authority of the *Planning Act, R.S.P.E.I. 1988, Cap. P-8*, referred to here as the “*Planning Act*”.

#### **1.3 Planning Area**

This Bylaw shall apply to the geographical area within which the Rural Municipality of Brackley Council has jurisdiction.

#### **1.4 Scope**

No Dwelling, Business, trade, or industry shall be located, nor shall any Building or Structure be Erected, Altered, Used or have its Use changed, nor shall any land be developed, Subdivided, consolidated or Used in the Rural Municipality of Brackley, except in conformity with this Bylaw and subject to the provisions contained herein.

## 2.0 DEFINITIONS

- (1) For the purpose of this Bylaw, all words shall carry their customary meaning except for those defined hereafter.

In this Bylaw:

**“Accessory Building”** means a separate subordinate Building, not Used for human habitation which is Used or intended for the better or more convenient enjoyment of the Main Building to which it is accessory, and located upon the parcel of land upon which such Building is to be Erected.

**“Accessory Apartment”** means a self-contained Dwelling Unit constructed in an owner-occupied Single Family Dwelling, reviewed and approved by the Fire Marshall’s Office. There shall be no more than one (1) Accessory Apartment permitted per Single Family Dwelling.

**“Accessory Use”** means a Use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main Use of land or Building and located on the same Lot.

**“Administrator”** means the Administrator of the Rural Municipality of Brackley.

**“Agricultural Use”** means a Use of land and Buildings for Farming, dairying, pasturage, agriculture, apiculture, floriculture, horticulture, and animal and poultry husbandry.

**“Alter”** means to make a change in the site, shape, bulk or Structure, whether interior or exterior, of a Building or any part thereof, but does not include repairs carried out for the purposes of maintenance or non-structural Renovation or improvement.

**“Amenity Areas”** means on the site outdoor space designed for active or passive Recreational Uses.

**“Animal Kennel”** any part of a Lot, Building Structure or establishment where Domestic Animals excluding Livestock are kept, bred, boarded or trained for profit or gain for the purposes of breeding, boarding, grooming, commercial, or animal welfare purposes.

**“Animal Kennel Run”** shall mean a Fenced area provided for the Use of Domestic Animals housed in a Structure.

**“Applicant”** means any property owner or the property owner’s authorized agent shall be responsible for completing an application for a Subdivision, Development Permit or zoning or Official Plan amendment and for fulfilling any required preconditions or conditions of permit approval under this Bylaw.

**“Automobile Service Station or Service Station”** – means a building or part of a building or a clearly defined space on a lot used for the sale of lubricating oils and/or gasolines and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.

**“Automobile Trade”** – means a building or part of a building or a clearly defined space on a lot used for the sale and maintenance of used or new automobiles.

**“Automobile Washing Establishment”** – means a building or part thereof used for the operation of automobile washing equipment which is manual, automatic or semi-automatic.

**“Bed and Breakfast Operation”** means a Dwelling occupied by a Family and used incidentally to provide accommodation of up to three (3) separate rooms and meals to transient travellers, and shall include Tourist Homes, but shall exclude Boarding Houses, Rooming Houses, domiciliary hostels, Group Homes, Hotels, Motels, Restaurants and Lounges.

**“Block”** means the smallest until of land that is bounded on all sides by Watercourses, Streets, Zone boundaries, large tracks of land, or any combination thereof as determined by Council.

**“Bona Fide Farmer”** means

- (1) an individual who owns a farm and
  - (a) is actively engaged in farming, and
  - (b) earns
    - (i) at least \$10,000 of the individual’s gross annual income from farming, or
    - (ii) at least 25 per cent of the individual’s gross annual income from farming, if the individual does not earn at least \$10,000 of the individual’s gross annual income from farming, or
- (2) a corporation that owns a farm and
  - (a) is registered in this province,
  - (b) is actively engaged in farming, and
  - (c) earns
    - (i) at least \$10,000 of the corporation’s gross annual income from farming, or
    - (ii) at least 25 per cent of the corporation’s gross annual income from farming, if the corporation does not earn at least \$10,000 of the corporation’s gross annual income from farming, or
- (3) a partnership that owns a farm and
  - (a) is registered in this province,
  - (b) is actively engaged in farming, and
  - (c) earns
    - (i) at least \$10,000 of the partnership’s gross annual income from farming, or



(ii) at least 25 per cent of the partnership's gross annual income from farming, if the partnership does not earn at least \$10,000 of the partnership's gross annual income from farming, or

(4) an individual who is registered in the Future Farmer Program, or

(5) a corporation that is registered under the *Companies Act* R.S.P.E.I. 1988, Cap. C-14, or the *Extra-Provincial Corporations Registration Act* R.S.P.E.I. 1988, Cap. E-14, and has a shareholder who is registered in the Future Farmer Program, or

(6) a partnership that is registered under the *Partnership Act* R.S.P.E.I. 1988, Cap. P-1, and has a partner who is registered in the Future Farmer Program.

[Real Property Assessment Act R.S.P.E.I. 1988, Cap. R-4]

**“Buffer Zone”** means the fifteen 15 metre wide (49.2 ft.) area adjacent to all Watercourses and Wetlands as per PEI Department of Environment, Labour and Justice, *Environmental Protection Act*, R.S.P.E.I. 1988, Cap. E-9 and *Watercourse and Wetland Protection Regulations*.

**“Building”** includes any Structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any Person, animal or chattel, and includes a Mini Home or existing Mobile Home.

**“Building Height”** means the vertical distance measured from the averaged finished Grade to the highest point of roof surface.

**“Building Line”** means any line regulating the position of a Building or Structure on a Lot.

**“Business or Professional Office”** – means premises where services are offered for a fee but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.

**“Campground”** – means a tract of land, managed as a unit, providing short term accommodation for tents, tent trailers, travel trailers, recreational vehicles and campers.

**“Change of Use”** means the Change of Use of a Parcel of land or a Building from one class of Use to another or an increase in the intensity of Use, including an increase in the number of Dwelling Units.

**“Child Care Facility”** means any place where or in which child care is offered at any time to:

- (a) more than six children;
- (b) more than five children all of whom are less than six years of age; or
- (c) more than three children all of whom are less than two years of age.

**“Church/Religious/Multi-cultural Building”** means any Structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any Person(s) attending meetings of certain rituals, religious doctrines and/or practices.

**“Club”** – means an association of persons, whether incorporated or not, united by some common interest, meeting periodically for co-operation or conviviality. Club shall also mean, where the context requires, premises owned or occupied by members of such association within which the activities of the club are conducted.

**“Commercial Activities”** – means the use of land, Building, Structure for the purpose of buying and selling commodities and supplying of services, excluding manufacturing, warehousing and other similar uses.

**“Commercial Use”** – means the use of a building on a lot for the storage, display or sale of goods or services and includes hotels, motels, inns or rental cottages.

**“Community / Municipality”** means the Rural Municipality of Brackley.

**“Community Care Facility”** means an establishment that provides care services for compensation to five or more residents who are not members of the operator's Immediate Family but does not, unless otherwise ordered by the Lieutenant Governor in Council, include:

- (a) a Group Home recognized as such by the Minister;
- (b) a residential school;
- (c) an establishment providing accommodation only;
- (d) a Hospital;
- (e) a correctional institution;
- (f) a facility in which addiction treatment services are provided;
- (g) a Nursing Home; or
- (h) a residential or nursing care home which is operated by or on behalf of the Province.

[Community Care Facilities and Nursing Homes Act R.S.P.E.I. 1988, Cap. C-13]

**“Consolidation”** means the legal incorporation of two or more existing Parcels of land to form a single, larger Parcel.

**“Contractor’s Yard”** means a facility, or area for the storage of materials, equipment, and commercial vehicles utilized by building and construction contractors, craftsmen and tradesmen, and may include accessory offices related to such activities.

**“Council”** means the Community Council of the Rural Municipality of Brackley.

**“Deck”** means a Structure intended as outdoor living space, either attached or adjacent to a Building.

**“Demolition”** means the removal, pulling down or destruction of a Structure.

**“Development”** means

- (i) site alteration, including but not limited to
  - (a) altering the grade of the land,
  - (b) removing vegetation from the land,
  - (c) excavating the land,
  - (d) depositing or stockpiling soil or other material on the land, and
  - (e) establishing a parking lot,
- (ii) locating, placing, erecting, constructing, altering, repairing, removing, relocating, replacing, adding to or demolishing structures or buildings in, under, on or over the land,
- (iii) placing temporary or permanent mobile uses or structures in, under, on or over the land, or
- (iv) changing the use or intensity of use of a parcel of land or the use, intensity of use or size of a structure or building.

**“Development Agreement”** means a legally binding written agreement between Council and an Applicant, covering such matters deemed by Council to be pertinent and necessary to the final approval of any Development within the Community.

**“Development Officer”** means any Person authorized by Council to act on its behalf with respect to the implementation of the Community’s Official Plan and Zoning and Subdivision Control Bylaw.

**“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 Buildings Codes Act.

**“Dog House”** shall mean any Building or Structure where dogs are kept by residents as pets and not for breeding, boarding, commercial, or animal welfare purposes.

**“Dog Run”** means a Fenced area provided for the Use of dogs which are kept by residents as pets and not for breeding, boarding, commercial or animal welfare purposes.

**“Domestic Animals”** means animals such as and including dogs, cats, budgies, parrots, parakeets, hamsters, gerbils and guinea pigs.

**“Domestic Arts”** means a vocation that can be carried out in a Dwelling Unit which shall include and be limited to:

- (a) dressmaking and tailoring;
- (b) hairdressing, barber shop and esthetics;
- (c) instruction in the arts; and
- (d) arts and crafts, weaving, painting, sculpture, and repair of Garden or household ornaments, Personal effects or toys.

**“Dwelling”** – means a building or portion thereof designated or used for residential occupancy but does not include hotels and motels.

(a) “*Dwelling Unit*” – means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided.

(b) “*Single Family Dwelling*” – means a building containing one dwelling unit and includes Modular Homes and mini homes but does not include mobile homes.

(c) “*Duplex Dwelling*” – means a building that is divided into two dwelling units each of which has at least two independent entrances.

(d) “*Semi-Detached Dwelling*” – means a building divided vertically into two (2) separate units, each of which has at least two independent entrances.

**“Entrance Way Permit”** means a permit for a legal access to a Street in accordance with *Roads Act* Highway Access Regulations as administered by the Province of Prince Edward Island Department of Transportation, Infrastructure and Energy or its successor.

**“Erect”** means to build, construct, reconstruct, Alter or relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, filling or draining.

**“Existing”** – means a parcel of land that existed on July 9, 1994.

**“Family”** means or may encompass individuals residing in one (1) Dwelling Unit, or group of individuals related by marriage, cohabitation, blood or adoption residing together in one (1) Dwelling Unit and includes domestic servants, non-paying guests and foster children.

**“Farming”** – means the outdoor cultivation of agricultural products, and the raising of farm livestock.

**“Farm or Farm Property”** means land, including any complementary Buildings, utilized for the purpose of sowing, cultivation and harvesting of crops, rearing of Livestock or production of raw dairy products, and may comprise a lesser area when operated as a Farm Enterprise by a Bona Fide Farmer as defined in the Real Property Assessment Act, R.S.P.E.I. 1988, Cap. R-4.

**“Fence”** means an artificially constructed barrier of any material or combination of materials Erected to enclose or screen areas of land.

**“Floor Area”** means:

(a) With reference to “Dwelling” the area contained within the outside walls excluding any Private Garage, porch, veranda, sunroom, greenhouse, unfinished attic, unfinished basement, and other rooms not habitable at all seasons of the year.

(b) With reference to “Commercial Building” the total usable Floor Area within a Building used for commercial purposes excluding washrooms, furnace rooms and common halls between stores.

(c) With reference to “Accessory Building” the area contained within the outside walls.

**“Forestry Use”** – means commercial silviculture and the production of timber or pulp and any uses associated with a forestry use, including sawmills, shingle mills, vehicle and equipment storage and maintenance buildings and yards and retail and wholesale outlets for wood and wood products.

**“Frontage”** means all land abutting on one side of a Street or Road measured along the Street or Road line.

**“Grade”** (as it applied to the determination of Building Height) means the lowest of the average levels of finished ground adjoining each exterior wall of a Building, except that localized depressions such as for Vehicle or pedestrian entrances need not be considered in the determination of average levels of finished ground.

**“Group Home”** means a Building recognized as such by the Minister of Health and Wellness or its successor for accommodating individuals.

**“Industrial Premises”** – means premises in or from which goods or materials are manufactured, processed, assembled or extracted or premises from which wholesale trade is carried on including warehousing.

**“Institutional Buildings”** means Premises, other than retail or industrial, used for Community services and includes but is not limited to:

- (a) Community Centres;
- (b) government offices;
- (c) Clinics and hospitals;
- (d) libraries, museums, theatres and art galleries;
- (e) public and private recreational centres;
- (f) public and private Utility Buildings;
- (g) child care facilities;
- (h) fire halls;
- (i) visitor information Building;
- (j) Churches, places of worship and Religious institutions;
- (k) schools;
- (l) Nursing Homes; and
- (m) Senior Citizen Housing.

**“Intensive Livestock Operation”** means the rearing of Livestock or poultry which may be confined in Buildings, open sheds, Yards, paddocks or by field grazing, the numbers of which, type of management system, minimum separation distance, etc., as recommended by the P.E.I. Department of Agriculture and Fisheries' "Guidelines for Manure Management and Separation Distances" shall define intensive Use for the purpose of evaluating the environmental impact of such an operation on the surrounding area.

**“Landscaping”** means any combination of shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, Screening or other architectural elements, all of which is designed to enhance the visual amenity of a Property or to provide a screen between properties in order to mitigate objectionable features between them.

**“Light Pollution”** means any adverse or intrusive effect of artificial light sources including sky glow (illumination of the night sky), glare, light trespass (unwanted light entering one’s Property), light clutter (excessive grouping of lights), decreased visibility at night, and energy waste. Also means any annoying light that intrudes on otherwise natural or low light setting.

**“Livestock”** means animals such as and including: horses, cattle, buffalos, sheep, swine, goats, poultry, fox, mink, chinchilla, rabbits, camelids, llamas, alpacas, donkeys, emus and ostrich.

**“Loading Space”** – means an unencumbered area of land provided and maintained upon the same lot or lots upon which the principal use is located, and which area is provided for the temporary parking of one (1) commercial motor vehicle while merchandise or materials are being loaded or unloaded, and such parking space shall not be for the purpose of sale or display.

**“Lot or Property”** means any Parcel of land which is held in separate Ownership from the adjoining land and

- (a) “Lot Area” means the total area included within the Lot Lines.
- (b) “Corner Lot” means a Lot situated at an intersection of and abutting on two or more Streets.
- (c) “Flankage Lot Line” means the Side Lot Line which abuts the Street on a Corner Lot.
- (d) “Front Lot Line” means the Lot Line abutting the Street upon which the Building or Structure Erected or to be Erected has its principal entrance.
- (e) “Interior Lot” means a Lot other than a Corner Lot.
- (f) “Lot Depth” means the depth from the Front Lot Line to the Rear Lot Line.
- (g) “Lot Line” means any boundary of a Lot.
- (h) “Rear Lot Line” means the Lot Line further from and opposite to the Front Lot Line.
- (i) “Side Lot Line” means a Lot Line other than a front, rear or Flankage Lot Line.
- (j) “Through Lot” means a Lot bounded on two opposite sides by Streets.

**“Lounge”** means a liquor establishment licensed by the Prince Edward Island Liquor Control

Commission but it does not include an establishment licensed as an eating establishment.

**“Main Building”** means any Building in which is carried on the principal purpose for which the Lot is used.

**“Main Wall”** means the exterior front, side or rear wall of a Building and all structural members essential to the support of a full or partially enclosed space or roof.

**“Mini Home”** means a pre-manufactured Dwelling Unit having an average width of less than 20 ft. (6.1 m), not including entries, porches or other appurtenances and certified under the Z240 provisions of the Canadian Standards Association (CSA).

**“Modular Home”** means any Dwelling Unit which is manufactured and sold as such by the housing industry, and which, though transported to a Building site, is then placed on a poured or slab foundation, and which, for clarification purposes is not a “Mobile Home”.

**“Mobile Home”** means a transportable Dwelling Unit suitable for long-term occupancy, designed to be transported on its own wheels and chassis, and, when located, fixed on a firmly grounded foundation.

**“Nursing Home”** means an establishment that, for compensation, provides continual residential accommodation with meals and housekeeping and nursing services, as required, to any five or more residents but does not, unless otherwise ordered by the Lieutenant Governor in Council, include:

- (a) a Group Home recognized as such by the Minister,
- (b) a residential school,
- (c) an establishment providing accommodation only,
- (d) a hospital,
- (e) a correctional institution,
- (f) a facility in which addiction treatment services are provided,
- (g) a Community Care Facility, or
- (h) a residential or nursing care home which is operated by or on behalf of the Province.

[Community Care Facilities and Nursing Homes Act R.S.P.E.I. 1988, Cap. C-13]

**“Obnoxious Use”** means a Use which, from its nature or operation, creates a nuisance or is offensive by the creation of noise or vibration or electronic interference or by reason of the emission of gases, fumes, dust, and any objectionable odor, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material.

**“Open Space”** – means that portion of a lot which may be used for landscaping, recreational space or leisure activities normally carried on outdoors; but does not include space used for service driveways or off-street parking.

**“Outdoor Storage”** means the storage of merchandise, goods, inventory, materials or equipment or other items which are not intended for immediate sale, by locating them outside.

**“Owner”** means a Person who legally owns a Lot and is a registered land Owner; and may include or encompass, a tenant, lessee, or other Person in possession or occupancy of the subject Lot or Building; or an executor, Administrator, trustee, agent, or other Person managing the subject Lot or Building for the registered Owner.

**“Panhandle Lot”** means a lot that does not have the minimum frontage on a public Street required by these regulations, but has a driveway or right-of way connection providing access to a public Street;

**“Parking Lot”** means an open area of land other than a Street or access driveway, or an area within a Structure used for the parking of Vehicles.

**“Parking Space”** means a space on a Parking Lot for the temporary parking or storage of a Vehicle, not less than 3.05 metres (10 ft.) wide and 6.10 metres (20 ft.) long, accessible to vehicles without the need to move other vehicles on adjacent areas.

**“Person”** includes an individual, association, firm, partnership, corporation, incorporated company, organization, trustee, or agent, and the heirs, executors, or other legal representatives of a Person to whom the context can apply according to law.

**“Personal Service Shop”** means a Building in which Persons are employed in furnishing services and otherwise administering to the individual and Person needs of Persons (including but not limited to: barbershop, hairdressing shops, beauty parlours, shoe repair, Laundromats, tailoring, dry-cleaning, etc.), but does not include a tattoo parlour.

**“Public Park or Parkland”** – means land owned by the Community or some other level of government used or intended for use by members of the public.

**“Public Service”** – means a Municipal Government, Provincial Government or Federal Government service provided to the general public.

**“Premises”** means an area of land with or without Buildings or Structures.

**“Private Garage”** – means a building or part thereof which is used for the sheltering of private motor vehicles and storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

**“Recreational Trailer or Vehicle”** means a vehicle which provides sleeping and other facilities for short periods of time, while traveling or vacationing, designed to be towed behind a motor vehicle, or self-propelled, and includes such vehicles commonly known as travel trailers, camper trailers, pick-up coaches, motorized campers, motorized homes, recreation vehicles or other similar vehicles.

**“Recreational Use”** means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, athletic fields, golf courses, picnic areas, Swimming Pools, day camps, and similar uses



but does not include a track for the racing of animals or any form of motorized vehicles.

**“Recycling Depot”** – means premises on which recoverable materials such as newspaper, glassware, and metal cans are separated prior to shipment but does not include any processing of the material or a salvage yard.

**“Recycling Plant”** – means a building in which recoverable resources, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production but it does not include a salvage yard.

**“Renovation”** means any change in a non-structural component of a Building or Structure and does not include a change in a structural component, or any increase or decrease in the volume of a Building or Structure.

**“Residential-Commercial Operation”** means an Owner-occupied Dwelling Unit, a portion of which is used by the owner for Commercial Activities, including Domestic Arts. The Commercial Activities and the Domestic Arts shall be clearly incidental and secondary to the residential use of the Dwelling Unit.

**“Resource Use”** – means the use of land or buildings for production and harvesting or extraction of any agricultural, forestry, or fisheries product.

**“Resource Based Commercial Use”** – means the use of a building or lot for the storage, display or sale of goods directly and primarily related to resource uses.

**“Resource Based Industrial Use”** – means the use of land or buildings for any industrial development directly associated with agriculture, fisheries or forestry industries.

**“Rezoning”** means the changing of one land Zone classification to another.

**“Salvage Yard”** – means an area of land used for the storage, handling or processing of and sale of scrap material, and without limiting the generality of the foregoing, may include waste paper, rags, bones, used bicycles, vehicles, tires, metals or other scrap material or salvage, but shall not include a hazardous waste material storage or disposal site or recycling depot.

**“Screening”** means the method by which a view of one site from another adjacent site is shielded, concealed, or hidden;

**“Setback”** means the distance between the Street line or property line and the nearest Main Wall of any Building or Structure, except Fences, and extending the full perimeter of the Lot.

**“Severance”** means a division or other re-configuration of a Lot(s) or parcel(s) for the purpose of Development and/or transfer of ownership or interests.

**“Sewerage System”** – means any system or part thereof for disposing of sewage or waste by

means of one or more settling or septic tanks and one or more disposal fields, and any other system or part thereof for sewage or waste disposal not directly connected to a municipal or approved central waste treatment system.

**“Sign”**- means a structure, device, light or natural object including the ground itself, or any part, or any device attached, or painted or represented on which shall be used to advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry or business, or which display or include any letter, work, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction, or advertisement, and which is intended to be seen from off the premises or from a parking lot. All signs permitted in the Municipality are subject to approval under the Highway Signage Act Regulations, under the authority of the Province.

**“Site Plan”** means a plan drawn to a suitable architectural scale showing details of existing and proposed features on a parcel of land which is the subject of an application for Development.

**“Stable Surface”** means a surfacing that meets Provincial Department of Transportation and Infrastructure Renewal standards and may include 15 cm of Class A or B imported aggregate, recycled asphalt paving (RAP), chip seal, concrete, roller compacted concrete, asphalt or other materials acceptable to the Development Officer or Council.

**“Storage Container”** means a reusable portable device in which goods are packed and stored for transportation by sea, rail or road.

**“Storey”** – means that portion of a building between any floor and ceiling or roof next above, provided that any portion of a building partly below grade level shall not be deemed a storey unless its ceiling is at least 1.8 m (approximately 6 ft.) above grade and provided also that any portion of a building between any floor and ceiling or roof next above exceeding 4.2 m (approximately 14 ft.) in height shall be deemed an additional storey.

**“Structure”** – means any construction including a building fixed to, supported by or sunk into land or water, but excludes concrete and asphalt paving or similar surfacing and fencing and includes a Swimming Pool.

**“Street, Road or Highway”** means all the area within the boundary lines of every Road, Street or right-of-way which is vested in the Province of Prince Edward Island and used or intended for use by the general public for the passage of Vehicles and includes any bridge over which any such Road, Street or right-of-way passes.

**"Subdivision"** means a division, Consolidation, or other re-configuration of a Lot(s) or parcel(s) for the purpose of Development and/or transfer of ownership or interests.

**"Subdivision Agreement"** means a legal document describing a two-party agreement between an applicant and Council, the subject of which pertains to actions to be taken in the subdividing of a Parcel of land.

**"Survey Plan"** means an appropriately scaled drawing of survey details certified by a Prince Edward Island Land Surveyor.

**"Swimming Pool"** means any outdoor Structure, basin, chamber, or tank Used or which may be Used for swimming, diving, or recreational bathing and having a depth of 0.91 m. (3 ft.) or more at any point or having a minimum surface area of 16.25 sq. m. (175 sq. ft.).

**"Temporary Permit"** means a permit for a fixed period of time with the intent to discontinue such Use upon the expiration of the time period.

**"Tiny Home"** means a single-family home with a ground floor area of less than five hundred (500 sq.ft.) square feet. It can be built independently and in remote locations but may also be found in a community setting with shared communal spaces, services and utilities.

**"Tourist Establishment"** means a Dwelling in which is operated the seasonal Business of providing or offering overnight accommodation for transient guests for compensation.

**"Unightly Property"** shall have the same meaning as defined under the *Unightly Property Act, R.S.P.E.I. 1988, Cap. U-5* More particularly defined as "any real property or part thereof upon which there is litter, derelict motor vehicles or parts thereof or dilapidated or unsightly buildings, structures or parts thereof, which causes the real property or any part thereof to look unsightly."

**"Use"** means any purpose for which a Building or other Structure or Parcel of land may be designed, arranged, intended, maintained or occupied, and includes any activity, occupation, Business or operation carried on, or intended to be carried on, in a Building or other Structure or on a Parcel.

**"Utility"** means any public or private system, works, plant, equipment or services which furnishes services at approved rates to or for the Use of the general public.

**"Utility Building"** means a Building that houses stationary equipment for communication lines, telephone lines, electric power lines, public water supply, or sewage services.

**"Warehouse"** – means a building used for the storage and distribution of goods, wares, merchandise, substances or articles and may include facilities for a wholesale or retail commercial outlet but shall not include facilities for a truck or transport terminal or yard.

**"Warehouse"** means a Building Used primarily for the storage of goods and materials. Does not include facilities for wholesale or retail.

**"Watercourse"** shall have the same meaning as defined under the *Environmental Protection Act, R.S.P.E.I. 1988, Cap. E-9, Watercourse and Wetland Protection Regulations* and in the case of any dispute the final determination shall be made by the Provincial Department having authority to enforce these Regulations. More particularly defined as "an area which has a sediment bed and may or may not contain water, and without limiting the generality of the

foregoing, includes the full length and width of the sediment bed, bank and shore of any stream, spring, creek, brook, river, lake, pond, bay, estuary or coastal body, any water therein, and any part thereof, up to and including the watercourse boundary.”

**“Wetland”** shall have the same meaning as defined under the *Environmental Protection Act, R.S.P.E.I. 1988, Cap. E-9, Watercourse and Wetland Protection Regulations* and in the case of any dispute the final determination shall be made by the Provincial Department having authority to enforce these Regulations. More particularly defined as “ (i) an area which contains hydric soil, aquatic or water-tolerant vegetation, and may or may not contain water, and includes any water therein and everything up to and including the wetland boundary, and (ii) without limiting the generality of the foregoing, includes any area identified in the Prince Edward Island Wetland Inventory as open water, deep marsh, shallow marsh, salt marsh, seasonally flooded flats, brackish marsh, a shrub marsh, a wooded swamp, a bog or a meadow.”

**“Wind Energy System”** a wind energy conversion system consisting of a wind turbine including the rotor and associated control or conversion electronics to convert wind mechanical energy to electricity.

**"Yard"** means an open, uncovered, unoccupied space appurtenant to a Building;

(a) **“Flankage Yard”** means, on a Corner Lot, that Yard extending across the full width of the Lot and fronting on a Roadway which is not the Roadway along which the Front Yard extends;

(b) **"Front Yard"** means a Yard extending across the full width of the Lot between the Front Lot Line and the nearest Main Wall of the Main Building on the Lot;

(c) **"Rear Yard"** means a Yard extending across the full width of the Lot between the Rear Lot Line and the nearest Main Wall of the Main Building on the Lot; and

(d) **"Side Yard"** means a Yard extending across the full width of the Lot between a Side Lot Line and the nearest Main Wall of the Main Building on the Lot, exclusive of any chimney breast.

**"Zone"** means an area of land designated under this Development Bylaw within which specific land Uses are permitted and others restricted or prohibited.

**"Zoning Map"** means the map included as Appendix A to this Development Bylaw or as amended from time to time, depicting the boundaries of all land Use Zones.

### **3.0 ZONES AND ZONING MAP**

#### **3.1 Zones**

(1) For the Purposes of the Bylaw, the Rural Municipality of Brackley is divided into the following Zones, the boundaries of which are shown on the attached Appendix A. Such Zones may be referred to by the corresponding symbols shown opposite them.

<b>Zones</b>	<b>Symbol</b>
Agricultural	A1
General Commercial	C1
Industrial	M1
Public Service and Institutional	PSI
Recreational and Open Space	O1

<b>Special Overlay Zone</b>	<b>Symbol</b>
Environmental Reserve	O2

#### **3.2 Interpretation of Zoning Boundaries**

- (1) Boundaries Zones as shown in Appendix A, Zoning Map, shall be determined as follows:
- (a) Where a Zone boundary is indicated as following a Street or Highway, the boundary shall be the centre line of such Street or Highway. unless otherwise indicated;
  - (b) Where a Zone boundary is indicated as approximately following Lot or Property lines, the boundary shall be such Lot or Property lines.
  - (c) Where a railway right-of-way, electrical transmission line right-of-way or Watercourse shown on the Zoning Map serves as a Zone boundary, a line midway between the outside limits of the right-of-way or the centre line of the Watercourse shall be considered the boundary between the Zones unless otherwise indicated.
  - (d) Where a Zone boundary is indicated as the following the limits of the Municipality, the limits shall be the boundary.
  - (e) Where none of the above provisions apply, and where appropriate, the Zone boundary shall be scaled from the large scale Zoning Map found in the Community office.
- (2) The Zone boundaries for the Environmental Reserve Zone shall be the area in or on a Watercourse or Wetland and the area within fifteen 15.0 m. (49.2 ft.) of a Wetland Boundary or a Watercourse Boundary.

### **3.3 Zoning Map**

Appendix A shall be cited as the Zoning Map and forms a part of this Development Bylaw.

### **3.4 Permitted Uses**

In this Development Bylaw any Use not listed as a Permitted Use in a Zone is prohibited in that Zone unless otherwise indicated.

### **3.5 Special Permitted Uses**

In this Development Bylaw any Use listed as a Special Permitted Use in a Zone may be a considered Use by Council if Council deems the Development is appropriate and all other relevant provisions of this Development Bylaw are met, and subject to such conditions as Council may impose.

### **3.6 Certain Words**

In this Development Bylaw, words Used in the present tense include future, words in the singular number include the plural; the word ‘shall’ is mandatory and not permissive.

### **3.7 Defined Terms**

In this Development Bylaw, words beginning with uppercase letters carry the defined meaning set forth in section 2. Words that are defined in section 2 but do not begin with an uppercase letter when used in the Development Bylaw carry their ordinary meaning.

### **3.8 Units of Measure**

All official measurements are in metric or imperial measurements.

### **3.9 Appendices**

All appendices attached to this Development Bylaw form part of this Development Bylaw.

## **4.0 ADMINISTRATION**

### **4.1 Approval Authority**

- (1) Council shall appoint a Development Officer(s) whose duties shall be as provided in this Bylaw. A Development Officer shall have the authority to administer this Bylaw. Notwithstanding the foregoing, a Development Officer shall have the authority to approve or deny Development Permits in accordance with this Bylaw in all areas except for the following zones and types of applications:
  - (a) General Commercial;
  - (b) Public Services and Institutional;
  - (c) Industrial;
  - (d) Variances in all zones; and
  - (e) Special Permitted Uses in all zones.
- (2) Council shall have the authority to administer, approve, or deny applications with respect to this Bylaw in accordance with clause 4.1(1).
- (3) The Development Officer shall sign application decisions on behalf of Council, where an application decision rests with Council.
- (4) The Development Officer shall have the authority to issue both preliminary and final approval on all severances and lot consolidations, subject to section 4.1(1), in which case Council shall have the authority.

### **4.2 Development Permit Required**

No Person shall, without first applying for and receiving a permit from the Municipality:

- (a) change the Use of a parcel of land or a Structure;
- (b) commence any Development;
- (c) construct any Structure on a Property;
- (d) make exterior Structural Alterations to any Structure;
- (e) make any water or sewer connection;
- (f) make any underground installation such as a septic tank, a fuel tank, a foundation wall or the like;
- (g) move or demolish any Structure;
- (h) establish or operate an Excavation Pit;
- (i) construct a driveway;
- (j) place, dump any fill or other material;
- (k) subdivide or consolidate a parcel or parcels of land;

- (l) construct a Fence over 1.83 m. (6 ft.) to a maximum of 3.05 m. (10 ft.) high;
- (m) or place an outdoor Swimming Pool; and
- (n) construct a Deck.

#### 4.3 **No Development Permit Required**

Unless otherwise specified, no Development Permit shall be required for:

- (a) laying paving materials for patios or sidewalks;
- (b) constructing Fence or retaining wall of less than 1.83 m. (6 ft.) in height;
- (c) installing clothes lines poles, flag poles and radio or television antennae (to a maximum of 9.14 m. (30 ft.) height);
- (d) making a garden or garden trellises;
- (e) growing a crop or preparing land for a crop;
- (f) conducting routine maintenance which has the effect of maintaining or restoring a Structure or any of its elements to its original state or condition;
- (g) making landscape improvements, constructing ornamental Structures or play Structures of less than 9.29 sq. m. (100 sq. ft.);
- (h) constructing a Dog House (to a maximum of 24 sq. ft.) or a Dog Run;
- (i) a Development that involves the interior or exterior Renovation of a Building that will not change the shape of the Building or increase its volume, will not add more Dwelling Units, or will not involve a change in Use of the Building; and
- (j) Public utilities located within the Street right-of-way;

although the applicable requirements of this Development Bylaw must still be met.

#### 4.4 **Moving of Buildings**

No Building shall be moved out of or within the area covered by this Development Bylaw without a Development Permit and such other permits as may be required by law.

#### 4.5 **Permit Applications**

- (1) Any Person applying for a permit shall do so on a form prescribed by Council and shall submit the application to the Municipality.
- (2) Every application form shall be signed by the Applicant, and shall be accompanied by an application fee in accordance with the schedule of fees established by Council and annexed hereto as Appendix B.



(3) The Development Officer shall notify the Applicant, in writing, if the application is incomplete or lacking in plan details and shall indicate any additional information or documentation required.

#### **4.6 Payment of Fees**

Notwithstanding any section of this Development Bylaw, Development Permits are not valid and will not be recognized until the application fee and any other required fees are paid in full and the said permit is signed by the Development Officer and Applicant.

#### **4.7 Development Permit**

(1) A Development Permit shall be issued once the Development Officer or Council, as the case may be, are satisfied that the proposed Development conforms with all relevant provisions of this Development Bylaw, any other relevant bylaws and is not considered an Obnoxious Use. The Development Officer or Council, as the case may be, shall issue a Development Permit upon receipt of the appropriate fee(s), as set out in Appendix B. The issuance of the Development Permit shall be subject to receiving copies of written approvals of any required pre-approvals such as fire safety, street access, septic site assessment and any other applicable Provincial or Federal laws.

(2) Where an application is not entirely clear in its intent, or where an application does not appear to conform with the provisions of this Development Bylaw or any other bylaws which may be in force, the Development Officer or Council, as the case may be, shall deny the application.

(3) A Development Permit shall be valid for a twelve-month period.

(4) The Council may revoke a Development Permit where information provided on the application is found to be inaccurate.

#### **4.8 Site Plan**

- (1) The Development Officer may require an Applicant to submit a Site Plan drawn to a convenient scale certifying the agreement of the Applicant to develop the site in accordance with the plan.
- (2) A Site Plan shall be prepared to a scale showing existing and proposed conditions and may include:

- (a) location of all Buildings and Structures on the parcel with respect to the Lot boundaries;
- (b) location of the septic system or sewer service;
- (c) location of the well or water service;
- (d) location of the electrical service;
- (e) location of the existing or proposed driveway(s);
- (f) floor plan(s) of the proposed Building or Structure;
- (g) elevation plan(s) of each exterior wall of the proposed Building or Structure;
- (h) any other information the Development Officer deems necessary to determine whether or not the proposed Development conforms to the requirement of this Development Bylaw.

#### 4.9 **Drainage Plan**

- (1) Development Officer may require an Applicant to submit a drainage plan drawn to a convenient scale certifying the agreement of the Applicant to develop the site in accordance with the plan.
- (2) A drainage plan shall be prepared to a scale showing existing and proposed conditions and may include:
  - (a) location of all Buildings and Structures on the parcel with respect to the Lot boundaries;
  - (b) location of the septic system or sewer service;
  - (c) location of the well or water service;
  - (d) location of the electrical service;
  - (e) location of the existing or proposed driveway(s);
  - (f) floor plan(s) of the proposed Building or Structure;
  - (g) elevation plan(s) of each exterior wall of the proposed Building or Structure;
  - (h) existing and proposed surface Grade elevations of the subject property and the adjoining properties in order to show the proposed drainage pattern(s). Allowing for surface water runoff on the subject lot not to cause damage on adjoining properties;
  - (i) any other information the Development Officer deems necessary to determine whether or not the proposed Development conforms to the requirement of this Development Bylaw.
- (3) The drainage plan of the site shall be signed and sealed by a land surveyor, a professional engineer, or a landscape architect licensed to practice in the Province.

#### **4.10 Other Information**

The Development Officer or Council, as the case may be, may require an Applicant to submit any additional information related to the proposed Development, which it deems appropriate, including but not limited to the following:

- (a) parking, Parking Lot layout and internal circulation patterns;
- (b) location of garbage containers and description of any Screening or fencing;
- (c) location of Open Space and Amenity Areas;
- (d) Landscaping plan;
- (e) Buffer Zones adjacent to Wetland areas or Watercourses;
- (f) existing vegetation;
- (g) easements;
- (h) proposed storage areas and description of any Screening or fencing; and
- (i) copies of written approvals of any required pre-approvals such as fire safety, street access, septic site assessment and any other applicable Provincial or Federal laws.

#### **4.11 Conditions on Permits**

The Development Officer or Council, as the case may be, shall have the authority to impose conditions on a Development Permit subject to such conditions being directly related to or consistent with the Development Bylaw and/or the Official Plan of the Community any other applicable Provincial or Federal laws.

#### **4.12 Development Agreement**

Council may require any Applicant to enter into a Development Agreement. This Agreement shall be a contract binding on both parties, containing all conditions which were attached to the Development Permit. Failure to comply with a Development Agreement shall constitute an offense under this Development Bylaw.

A Development Agreement may address but shall not be limited to the following matters:

- (a) Site Plan design;
- (b) the design and construction of sidewalks, pathways, trails and other pedestrian circulation facilities;
- (c) Landscaping and Screening;
- (d) vehicular access and exits;
- (e) security and safety lighting;
- (f) methods of waste storage and disposal;
- (g) fencing; and

- (h) any other matters that Council deems necessary to ensure the health, safety and convenience of the Community residents and the travelling public.

#### **4.13 Authorization for Inspection**

- (1) An application for a Development Permit shall constitute authorization for inspection of the Building or land in question by an officer or agent of the Community for the purpose of ensuring compliance with the provisions of this Development Bylaw.
- (2) The officer or agent of the Community shall give a minimum of forty-eight hours notice by telephone to the applicant prior to entering the applicable land or structure(s) for inspection or examination relating to the Development Bylaw.

#### **4.14 Permits Posted**

All permits shall be posted by the Applicant on the subject Property and be visible from the Street.

#### **4.15 Municipality Posting of Development Permits**

- (1) The Municipality shall post all Development Permits, severances, lot consolidations, Development Bylaw amendments, Official Plan amendments and rezoning approvals.
- (2) The posting shall contain:
  - (a) a description of the land that is the subject of the decision;
  - (b) a description of the nature of the application in respect of which the decision is made;
  - (c) applicant's name;
  - (d) parcel identifier number;
  - (e) property civic address;
  - (f) the date of the decision;
  - (g) the date on which the right to appeal the decision expires (the 22<sup>nd</sup> day from the time of the posting), see section 15; and
  - (h) the phone number of a person or an office at which the public may obtain more information about the decision.
- (3) The posting shall be posted on the PEI Planning Decisions Online website, within 7 working days of approval.
- (4) Any person who is dissatisfied by a decision of the Council may appeal the decision as per section 28 (1.1) of the Planning Act, refer to section 16, Appeals.

#### **4.16 Fire Marshal's Approval**

Applications must be approved by the provincial fire marshal's office prior to the Development Permit being issued for all types of development except single unit owner-occupied dwellings. These include but are not limited to:

- (a) Commercial;
- (b) Industrial;
- (c) Accessory Apartments;
- (d) Residential-Commercial Operations;
- (b) Public Service and Institutional Buildings; and
- (c) Bed and Breakfast Operations.

#### **4.17 Development Restrictions**

A Development Permit shall not be issued if:

- (a) the proposed Development does not conform to the provisions of this Development Bylaw or any applicable Provincial or Federal enactments;
- (b) the method of water supply is not appropriate or does not meet the provincial standards included in Appendix C;
- (c) the method of the sanitary waste disposal is not appropriate or does not meet the provincial standards included in Appendix C. The sanitary waste disposal system shall be properly installed and in working order prior to human occupancy;
- (d) there is no safe or efficient access to a Street;
- (e) the proposed Development would create unsafe traffic conditions;
- (f) the impact of the proposed Development would be detrimental to the natural environment of the Community;
- (g) the proposed Development could create a hazard to the general Public or any resident of the Municipality or could injure or damage neighbouring Property or other Property in the Municipality, such injury or damage to include but not be limited to water, drainage or other water run-off damage; or
- (h) the proposed Development could create a health or fire hazard; or
- (i) it fails to comply with any applicable Provincial or Federal enactments.

#### **4.18 Construct in Accordance with Application**

Any Person who has been granted a Development Permit shall agree to develop in accordance with the information given on the prescribed application form and the conditions laid down by the Development Permit or Development Agreement and shall comply therewith.

## 5.0 GENERAL PREVISIONS FOR ALL ZONES

### 5.1 Accessory Buildings and Structures

- 1) An Accessory Building or Structure shall be permitted in any Zone, but it shall not:
  - (a) be used for human habitation except where a Dwelling is a specifically permitted Accessory Use;
  - (b) be built closer to a Street on which the Main Building fronts than the Main Building is to that Street;
  - (c) be built within the Front Yard or Flankage Yard of a Lot;
  - (d) be built closer than 1.22 m. (4.0 ft.) to any Lot line for buildings less than 11.15 square metres (120 sq.ft.) in total floor area or be built closer than 4.57 metres (15 ft.) to any Lot line for buildings having greater floor area;
  - (e) exceed 7.62 m. (25 ft.) in height or the height of the Main Building, excluding where it is an Accessory Use on a Farm Property;
  - (f) be permitted if two Accessory Buildings already exist, except where it is an Accessory Use on a Farm Property, in which case, there is no limit;
  - (g) be constructed larger than the sizes outlined in the following table:

Lot Size	Accessory Building Max. Size
Up to 4,046 sq.m. (1 acre)	92.90 sq.m. (1,000 sq. ft.) (total of both Buildings)
4,046 sq.m. (1 acre) to 8,094 sq.m. (2 acres)	111.48 sq.m. (1,200 sq. ft.) (total of both Buildings) **
8,094+sq.m. (2+ acres) to 20,234 sq.m. (5 acres) (1 Accessory Building present)	139.35 sq.m. (1,500 sq. ft.) (total of both Buildings) **
8,094+sq.m. (2+ acres) to 20,234 sq.m. (5 acres) (2 Accessory Building present)	185.81 sq.m. (2,000 sq. ft.) (total of both Buildings) **
20,234+ sq.m. (5+ acres)	278.71 sq.m. (3,000 sq. ft.) (total of both Buildings) **

- (h) \*\*Council may approve an accessory building larger than the above specified 1 where Council deems that there would be no detrimental effects on any adjacent properties, subject to such conditions as Council may impose. This shall be considered a variance and shall be subject to section 12 of this Development Bylaw.

- (i) notwithstanding the above provisions, Council may issue a special Development Permit for an Accessory Structure located within the Front Yard or Flankage Yard of a Lot where Council is satisfied the Structure will be compatible with adjacent Structures and no permanent injury would be caused to adjoining properties, subject to such conditions as Council may impose. This shall be considered a Special Permitted Use and shall be subject to section 3.5 of this Development Bylaw.

## **5.2 Building to be Erected on a Lot**

No Building shall be Erected or Used unless it is Erected on a single Lot.  
No person shall erect more than one main building on a single lot.

## **5.3 Building to be Moved**

No Building shall be moved within or into the area covered by this Development Bylaw without first obtaining a Development Permit and such other permits as may be required by law.

## **5.4 Existing Non-conforming Buildings**

Where a Building has been Erected on or before the effective date of this Development Bylaw on a Lot having less than the minimum Frontage or area, or both required by this Development Bylaw, or having less than the minimum front Yard or side Yard or rear Yard or separation distance required by this Development Bylaw, the Building may be enlarged, reconstructed, repaired or renovated provided that:

- (1) the enlargement, reconstruction, repair or Renovation does not further reduce the front Yard, side Yard, rear Yard, or separation distance that does not conform to this Development Bylaw; and
- (2) all other applicable provisions of this Development Bylaw are satisfied.

## **5.5 Existing Non-conforming Lots**

Notwithstanding anything else in this Development Bylaw;

- (1) the Use of a Building existing in a Lot on the effective date of this Development Bylaw may be changed to a Use permitted on the Lot where the Lot area or Frontage or both is less than that required by this Bylaw provided that all other applicable provisions of this Development Bylaw are satisfied.



- (2) a vacant Lot having less than the minimum Frontage or area or both required by this Development Bylaw, may be Used for a purpose permitted in the Zone in which the Lot is located, and a Building may be Erected on the Lot, provided that all other provision on this Development Bylaw are satisfied.
- (3) an existing undersized Lot may be increased in area or Frontage, or both, and still remain an existing undersized Lot if after the increase the Lot still remains undersized.

## **5.6 Non-conforming Uses**

- (1) Subject to the provisions of this Development Bylaw, a Building or Structure, or Use of land, Buildings or Structures lawfully in existence on the effective date of approval of this Development Bylaw may continue to exist.
- (2) A Building or Structure shall be deemed to exist on the effective date of approval of this Development Bylaw if:
  - (a) it was lawfully under construction; or
  - (b) the permit for its construction was in force and effect, but this clause shall not apply unless the construction is commenced within twelve (12) months after the date of the issue of the permit and is completed in conformity with the permit within a reasonable time;
- (3) No Structural Alterations that would increase the exterior dimensions, except as required by statute or Development Bylaw, shall be made to a Building or Structure while a non-conforming Use thereof is continued.
- (4) If a Building which does not conform to provisions of this Development Bylaw is destroyed by a fire or otherwise to an extent of seventy-five percent (75%) or more of the assessed value of the Building above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of this Development Bylaw, except if the Building or repair work would not be detrimental, in the opinion of Council, to the health or safety of residents in the vicinity or the general public. This shall be considered a Special Permitted Use and shall be subject to section 3.5 of this Development Bylaw.
- (5) Any change of tenants or occupants of any Premises or Building shall not of itself be deemed to affect the Use of the Premises or Building for the purposes of this Development Bylaw.
- (6) A non-conforming Use of land, Building or Structure shall not be permitted to resume if it has been discontinued for a period of twelve (12) consecutive months,

and in such event the land, Building or Structure shall not thereafter be Used except in conformity with this Development Bylaw.

- (7) No intensification of Use or increase in business volumes or activity levels shall be made while a non-conforming Use of land, Buildings or Structures is being continued.
- (8) No increase in the area occupied by the non-conforming Use shall occur while a non-conforming Use is being continued.

## **5.7 Lot Frontage**

- (1) No Development Permit shall be issued unless the Lot or parcel of land intended to be Used or upon which the Building or Structure is to be Erected abuts and fronts upon a Street.
- (2) If a Parcel of land in any Zone is of such configuration that it cannot reasonably be Subdivided in such a way as to provide the required minimum Lot Frontage on a Street, Council may approve a reduced Road Frontage in accordance with the following provisions:
  - (a) The Lot width at the Building Line measures at least as much as the minimum Lot Frontage requirement;
  - (b) The lot has a minimum of a 24 foot wide right-of-way to the Street;
  - (c) The lot is a minimum of 200 feet from the Street;
  - (d) A maximum of one panhandle lot shall be permitted, as per sub-sections (a), (b), and (c) above, provided it is an “Existing Parcel” For the purposes of this Section “Existing Parcel” shall mean a Parcel of land which was held in separate ownership as of July 9, 1994.; and
  - (e) All minimum lot size requirements in the Development Bylaw (including Appendix C) and road access requirements (approval by the Province, as per section 5.11) shall also be met.
- (3) In any Zone, Lots designed with a reduced Road Frontage along a bend in a Street or facing a cul-de-sac may be approved by Council and the Province, if, in the opinion of Council and the Province, adequate and safe access to the Lot is provided, and the following criteria are met:
  - (a) the Lot width at the Building Line measures at least as much as the minimum Lot Frontage requirement; and

- (b) the minimum acceptable Frontage for a residential Development shall be 7.32 m. (24 ft.).

## **5.8 Mixed Use**

Where any land or Building is Used for more than one (1) Use, all provisions of this Development Bylaw relating to each Use shall be satisfied. Where there is a conflict, such as in the case of Lot size or Frontage, the most stringent standards shall prevail.

## **5.9 Public Utilities**

- (1) Notwithstanding anything else in this Development Bylaw, public Utility Buildings and Structures and service facilities provided by the Municipality including, but not limited to, sewage treatment plants, pumping stations, transit transfer stations, public parks and playgrounds, utility services, water storage reservoirs, and storm water management facilities, may be located in any Zone and no Development Permit shall be required and no Zone standards shall apply.
- (2) Private Utility Buildings and Structures which are considered by the Development Officer and Council to be necessary and appropriate to the Municipality shall be permitted in all Zones and do not require a permit.
- (3) Notwithstanding anything else in this Development Bylaw, public utilities located within the Street right-of-way or underground may be placed in any Zone, and no Development Permit shall be required and no Zone standards shall apply.

## **5.10 Petroleum Storage**

- (1) Underground petroleum storage facilities shall not be permitted in any Zone.
- (2) The storage of petroleum shall be limited to 50 litres (11 imperial gallons), except for a Farm Property. Certificates of compliance are required from the Province before any petroleum storage may be installed.

## **5.11 Entrance Way Permit**

- (1) No Person shall construct or Use any access driveway prior to obtaining an Entrance Way Permit from the Prince Edward Island Department of Transportation, Infrastructure and Energy or its successor. A copy of the Entrance Way Permit shall be provided to the Development Officer prior to any pertinent Development Permits being issued.

- (2) No Person shall change the Use of any access driveway to a more intensive Use without the evaluation and approval of the Prince Edward Island Department of Transportation, Infrastructure and Energy or its successor. A copy of the Entrance Way Permit shall be provided to the Development Officer prior to any pertinent Development Permits being issued.

## **5.12 Temporary Permit**

- (1) The Development Officer may issue a Temporary Permit for the temporary Use of land or the temporary Use of a Building or Structure incidental to a construction project provided that a Development Permit has been issued for the main construction project, subject to such conditions as the Development Officer may deem appropriate to protect the interests of adjacent Property Owners or the general Public. The permit shall require that the temporary Use shall be removed from the site within 30 days of completion of the main construction project, unless otherwise approved by the Development Officer.
- (2) The Development Officer may at its sole discretion issue a permit for the temporary Erection of a Structure or the temporary Use of land in any Zone in order to accommodate a special event or occasion. The Development Officer may attach such conditions as it deems appropriate to ensure Public safety and to mitigate any negative impacts on surrounding properties.

## **5.13 Accessibility**

- (1) The Development Officer or Council may, as a condition of granting a Development Permit for a General Commercial Development, Recreation & Open Space Development and Public Service & Institutional Development, require the Applicant to design and develop a Structure or provide such facilities as necessary to permit access to the Building or Structure by physically challenged Persons.
- (2) No Development Permit shall be issued for a Building or Structure which provides access to the general public until the Development Officer or Council receives a "Confirmation of Receipt of a Quality Control Plan" from the Provincial Government, pursuant to the Barrier- Free Design Regulations or subsequent regulations invoked for the same purpose.

## **5.14 Height Regulation Exemptions**

- (1) A maximum height requirements set out in this Development Bylaw shall not apply to the following list, but all structures shall be subject to the Charlottetown Airport height restricted areas:

- (a) Church spire;
- (b) lightening rod;
- (c) water tank;
- (d) monument;
- (e) elevator enclosure;
- (f) silo;
- (g) flagpole;
- (h) television or radio antenna, up to 9.14 m. (30 ft.);
- (i) ventilator;
- (j) skylight;
- (k) barns;
- (l) fire tower;
- (m)chimney;
- (n) clock tower; or
- (o) solar collector.

#### **5.15 Licenses, Permits and Compliance With Other Bylaws**

- (1) Nothing in the Development Bylaw shall exempt any Person from complying with the requirements of this Development Bylaw or any other bylaws in force within the Rural Municipality of Brackley or from obtaining any license, permission, permit, authority or approval required by any other bylaws of the Rural Municipality of Brackley or statute and regulation of the Province of Prince Edward Island.
- (2) Where regulations pursuant to clause 7. (1) (c) of the *Planning Act* (Minimum Development standards) have been enacted by the province; those regulations shall supercede the relevant provisions of this Development Bylaw where the provincial regulations are more stringent. All Lots shall conform to the Province-Wide Minimum Development Standards Regulations as noted in Appendix C.

#### **5.16 Side Yard Waiver**

Notwithstanding anything else in the Development Bylaw, where a Building on adjacent Lots share a common wall, the applicable size Yard requirements shall be zero.

#### **5.17 Outdoor Swimming Pools**

- (1) The installation of a Swimming Pool shall be permitted in any Zone in accordance with the following provisions:
  - (a) The pool Owner shall first secure a Development Permit from the Development Officer;

- (b) A 1.8 m. (6 ft.) Fence shall be constructed in such a manner so as to impede unauthorized Persons from entering over or under said Fence.
- (c) Any gate on such Fence shall be capable of being locked;
- (d) The pool Owner shall have a safety cover for the pool, which shall be Used when the pool Owners' Property is unattended for over 24 consecutive hours;
- (e) The pool Owner shall take reasonable cautions and measures to ensure the safe Use of the pool; and
- (f) The pool is not to be located within a required Yard that abuts a Street.
- (g) The water from the pool shall be permitted to be disposed of onto the ground, provided:
  - (i) the water does not enter a Watercourse;
  - (ii) the water has been de-chlorinated through the Use of hydrogen peroxide, or allowed to stand unused for a period of time, until the residual chlorine in the water has been reduced to an acceptable level; and
  - (iii) the pool Owner shall agree that other initiatives regarding maintenance and safety which are reasonable and prudent shall be carried out either at the initiative of the pool Owner or at Development Officer's request.

## **5.18 Visibility at Street Intersections**

On a Corner Lot, within a triangular area 6.1 m. (20 ft.) back from the intersecting Corner Lot Line, no Fence, Sign, hedge, shrub, bush or tree or any other Structure or vegetation shall be Erected or permitted to grow to a height greater than 0.61 m. (2 ft.) above Grade of the abutting Streets.

## **5.19 Renewable Energy Systems**

(1) Wind Energy Systems, "Wind Mill", of any size is not permitted within the Community.

(2) Other renewable energy systems including:

- (a) sun;
- (b) flowing water; and
- (c) organic material

Shall meet all applicable Provincial and Federal regulations, including but not limited to, the Renewable Energy Act.

## **5.20 Recreational Trailer or Vehicle**

No Person shall sleep or reside in a Recreational Trailer or Vehicle for over 14 days, unless the Development Officer or Council has issued a Temporary Permit for such Use. The Applicant shall apply for a Temporary Permit as per section 5.12.

## **5.21 Storage Containers**

Storage Containers shall not be used as an accessory building. The Applicant shall apply and receive a Temporary Permit as per section 5.12 to use a Storage Container for a period not exceeding thirty days.

## **5.22 Summer Cottages**

Summer Cottages shall not be permitted within the Community. Existing Summer Cottage Lots will be considered existing non-conforming Lots.

## **5.23 Mobile and Mini Homes**

Mini Homes manufactured within five years of installation shall be permitted in the Agricultural (A1) zone. Mobile Homes shall not be permitted within the Community.

## **5.24 Tiny Homes**

Tiny Homes shall be permitted in the Agricultural (A1) zones, provided they are placed on a permanent foundation. Permanent foundation shall consist of a concrete slab, concrete frost wall or wooden posts.

## **5.25 Accessory Apartment**

- (1) One (1) Accessory Apartment unit may be constructed within or as an addition to an existing Single Family Dwelling in the Agricultural (A1) Zone, upon written application to the Municipality, and if the Applicant and Council have first entered into a written Development Agreement pursuant to which the Applicant has agreed with Council as follows:
  - (a) the Accessory Apartment area does not exceed 92.9 sq.m. (1,000 sq.ft.) in floor area;
  - (b) the exterior of the residence shall retain a Single Family Dwelling appearance;

- (c) the Applicant shall submit a Site Plan indicating the proposed location of at least one (1) additional parking space in addition to the parking spaces required, in accordance with this Development Bylaw, separate from that required for the Dwelling, shall be provided.
- (d) the Accessory Apartment shall be reviewed and approved by the Fire Marshal's Office;
- (e) the existing or new septic system is to be reviewed and approved by a professional engineer or a sewage disposal contractor licensed to practice in the Province certifying that the design of the sewer system shall meet all applicable provincial and federal regulations. Including, but not limited to, the Occupational Health & Safety Act for the Province of Prince Edward Island and shall conform to good engineering practice using the following guidelines:
  - i. "Atlantic Canada Wastewater Guidelines Manual for Collection, Treatment and Disposal of Sanitary Sewage" prepared by Atlantic Environment Departments;
  - ii. *Environmental Protection Act*; &
  - iii. Sewage Disposal Systems Regulations.
- (f) all other provisions of this Development Bylaw remain applicable to the Dwelling.

## 5.26 Conformity with Existing Setbacks

Notwithstanding anything else in this Development Bylaw, where a Lot is located between existing Buildings within 61.0 m. (200 ft.) on the same Block and side of the Street:

- (1) the Setback from the Front Lot Line shall be the average distance that the front walls of the existing Buildings, other than Accessory Buildings or Structures, are set back from their Front Lot Line; or
- (2) where a Building can meet the minimum Front Yard Setback and will not be located closer to the Street than the Buildings on the adjoining Lots, it may be permitted.



### **5.27 Special Requirements for Bed and Breakfast Operations**

Bed and Breakfast Operations shall be permitted to operate in any Single Family Residence in the Agricultural (A1) Zone subject to the following:

- (1) the Dwelling shall be occupied as a residence by the principal operator and the external appearance of the Dwelling shall not be changed by the Bed and Breakfast Operation;
- (2) not more than three (3) rooms shall be offered for overnight accommodation;
- (3) adequate off-Street parking, in accordance with this Development Bylaw, separate from that required for the Dwelling, shall be provided at the side and/or rear of the Lot, but not within the required Yard Setbacks;
- (4) No Alterations are made to the Dwelling which change the roof line or increase the height of the Dwelling except for the addition of dormers;
- (5) No additions are made which extend into the front of the Lot; and
- (6) No Alterations are made to increase the number of entrances in the front of the Dwelling;

### **5.28 Signs**

No Person shall Erect, Alter or enlarge a Sign within the boundaries of the Rural Municipality of Brackley except in conformance with the provisions of the *Highway Signage Act Regulations, R.S.P.E.I. 1988, Cap.H4.1* and without first applying for and receiving a permit from Prince Edward Island Department of Economic, Development and Tourism or its successor. A copy of the permit shall be provided to the Development Officer prior to any construction or installation.

### **5.29 Site Work**

No person shall carry out any site work in any zone which may create a nuisance, hardship or other inconvenience to persons in the vicinity. Permitted hours of operations is between 7:00 am to 7:00 pm, Monday through Saturday, excluding necessary emergency work.

### **5.30 Environmental Protection Act**

All Development shall be subject to comply with the pertinent provisions of the *Environmental Protection Act, R.S.P.E.I. 1988, Cap.E-9.* and may include the requirement for an environment impact assessment.

### **5.31 Unsightly Properties Act**

The Rural Municipality of Brackley shall be subject to comply with the pertinent provisions of the *Unsightly Property Act, R.S.P.E.I. 1988, Cap.U-5*. Concerned residents can contact the Prince Edward Island Department of Communities, Land and Environment or its predecessor.

## 6.0 PARKING REQUIREMENTS

### 6.1 Parking Requirements

- (1) For every Building to be Erected, placed, Used or enlarged, there shall be provided and maintained off Street parking on the same Lot to the extent, prescribed in the following chart:

Type of Use	Number of Parking Spaces
Residential	1.5 per Dwelling Unit (minimum of 2)
Group Homes, Boarding or Rooming Houses	1 for the proprietor plus 1 for every 2 rooms available for rent
Bed and Breakfast Operations	1 for the proprietor plus 1 for every room available
Business or Professional Offices	1 per 27.9 sq.m. (300 sq.ft.) of Floor Area
Residential-Commercial Operation	2 for the proprietor and staff plus 1 per 27.9 sq.m. (300 sq.ft.) of Floor Area.
Warehouse and storage facilities	1 per employee and 1 per loading bay
Churches, libraries, museums and other places of assembly or recreation	Where there are fixed seats, 1 for every four seats; where there are no fixed seats, the seat count will be based on the Fire Marshal's seating capacity rating.
Other commercial Uses	1 per 27.9 sq.m. (300 sq.ft.) of Floor Area
All other Uses not listed	1 per 27.9 sq.m. (300 sq.ft.) of Floor Area or 1 space per ten seats.

- (2) A Parking Space shall have a minimum size of 3.05 m. (10 ft.) by 6.1 m. (20 ft.) and shall have clear access to a manoeuvring lane.

### 6.2 Parking Area Standards

- (1) Where a Parking Lot for more than four vehicles is required or permitted:
- The Parking Lot shall be constructed with a Stable Surface that is treated to prevent the raising of dust or loose particles;
  - The light Used for illumination of the Parking Lot shall be so arranged as to divert the light away from the Streets, adjacent Lots and Buildings;

- (c) A Structure not more than 4.57 m. (15 ft.) in height and not more than 4.3 sq.m. (46 sq.ft.) in area may be Erected in the Parking Lot for the Use of attendants;
- (d) A Parking Lot shall be within 91.4 m. (300 ft.) of the location which it is intended to serve, and shall be situated in the same Zone;
- (e) When the Parking Lot is a Stable Surface, each parking space shall be clearly demarcated and maintained as such;
- (f) The width of a driveway(s) leading to a Parking Lot, or a driveway or aisle in a parking area, shall be provided by means of unobstructed access of a minimum width of 3.05 m. (10 ft.) for one-way traffic or a minimum width of 6.1 m. (20 ft.) for two-way traffic;
- (g) There shall be parking at side and rear of Property only;
- (h) Every Building which the general public have cause to access shall be required to provide one (1) handicapped parking space for every ten (10) regular parking spaces.

### **6.3 Loading Space**

- (1) In any Zone, no Person shall Erect or Use any Building or Structure for commercial or agricultural purposes involving the frequent shipping, loading, or unloading of Persons, animals or goods, unless there is maintained on the same Premises with every such Building, Structure, or Use one off-Street space for standing, loading and unloading for every 2,601.3 sq.m. (28,000 sq. ft.) or fraction thereof of Building Floor Area Used for any such purpose to a maximum of six (6) Loading Spaces.
- (2) Each Loading Space shall be a minimum of 3.66 m. (12 ft.) by 12.19 m. (40 ft.) with a minimum of 4.27 m. (14 ft.) in height clearance.
- (3) A Loading Space is not required for any Building less than 130.1 sq.m. (1400 sq.ft.) in area.
- (4) No Loading Space shall be located within any required front Yard or be located within any Yard which abuts a Residential, Environmental Reserve, Public Service and Institutional, or Recreation/Public Open Space Zone.
- (5) A Loading Space area, including driveways leading to the loading area, shall be constructed with a Stable Surface.
- (6) Ingress and egress, to the required Loading Space area shall be provided by means of unobstructed driveways of a minimum width of 3.05 m. (10 ft.) for one-way traffic or a minimum width of 6.1 m. (20 ft.) for two-way traffic.

## **7.0 AGRICULTURAL (A1) ZONE**

### **7.1 General**

Except as provided in this Development Bylaw, all Buildings and parts thereof Erected, placed or Altered or any land Used in an A1 Zone shall conform with the provisions of this section.

### **7.2 Permitted Uses**

- (1) No Building or part thereof and no land shall be Used for purposes other than:
  - (a) Single Family Dwellings;
  - (b) Duplex Dwellings;
  - (c) Semi-detached Dwellings;
  - (d) Agricultural Uses;
  - (e) Forestry Uses;
  - (f) Resource Uses;
  - (g) Parks and Open Space; and
  - (h) Accessory Buildings.

### **7.3 Special Permit Uses**

- (1) Notwithstanding section 7.2 above, Council may issue a special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Development Bylaw are met, and subject to such conditions as Council may impose:
  - (a) Resource Based Commercial Use;
  - (b) Resource Based Industrial Use;
  - (c) Accessory Apartment;
  - (d) Residential-Commercial Operation;
  - (e) Bed and Breakfast Operation;
  - (f) Animal Kennels;
  - (g) Animal Kennel Runs; and
  - (h) Intensive Livestock Operations.

## 7.4 Lot Requirements

- (1) The following regulations shall apply to all Development in the A1 Zone:

<b>Requirement</b> (per Dwelling Unit)	
Minimum Lot Area	4,046.8 sq. m. (43,560 sq. ft.) (1 acre)
Minimum Frontage	45.72 m. (150 ft.)
Minimum Front Yard	15.24 m. (50 ft.)
Minimum Rear Yard	7.62 m. (25 ft.)
Minimum Side Yard	4.57 m. (15 ft.)
Minimum Flankage Yard	6.10 m. (20 ft.)
Maximum Height of any Building	2.5 Stories or 10.67 m. (35 ft.)
Minimum Floor Area	69.68 sq.m. (750 sq.ft.)
Maximum Lot Coverage	25%

- (2) In addition to the above requirements, all Lots shall conform to the provincial minimum Lot standards as noted in Appendix C.

## 7.5 Special Requirements

- (1) Within an Agricultural (A1) Zone:

(a) a residential Subdivision shall not be permitted within 152.4 metres (500 ft.) of an existing Intensive Livestock Operation's Uses. Distance measured from the nearest lot line to the closet point of the part of the barn occupied by livestock or manure storage.

(b) where a residential Subdivision is proposed, Council shall notify operators of Intensive Livestock Operations within 300 metres (984.3 ft.) and invite their comments.

- (2) Notwithstanding the above, Council may authorize the Subdivision and consolidation of farmland for farm purposes, provided that any residual parcels which are created comply with the provisions of this Bylaw.

(a) where a new Intensive Livestock Operation is proposed within 300 metres (984.3 ft.) of an existing residential Subdivision Council shall notify the Property owners and invite their comments.

## 7.6 Residential-Commercial Operation

A Residential-Commercial Operation may be located in a Single Family Dwelling in the Agricultural (A1) Zone provided:

- (a) the external appearance of the Dwelling is not Altered;
- (b) the Owner of the Business lives in the Dwelling;
- (c) not more than one (1) employee lives outside the Dwelling;
- (d) not more than twenty five percent (25%) of the total Floor Area of the Dwelling to a maximum of 34.8 sq.m. (375 sq.ft.) ;
- (e) adequate off-Street parking is provided for both the Dwelling and the Business;
- (f) no Outdoor Storage of materials or product display is Used in conjunction with the Business;
- (g) one off-Street parking space in addition to that required for the Dwelling, is provided for every 17.2 sq.m. (185 sq.ft.) of Floor Area occupied by the Residential-Commercial Operation;
- (h) no mechanical equipment is Used except that reasonably consistent with the Use of a Dwelling;
- (i) the proposed Residential-Commercial Operation be reviewed and approved by the Fire Marshal's Office; and
- (j) the property owners within 300 metres (984.3 ft.) of the proposed Residential-Commercial Operation are notified and asked for their comments.

## 7.7 Intensive Livestock Operations

- (1) The following separation distances shall apply to all new Intensive Livestock Operations or extensions. The following separation distances shall also apply to a new residential Development in the vicinity of an Intensive Livestock Operation:

Distance from any Dwelling on an adjacent Property	152.4 m. (500 ft.)
Distance from Public Road	45.72 m. (150 ft.)
Distance from any Domestic Well	152.4 m. (500 ft.)
Distance from any Lot Line	45.72 m. (150 ft.)
Distance from any Watercourse or Wetland boundary	90.00 m. (295.3 ft.)

- (2) Where a new Intensive Livestock Operation or an existing Intensive Livestock Operation wishing to expand are proposed within 300 m. (984.3 ft.) of an existing

residence, the Development Officer or Council shall notify the Property owners within 300 m. (984.3 ft.) of the proposed operation and invite their comments.

- (3) All intensive Livestock Buildings shall have a manure storage facility with a capacity for retention of manure for a period of time for which conditions do not permit spreading.
- (4) All Intensive Livestock Operations shall meet the Province's manure storage capacities and design standards.



## **8.0 GENERAL COMMERCIAL (C1) ZONE**

### **8.1 General**

Except as provided in this Development Bylaw, all Buildings and parts thereof Erected, placed or Altered or any land Used in a C1 Zone shall conform with the provisions of this section.

### **8.2 Permitted Uses**

- (1) No Building or part thereof (exceeding a Floor Area of 185.8 sq.m. (2,000 sq.ft.)) and no land shall be Used for purposes other than:
  - (a) Business and Professional Offices
  - (b) Service and Personal Service Shops
  - (c) Hotels, Motels or other Tourist Establishments
  - (d) Accessory Buildings
  - (e) Transient or Temporary Commercial
  - (f) Other uses deemed by Council to be compatible with the surrounding uses in the zone.

### **8.3 Special Permitted Uses**

- (1) Notwithstanding section 8.2 above, Council may issue a special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Development Bylaw are met, and subject to such conditions as Council may impose:
  - (a) activities associated with the automobile trade, except for a scrap yard or body shop.

**Lot Requirements**

(1) The following regulations shall apply to all Development in the C1 Zone:

<b>Requirement (per Dwelling Unit)</b>	
Minimum Lot Area	4,046.8 sq. m. (43,560 sq. ft.) (1 acre)
Minimum Frontage	45.72 m. (150 ft.)
Minimum Front Yard	7.62 m. (25 ft.) (if no parking in front of building)
	Or: the average of the front yard setbacks of the adjacent buildings, where their setback is less than 7.62m (25 ft.)
Minimum Rear Yard	7.62 m. (25 ft.)
Minimum Side Yard	4.57 m. (15 ft.)
Minimum Flankage Yard	Same as front yard requirements
	Or: the average of the front yard setbacks of the adjacent buildings, where their setback is less than 7.62m (25 ft.)
Maximum Height of any Building	10.67 m. (35 ft.)

(2) In addition to the above requirements, all Lots shall conform to the provincial minimum Lot standards as noted in Appendix C.

**Special Requirements General Commercial (C1) Zone**

Where a Lot or Parcel of land Zoned as General Commercial (C1) is developed which directly abuts a Lot or Parcel of land in the adjacent Zone:

(a) a strip of land not less than 4.5 m. (14.8 ft.) in width along the Lot Line within the General Commercial (C1) Zone and adjacent to any other Zone shall be maintained clear of any Structure, driveway or parking area, and shall be adequately landscaped to provide a visual buffer;

(b) any exterior lighting or Illuminated Sign shall be so arranged as to deflect light away from the adjacent residence to eliminate Light Pollution; and

(c) outdoor Storage shall be prohibited adjacent to a residence, unless it is hidden from view by means of a landscaped buffer, hedge of adequate size, or architectural Screening, such as a wall, visibility restrictive Fence or other appropriate Structure.

## 8.6 **Temporary Commercial Permits**

Notwithstanding any other provisions of this Bylaw, temporary Commercial permits may be issued by the Development Officer for a transient-type Commercial operation subject to compliance with section 5.12 and the following:

- (a) the Development shall not result in any traffic hazard;
- (b) the Development shall not interfere with the parking requirements of permanent users of the lot in which the Development will be located;
- (c) the Development shall not create a public nuisance;
- (d) the Temporary Permit shall not exceed a four (4) week period;
- (e) the Applicant, if not the actual property Owner, shall provide a letter of approval from the Owner of the lot on which the temporary development will be situated;
- (f) where required, the Applicant shall satisfy the Development Officer that such development complies with all health regulations.

## **9.0 RECREATION AND OPEN SPACE (01) ZONE**

### **9.1 General**

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used in a 01 Zone shall conform with the provisions of this Section.

### **9.2 Permitted Uses**

No buildings or part thereof and no land shall be used for purposes other than:

- (a) Public and Private Parks
- (b) Open Space and Conservation Activities
- (c) Golf Courses
- (d) Recreational Uses
- (e) Pavilions and Band Shells
- (f) Recreation Administrative Offices
- (g) Parking lots related to the above
- (h) Accessory Buildings

### **9.3 Lot Requirements**

(1) The following regulations shall apply to all Development in the O1 Zone:

<b>Requirement (per Dwelling Unit)</b>	
Minimum Lot Area	4,046.8 sq. m. (43,560 sq. ft.) (1 acre)
Minimum Frontage	45.72 m. (150 ft.)
Minimum Front Yard	15.24 m. (50 ft.)
Minimum Rear Yard	15.24 m. (50 ft.)
Minimum Side Yard	7.62 m. (25 ft.)
Minimum Flankage Yard	Same as front yard requirements
Maximum Height of any Building	2.5 stories or 10.67 m. (35 ft.)

(2) In addition to the above requirements, all Lots shall conform to the provincial minimum Lot standards as noted in Appendix C.

## **10.0 ENVIRONMENTAL RESERVE (O2) ZONE**

### **10.1 General**

No Structures and parts thereof shall be permitted in an Environmental Reserve (O2) Zone.

### **10.2 Permitted Uses**

- (1) Within any Wetland Boundary or Watercourse Boundary and any area within 15 m. (49.2 ft.) of a Wetland or Watercourse, no Structures or part thereof and no land shall be Used for purposes other than:
  - (a) Passive Recreational Uses, such as skiing or hiking; and
  - (b) Conservation related activities
  - (c) other development as approved by Council.

### **10.3 Zone Requirements**

- (1) Within an O2 Zone, no Person shall cut down any trees or disturb the natural ground cover without first submitting a landscape plan to the Prince Edward Island Department of Communities, Land and Environment or its successor documenting all proposed changes to the topography and vegetation and measures to control erosion and siltation.
- (2) No Development Permits shall be issued until all approvals required under the *Environmental Protection Act*, Watercourse and Wetland Regulations have been received by the Municipality. As well all other approvals by all other departments that may be required.

## **11.0 PUBLIC SERVICE and INSTITUTIONAL (PSI) ZONE**

### **11.1 General**

Except as provided in this Development Bylaw, all Buildings and parts thereof Erected, placed or Altered or any land Used in a PSI Zone shall conform with the provisions of this section.

### **11.2 Permitted Uses**

- (1) No Building or part thereof and no land shall be Used for purposes other than:
  - (a) Institutional Buildings and uses
  - (b) Accessory Buildings
  - (c) Public and Private Parks
  - (d) Recreational Uses
  - (e) Clubs

### **11.3 Special Permit Uses**

- (1) Notwithstanding section 11.2 above, Council may issue a special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Development Bylaw are met, and subject to such conditions as Council may impose:
  - (a) Cemetery.

### **11.4 Lot Requirements**

- (1) The following regulations shall apply to all Development in a PSI Zone:

<b>Requirement</b> (per Dwelling Unit)	
Minimum Lot Area	4,046.8 sq. m. (43,560 sq. ft.) (1 acre)
Minimum Frontage	45.72 m. (150 ft.)
Minimum Front Yard	15.24 m. (50 ft.)
Minimum Rear Yard	7.62 m. (25 ft.)
Minimum Side Yard	4.57 m. (15 ft.)
Minimum Flankage Yard	15.24 m. (50 ft.)
Maximum Height of any Building	2.5 Stories or 10.67 m. (35 ft.)

- (2) In addition to the above requirements, all Lots shall conform to the Province-Wide Minimum Development Standards Regulations as noted in Appendix C.

#### 11.5 **Special Requirements Public Service and Institutional (PSI) Zone**

Where a Lot or Parcel of land Zoned as Public Service and Institutional (PSI) is developed which directly abuts a Lot or Parcel of land in the adjacent Zone:

- (a) a strip of land not less than 4.57 m. (15 ft.) in width along the Lot Line within the Public Service and Institutional (PSI) Zone and adjacent to any other Zone shall be maintained clear of any Structure, driveway or parking area, and shall be adequately landscaped to provide a visual buffer;
- (b) any exterior lighting or Illuminated Sign shall be so arranged as to deflect light away from the adjacent residence to eliminate Light Pollution; and
- (c) outdoor storage shall be prohibited adjacent to a residence, unless it is hidden from view by means of a landscaped buffer, hedge of adequate size, or architectural Screening, such as a wall, visibility restrictive Fence or other appropriate Structure.

## **12.0 INDUSTRIAL (M1) ZONE**

### **12.1 General**

Except as provided in this Bylaw, all Buildings and parts thereof Erected, placed or altered or any land used in a M1 Zone shall conform with the provisions of this Section.

### **12.2 Permitted Uses**

No Building or part thereof and no land shall be Used for purposes other than:

1. Manufacturing and Assembly
2. Warehousing
3. Transport Operations
4. Activities connected with the Automobile Trade other than a scrap yard
5. Wholesale Operations
6. Business and Professional Offices
7. Service Shops
8. Commercial uses accessory to a main use permitted in a C1 Zone
9. Restaurants and Cafeterias
10. Farm Machinery and Heavy Equipment Dealerships and Repair Shops
11. Heavy Equipment Depots
12. Contractors Yard
13. Accessory Buildings

(1) Notwithstanding the foregoing, any Use which is deemed by Council to be Obnoxious Use by reason of sound, odor, dust, fumes, smoke or as defined shall be denied approval.

### **12.3 Special Permitted Uses**

Notwithstanding Section 12.2 above, Council may issue a special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Bylaw are met and subject to such conditions as Council may impose:

1. Storage of Sand and Aggregate
2. Asphalt Plants
3. Concrete Plants
4. Food Processing
5. Auto Salvage Facility



## **12.4 Servicing**

Where central sewer and/or water services are available, all development shall be connected to these services. Where the development will be serviced by an on-site waste water treatment system, Council may require that these systems be designed and certified by a professional engineer licensed to practice in the Province of Prince Edward Island. Council may also place a condition on a Development Permit requiring that the Use of the land be limited to one which will not generate volumes of waste water which cannot be adequately handled by the on-site waste water treatment system. In general, restaurants, food processing, laundries and other activities involving the significant use of water or significant waste water loadings shall not be permitted on lots with on-site servicing.

## **12.5 Lot Requirements**

The same Lot requirements as noted under Section 7.4 (RS1) Zone shall apply to all Development in a M1 Zone.

All Lots shall also conform to the Provincial Minimum Lot Standards as noted in Appendix “B”. (see attached)

## **12.6 Exceptions to Maximum Building Heights**

Notwithstanding Sections 12.5 and 5.14, Council may approve an application for a structure exceeding the Maximum Building Height of 2.5 Stories or 10.67 m (35 ft.) in the Industrial (M1) Zone provided:

1. The applicant is willing to enter into a Development Agreement with Council.
2. The Structure conforms to all relevant sections of this Bylaw and other applicable fire and building codes.
3. The proposed height of the Structure is physically necessary for the manufacturing processes which will be carried out in the facility, and
4. The proposed height of the Structure would not exceed 30 metres (100 ft.) or would not exceed 20 metres (66 ft.) where the Structure is within 100 metres (328 ft.) of an existing Dwelling.

## **12.7 Special Requirements: Industrial Zone Adjacent to Residential Zones or Agricultural Zones**

The special requirements as delineated in Section 11.5 of this Bylaw also apply in a M1 Zone.

## **12.8 Environmental Impact Assessment**

Where a proposed industry may occasionally have heavy usage of Public Roads, sewerage or water systems or have a significant environmental impact on the surrounding area, Council may prepare terms of reference for, and require the Developer to undertake an Environment Impact Assessment, in conjunction with the Provincial Department of the Environment, prior to consideration of a Development Permit application by Council.

## 13.0

## VARIANCE

Where a Development Permit application does not conform to the provisions of this Development Bylaw, Council shall determine whether to grant a variance.

- (1) All variance applications require Council to give written notification to all Property Owners within 300 m. (984.2 ft.) of the subject Property.
- (2) Council may authorize a variance not exceeding 10% from the provisions of this Development Bylaw if the variance is appropriate, and if the general intent and purpose of this Development Bylaw is maintained.
- (3) Variance applications shall be considered against the following tests for justifying a variance:
  - (a) That the Lot in question has peculiar physical conditions, including small Lot size, irregular Lot shape, or exceptional topographical conditions, which make it impractical to develop in strict conformity with Development Bylaw standards;
  - (b) That strict application of all Development Bylaw standards would impose undue hardship on the Applicant by excluding them from the same rights and privileges for reasonable Use of their Lot as enjoyed by other Persons in the same Zone;
  - (c) That the variance is of the least magnitude required to enable reasonable Use of the Lot; and
  - (d) That the proposed variance would not impact unduly on the enjoyment of adjacent properties, or on the essential character of the surrounding neighbourhood.
- (4) Authorization for a variance shall be documented and recorded in writing.
- (5) All variance applications are subject to applicable fees, see Appendix B, (Fee Schedule).

## **14.0 GENERAL PROVISIONS FOR SUBDIVIDING LAND**

### **14.1 Permission to Subdivide**

Any Lots subdivided pursuant to this Development Bylaw shall conform to the Lot requirements for that specific Zone and all other relevant provisions of this Bylaw.

- (1) No land shall be subdivided within the Community unless the Subdivision:
  - (a) conforms with the requirements of this Development Bylaw;
  - (b) is suitable to the topography, physical conditions, soil characteristics, and the natural surface drainage of the land;
  - (c) will not cause or contribute to undue flooding or erosion or other undue damage to the natural environment;
  - (d) of land intended to be used or upon which the building or structure is to be erected abuts and fronts upon a public Street;
  - (e) has adequate utilities and services available or can be conveniently provided with such utilities and services;
  - (f) will reasonably conform to or is compatible with existing land Use in the immediate vicinity;
  - (g) will provide for safe traffic flow;
  - (h) is designed so that Lots will have suitable dimensions, shapes, orientation and accessibility;
  - (i) is suitable to the Use for which it is intended, and the future Use of adjacent lands;
  - (j) would not precipitate premature Development, cause unnecessary public expenditure, or place undue pressures on the Community to provide services; and
  - (k) consists of a maximum of five (5) lots, created from any parcel which was legally “Existing” as of July 9, 1994.
  - (l) may consist of one panhandle lot with a minimum of 24 feet (7.32 m) of frontage on a public Street, created from any parcel which was legally “Existing” as of July 9, 1994.

## 14.2 Procedure

- (1) Any Person seeking approval of a Subdivision shall first submit an application for preliminary approval to the Municipality in the form approved by Council, the application fee as set forth in Appendix B and four (4) copies of a preliminary Subdivision plan drawn to scale showing:
  - (a) the true shape and dimensions of every Lot;
  - (b) the location of every existing Building or Structure on the parcel;
  - (c) existing and proposed services and utilities;
  - (d) proposed widths and locations of all Streets; and
  - (e) the existing Use of the land and all immediately adjacent properties, showing Buildings, fields, streams, rivers, swamps, wooded areas and areas subject to flooding or erosion.
- (2) The Development Officer or Council, as the case may be, may also require the Applicant to provide additional information required to assist in evaluating a proposed Subdivision, including, but not limited to:
  - (a) On-Site Sewage Disposal System, Site Suitability Assessment;
  - (a) Entrance Way Permit;
  - (b) Approval by the P.E.I. Department of Transportation and Infrastructure Renewal or its successor for the proposed road design and transfer;
  - (d) contours and spot elevations;
  - (e) traffic surveys;
  - (f) drainage plan; and
  - (g) storm water management plan.
- (3) The Development Officer or Council, as the case may be, shall notify the Applicant, in writing, if the application is incomplete or lacking in plan details, and shall indicate any additional information or documentation required.

- (4) The Development Officer or Council, as the case may be, may refuse to approve a Subdivision which is unsuitable under the provisions of this Development Bylaw.
- (5) The Development Officer or Council, as the case may be, shall evaluate any proposed Subdivision to determine whether appropriate Street design standards and Lot configurations have been Used to promote the Development of safe, convenient and pleasant neighbourhoods.
- (6) The Development Officer or Council, as the case may be, shall within thirty (30) working days of the date of receiving the application and appropriate fees, advise the Applicant in writing that the Subdivision has obtained preliminary approval with certain specific conditions, or that the Subdivision cannot be granted preliminary approval, and shall state the reasons for the decision.
- (7) Preliminary approval for any proposed Subdivision shall not be construed as final approval of such Subdivision for legal conveyance or for land registration purposes.
- (8) Preliminary approval shall be effective for a period of 12 months, or such additional time as may be authorized by the Development Officer or Council, as the case may be.

#### **14.3 Survey Required**

No Person shall subdivide one or more Lots or any portion or interest in a Lot and no Person shall consolidate two or more parcels of land until the conditions of this Development Bylaw have been complied with and the Applicant has submitted six (6) copies of a Survey Plan prepared by a licensed Prince Edward Island Land Surveyor.

#### **14.4 Subdivision Approval**

No Person shall subdivide one or more Lots or any portion or interest in a Lot and no Person shall consolidate two or more parcels of land until the conditions of this Development Bylaw have been complied with and the Applicant has received final approval from the Development Officer or Council, as the case may be, as applicable.

#### **14.5 Conveying Interest in a Lot**

No Person shall sell or convey any interest in a Lot in a Subdivision before the Development Officer has issued a stamp of final approval for the Subdivision in which the Lot is situated.

#### **14.6 Special Requirements – Agricultural (A1) Zone**

- (1) Within an Agricultural (A1) Zone, no Person shall be permitted to subdivide from any “Existing Parcel” of land more than five (5) Lots.
- (2) For the purposes of this Section “Existing Parcel” shall mean a Parcel of land which was held in separate ownership as of July 9, 1994.

#### **14.7 Changes to Existing Lots**

- (1) No Person shall reduce the dimensions or change the Use of any existing Lot where the Development Officer or Council, as the case may be, deems there would be a detrimental effect on neighbouring property Owners.
- (2) Where an application to subdivide land would change the dimensions or the Use of a Lot in an existing approved Subdivision Development, Development Officer or Council, as the case may be, shall notify all Property Owners within 150 m. (492.1 ft.) of the boundaries of the Lot in writing, informing them of the details of the application and soliciting their comments.

#### **14.8 Subdivision Agreement**

- (1) Council may require an Applicant to enter into a Subdivision Agreement as a condition of Subdivision approval. The Subdivision Agreement shall cover any matters as required by Council and may include, but not be limited to the following:
  - (a) the design and construction costs of sidewalks, water supply, sanitary and storm sewers, Roads, and Street lighting;
  - (b) the dedication of land for parkland, recreation and Public Open Space purposes, or payment of a fee in lieu of land;
  - (c) the Building of Roads to provincial standards and deeding of Roads to the Department of Transportation and Infrastructure Renewal or its successor;

- (d) the posting of a financial guarantee satisfactory to Council;
- (e) the provision of a controlled landscape plan and storm water management plan to facilitate the drainage of water and to guard against flooding of Lots within the Subdivision and adjacent properties;
- (f) the provision of such services, facilities or actions as are necessary to ensure the satisfactory Development of the Subdivision;
- (g) the provision for the phasing of the Subdivision; and
- (h) the preservation and enhancement of surface water drainage systems

#### **14.9 Final Approval**

- (1) Final Subdivision approval shall be granted by the Development Officer or Council, as the case may be, only after the Applicant has:
  - (a) complied fully with all applicable requirements of this section and any Subdivision Agreement between the Applicant and the Community;
  - (b) submitted six (6) copies of a final Survey Plan showing all Lots pinned and certified by a surveyor registered to practice in the Province; and
  - (c) completed, when necessary, an agreement with the provincial Department of Transportation, Infrastructure and Energy or its successor respecting Road construction and the Roads have been accepted as public.
- (2) The Development Officer or Council, as the case may be, may grant final approval to part of a Subdivision which is proposed to be developed in Phases.
- (3) The Development Officer or Council, as the case may be, shall give notice of final approval of a Subdivision in writing, and shall place its approval stamp on the six (6) copies of the Survey Plan and shall return at least one (1) copy to the Applicant.
- (4) The Municipality shall file copies of the final Survey Plan with:
  - (a) the Registrar of Deeds; and
  - (b) the municipality's files.



#### **14.10 Severances / Consolidation**

Notwithstanding the above provisions, the Development Officer or Council, as the case may be, may approve applications for single or multiple Lot Subdivisions, partial Lots or easements and Lot Consolidations or Subdivisions which do not require the extension of municipal services or public Roads at its discretion, having regard for only those provisions which it deems applicable to each individual application, provided the application conforms with all other sections of this Development Bylaw.

#### **14.11 Development Permits**

Development Permits shall not be issued for any Lot in a proposed Subdivision until all the requirements of the Subdivision Agreement, when necessary, and of this Development Bylaw have been fulfilled and final Subdivision approval has been granted by the Development Officer or Council, as the case may be.

#### **14.12 Rescinding or Altering Approval**

- (1) An existing approved Subdivision or portion thereof may be rescinded or Altered by Council if:
  - (a) The Subdivision has been carried out contrary to the application, the conditions of approval, or these regulations; or
  - (b) The Subdivision Owner has confirmed in writing that the sale of Lots is no longer intended, and has requested that approval be rescinded.

## **15.0 ZONING and OFFICIAL PLAN AMENDMENTS**

### **15.1 Amendment Applications**

- (1) All amendments shall be adopted in accordance with the procedures set out in the *Planning Act*.
- (2) A change to either the text or the Zoning Map of this Development Bylaw shall be considered an amendment and must be consistent with Official Plan policies.
- (3) Council may amend an Official Plan policy to enable a zoning amendment, including policy statements as per section 14.2 (4). Such Official Plan amendment shall proceed concurrently with the zoning amendment.
- (4) A Person who seeks an amendment to this Development Bylaw or the Official Plan shall address a written and signed application to Council.
- (5) An application under this section shall include such information as may be required for the purpose of adequately assessing the desirability of the proposal, including but not limited to:
  - (a) general Development Concept showing proposed land Uses, any Subdivisions, Buildings, means of servicing, traffic access and parking; and
  - (b) assessment of any potentially significant Development impacts on Community infrastructure and the natural environment.
- (6) The Applicant shall at the time of submitting the application, deposit with the Community the application fee and any other required fees in accordance with the schedule of fees established by Council and annexed hereto as Appendix B.

### **15.2 Amendment Procedures**

- (1) The Development Officer and the Planning Board shall review each amendment request and provide recommendations to Council.
- (2) Council shall consider the following general criteria when reviewing applications for zoning amendments, as applicable:
  - (a) Conformity with all requirements of this Development Bylaw;
  - (b) Conformity with the Official Plan;

- (c) Suitability of the site for the proposed Development;
  - (d) Compatibility of the proposed Development with surrounding land Uses, including both existing and future Uses as per the Zoning Map;
  - (e) Any comments from residents or other interested Persons;
  - (f) Adequacy of existing water, sewer, Road, storm water, and Public Open Space for accommodating the Development, and any projected infrastructure requirements;
  - (g) Impacts from the Development on pedestrian/vehicular access and safety, and on Public safety generally;
  - (h) Compatibility of the Development with environmental, scenic and historic resources;
  - (i) Impact on the Community finances and budgets; and
  - (j) Other matters as considered relevant by the Development Officer or Council.
- (3) Council retains the right to deny an amendment request, without holding a public meeting, if such request is deemed to be inconsistent with appropriate land Use planning standards or the Official Plan.
- (4) Subject to section 14.2 (3) above, Council shall hold a public meeting as pursuant to Appendix D, to solicit input from public on the proposed amendment request. At least seven (7) clear days prior to the public meeting, the Municipality shall post the date, time and place of the public meeting, together with the general terms of the application, by:
- (a) public notice in accordance with the Planning Act and regulations, at least twice in a newspaper circulating in the area; and
  - (b) written notice to all Property Owners wholly or partly within 300 m. (984 ft.) of the boundaries of the subject Property.
- (5) Following the public meeting, Council shall prepare a recommendation to the Council on the proposed amendment. Council shall have the authority to determine whether an amendment request is approved, modified, or denied and applications shall be approved or denied by resolution of Council. The Applicant shall be notified in writing of the decision. In the case that the decision denied the proposed amendment, the letter will explain the reasoning for the decision.
- (6) Nothing in this Development Bylaw restricts the right of Council to initiate its own amendment requests.

- (7) Related Official Plan and Zoning amendments may be considered concurrently by the Planning Board and Council, provided that applications for both amendments are posted on the same public and written notices, and that the Official Plan amendment precedes the Zoning amendment.
- (8) Official Plan and Zoning amendments approved by Council also require approval by the Minister responsible for administering the *Planning Act* or any successive legislation.

## **16.0 APPEALS**

- (1) Any Person who is dissatisfied by a decision of the Council may appeal the decision (as per section 28 (1.1) of the Planning Act):
  - (a) that is made in respect of an application by the Person, or any other Person, under this Development Bylaw for:
    - (i) a Development Permit;
    - (ii) a preliminary approval of subdivision;
    - (iii) a final approval of a subdivision; or
  - (b) to adopt an amendment to the Development Bylaw, including
    - (i) an amendment to the Zoning Map of the Development Bylaw, or
    - (ii) an amendment to the text of the Development Bylaw,may appeal the decision to the Island Regulatory Appeals Commission.
- (2) A notice of appeal must be filed with the Island Regulatory Appeals Commission within 21 days after the date of the decision being appealed.

## **17.0 PENALTIES**

All penalties shall be in accordance with section 26 of the *Planning Act*.

- (1) Every Person who contravenes any provision of this Development Bylaw is guilty of an offence and liable on summary conviction.
  - (a) on a first conviction, to a fine not exceeding \$2,000;
  - (b) on a subsequent conviction, to a fine of not more than \$400 for each day upon which the contravention has continued after the day on which they were first convicted.
- (2) Any prosecution for an offence under subsection (1) may be instituted within one year after the time when the contravention occurred.

## **18.0 REPEAL**

### **18.1 Effective Date**

This Development Bylaw shall come into force effective on the date of approval by the Minister.

### **18.2 Repeal**

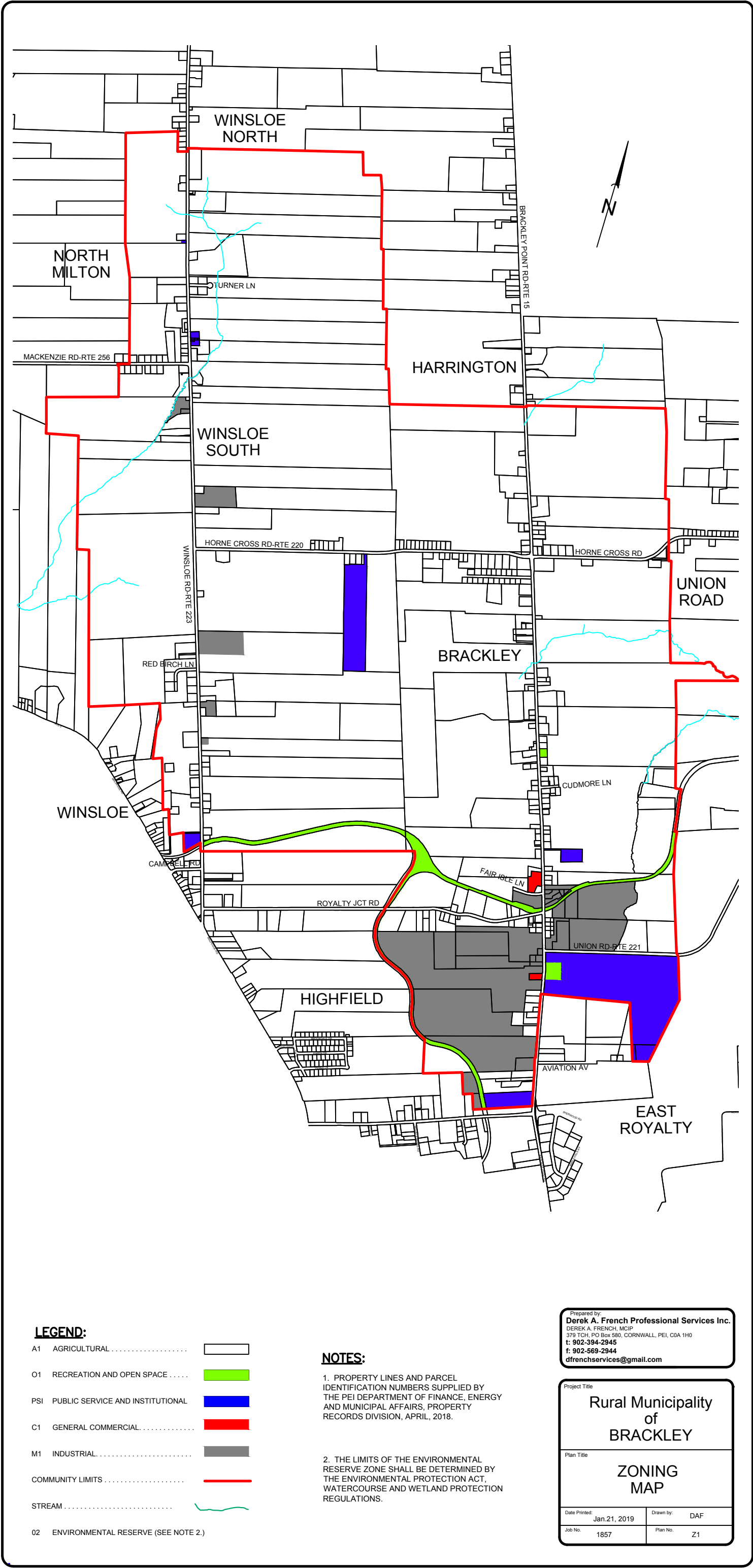
All previous Zoning & Subdivision Control (Development) Bylaws approved by the Municipality are hereby repealed.

# APPENDICES

<b>Appendix:</b>	<b>Description</b>
<b>A -</b>	<b>Zoning Map</b>
<b>B -</b>	<b>Fee Schedule</b>
<b>C-</b>	<b>Province-Wide Minimum Development Standards Regulations</b>
<b>D-</b>	<b>Public Meeting</b>

# **Appendix A**

## **Zoning Map**





## Appendix B (Fee Schedule)

<b>Permit Type:</b>	<b>Fee:</b>
<b>Development Permits:</b>  - Dwellings or other Structures (excepting Accessory Building)  - Accessory Building  - Demolition / Moving / Change of Use  - Decks, pools & Fences  -Special Permit Use  -Permit Extension	\$250.00  \$50.00  \$50.00  \$50.00  \$250.00  Permit is valid for a 12 month period (no extensions will be offered)
<b>Subdivision:</b> - Lot Subdivision - Lot Consolidation - Lot Revision - Change of Use	\$200.00/Lot
Official Plan/Development Bylaw Amendments or Rezoning	\$500.00 plus notification fees for newspaper ads and/or postage (if applicable)
Variance	\$100.00 (for variances up to 5%) \$200.00 (for variances greater than 5%)
Development Agreement	\$200.00 plus applicable Provincial Registration fees
Subdivision Agreement	\$200.00 plus applicable Provincial Registration fees
Others	\$50.00

**\*Notes:**

1. All fees are subject to associated costs which may include public meeting costs such as all advertising, printing and consulting/legal fees. Council shall have the final decision in determining the total fee of the applicable costs.
2. All initial fees shall be due with the application.
3. All fees are non-refundable.
4. All fees are doubled for an application after the fact.
5. The Mayor and Councillors are exempt from the above fees.

# Appendix C

## Province-Wide Minimum Development Standards Regulations

(as amended time to time)

Cap. P-9

*Planning Act*

Updated 2011

Province-Wide Minimum Development Standards Regulations

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

(a) Servicing	(b) Lot Category	(c) Minimum Lot Frontage	(d) Number of Dwelling Units	(e) Minimum Lot Area sq. ft. / sq. m.	(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet / metres
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 40,000 sq. ft. / 3,717 sq. m. 40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 200 ft. / 61 m. 200 ft. / 61 m.
on-site water supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	35,000 sq. ft. / 3,251.5 sq. m. 40,000 sq. ft. / 3,717 sq. m. 45,000 sq. ft. / 4,180.5 sq. m. 50,000 sq. ft. / 4,645 sq. m. 50,000 sq. ft. / 4,645 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	175 ft. / 53.3 m. 200 ft. / 61 m. 225 ft. / 68.6 m. 250 ft. / 76.2 m. 250 ft. / 76.2 m.
on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	51,000 sq. ft. / 4,738 sq. m. 56,000 sq. ft. / 5,202 sq. m. 61,000 sq. ft. / 5,667 sq. m. 66,000 sq. ft. / 6,131 sq. m. 66,000 sq. ft. / 6,131 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	225 ft. 68.6 m. 250 ft. / 76.2 m. 275 ft. / 83.8 m. 300 ft. / 91.4 m. 300 ft. / 91.4 m.
on-site water supply and on-site sewage system	IV	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1 2 3 4 more than 4	75,000 sq.ft. / 6,975 sq.m. 80,000 sq.ft. / 7,440 sq.m. 85,000 sq.ft. / 7,905 sq.m. 90,000 sq.ft. / 8,370 sq.m. 90,000 sq.ft. / 8,370 sq.m., plus 1,500 sq.ft. / 457 sq.m. for each additional unit	300 ft. / 91.4 m.
on-site water supply and on-site sewage system	V	N/A	N/A	not developable	N/A

## Province-Wide Minimum Development Standards Regulations

central water supply and on-site sewage disposal system	I	50 feet / 15.25 metres	1 2 3 4 more than 4	20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 35,000 sq. ft. / 3,251 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and on-site sewage disposal system	II	50 feet / 15.25 metres	1 2 3 4 more than 4	25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 40,000 sq. ft. / 3,717 sq. m. 40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 200 ft. / 61 m. 200 ft. / 61 m.
central water supply and on-site sewage disposal system	III	50 feet / 15.25 metres	1 2 3 4 more than 4	40,000 sq. ft. / 3,717 sq. m. 45,000 sq. ft. / 4,180.5 sq. m. 50,000 sq. ft. / 4,645 sq. m. 55,000 sq. ft. / 5,110 sq. m. 55,000 sq. ft. / 5,110 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m. 225 ft. / 68.6 m. 250 ft. / 76.2 m. 275 ft. / 83.8 m. 275 ft. / 83.8 m.
central water supply and on-site sewage disposal system	IV	50 feet / 15.25 metres	1 2 3 4 more than 4	60,000 sq. ft. / 5,580 sq. m. 65,000 sq. ft. / 6,450.5 sq. m. 70,000 sq. ft. / 6,510 sq. m. 75,000 sq. ft. / 6,975 sq. m. 75,000 sq. ft. / 6,975 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	275 ft. / 83.8 m.
central water supply and on-site sewage disposal system	V	N/A	N/A	not developable	N/A
on-site water supply and central waste treatment system	I or II	50 feet / 15.25 metres	1 2 3 4 more than 4	15,000 sq. ft. / 1,393.5 sq. m. 20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 30,000 sq. ft. / 2,787 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	100 ft. / 30.5 m. 125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 160 ft. / 48.8 m.

## Province-Wide Minimum Development Standards Regulations

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

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

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

on-site water supply and central waste treatment system	I, II or III	50 feet / 15.25 metres	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
central water supply and waste treatment systems	I, II or III	n/a	as determined by the Minister	as determined by the Minister

(EC542/87; 703/95; 694/00; 552/11)

## **Appendix D**

### **Public Meeting**

1. Council retains the right to hold a public meeting for the following reasons:
  - (a) Where an application is not entirely clear in its intent, or where an application does not appear to conform with the provisions of the Development Bylaw or the policies of the Official Plan.
  - (b) Where a Subdivision application is unsuitable under the provisions of this Development Bylaw, the Planning Board may conduct a public meeting to consider public opinion.
  - (c) The Planning Board shall hold a public meeting to solicit input from the public on the proposed amendment to the Development Bylaw, Zoning Map or the Official Plan.
  - (d) Proposal of a new or the expansion of an existing Accessory Apartment.
  - (e) Proposal of a new or the expansion of an existing Residential-Commercial Operation.
  - (f) Proposal of a new or the expansion of an existing Public Service and Institutional Building or Lot.
  - (g) Proposal of a new or the expansion of an existing General Commercial Building or Lot.
2. Where Council has determined that a public meeting is warranted, the following provisions shall apply:
  - (a) The chair of the Planning Board shall chair the meeting;
  - (b) the meeting shall be advertised at least twice in a newspaper circulating in the area, the cost of which shall be borne by the Applicant, stating the date, time, location and purpose of the proposed meeting, and that, for those unable to attend the public meeting, written comments respecting the proposed Development may be forwarded to the Development Officer prior to the meeting;
  - (c) the first advertisement shall be placed not less than seven (7) business days prior to the date of the meeting;
  - (d) adjacent land Owners within 300 m. (984.2 ft.) of the proposed Development shall receive a separate written notice pertaining to the proposed Development, and
  - (e) all interested Persons may attend and be heard;
  - (f) the Development Officer, on Council's behalf, shall give separate notice in writing to the Applicant of the date, time and place at which Council shall hold a public meeting regarding the Applicant's proposed Development;

- (g) the meeting shall be held at a location in the Community; if this is not practical, a meeting hall shall be rented for purposes of holding the public meeting, the cost of which rental shall be borne by the Applicant;
  - (h) the Applicant shall make visual materials pertaining to the proposed Development available for examination by the public from the Municipality at least one (1) week prior to the date of the public meeting; and
  - (i) the Applicant or their agent shall attend the meeting in order to present and defend the proposed Development.
3. The agenda for the public meeting shall include the following:
- (a) introduction and opening remarks by the Planning Board chair;
  - (b) presentation of the proposed Development by the Development Officer, the Applicant or their agent;
  - (c) question period:
    - (i) questions on the proposed Development shall be handled by the Applicant;
    - (ii) questions on procedure or municipal policy shall be handled by the Development Officer;
  - (d) comments and opinions by interested Persons wishing to be heard;
  - (e) summary by the Planning Board chair of previously submitted written comments from Persons unable to attend the meeting.
4. A transcript of the oral comments received at the public meeting shall be prepared by the Administrator, a copy of which shall be filed in the municipal office and made available to any interested Person during the Administration Office's usual hours of operation.
5. The Applicant shall be responsible for all fees including associated costs which may include public meeting costs such as all advertising, printing and consulting/legal fees. Council shall have the final decision in determining the total fee of the applicable costs.