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1) Notwithstanding any other provisions of this Bylaw, no person shall subdivide a lot intended to be serviced by an on-site sewerage system except in conformance with the minimum lot size standards noted in Table 1 and Table 2 below..... 62

CHAPTER 1 **SCOPE**

1.1 Title

This Bylaw shall be known and may be cited as the Municipality of Malpeque Bay Zoning and 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*” and the *Municipalities Act, R.S.P.E.I. 1988, Cap. M-13*.

1.3 Area Defined

This Bylaw applies to the geographical area within which the Municipality of Malpeque Bay 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 divided, consolidated or used in the Municipality of Malpeque Bay, except in conformity with this Bylaw and subject to the provisions contained herein.

Interpretation (see cornwall –present includes future...)

CHAPTER 2 DEFINITIONS

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, and is compatible in design to the main buildings and surrounding structures.

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.

AGRICULTURAL USE includes:

“General Agricultural Use” - means an agricultural use of a building or land, such as animal husbandry, dairying, field cropping, horticulture, market gardening, pasturage, and any associated packing and storage of agricultural products, but excluding any *intensive agricultural use*, or any agricultural processing (see *heavy industry*).

“Intensive Agricultural Use” - means an agricultural use of a building or land which is an *obnoxious use*, such as potato production, tobacco production, and intensive livestock operations such as abattoirs, piggeries, year-round feed lots, and commercial poultry-keeping based on confinement rather than free-range operations.

ALLOWABLE USE - means a use identified as allowable in a *zone*, including:

“Permitted Use” - means a use which is allowable by right, subject to meeting applicable Bylaw requirements.

“Special Permit Use” - means a use presumed to be generally appropriate within a development *zone* but whose intensity, impacts or other characteristics require discretionary review to ensure that projects meet all applicable standards and findings for the use at the designated location.

ALTER - means any change in the structural component or physical appearance of a building or any increase in the volume of a building or structure.

AMENITY AREA - means an area of land set aside for the purpose of visual improvement or relaxation except where an Amenity Area is required for any multiple unit dwelling, in which case the area may also include that portion of the building which is devoted to relaxation such as games rooms and balconies.

APARTMENT

APPLICANT - means any person responsible for completing an application for a *development permit* or zoning or Official Plan amendment and for fulfilling any required preconditions or conditions of permit approval under this Bylaw.

ATTACHED - means a building or structure which has a common wall and/or common roof line and the building or structure may be considered common as long as a minimum of twenty (20) percent of the length of the wall or roof line is common with the main building or structure wall or roof.

BASEMENT - means a storey or stories of a building located below the *first storey*.

BED AND BREAKFAST - 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 includes a tourist home but does not include a boarding house, rooming house, domiciliary hostel, group home, hotel, motel, restaurant or lounge.

BLOCK - means any unit of land consisting of a grouping of lots bounded on all sides by watercourses, streets or large land boundaries or as otherwise defined by the municipality.

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.

BUILDING HEIGHT - means the vertical distance measured from the averaged finished grade to the highest point of roof surface.

BUILDING LINE - means any line defining the position of a building or structure on a lot.

BUILDING SETBACK - means the distance between the street line and the nearest main wall of any building or structure, except fences, and extending the full width of the 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.

COASTAL AREA - means all the land, including surface water bodies, streams, rivers, and off-shore islands in the province, lying within 500 metres inland and seaward of the high water mark of all coastal and tidal waters.

COUNCIL - means the Council for the Municipality of Malpeque Bay.

DEMOLITION - means to remove, pull down or destroy a structure.

DEVELOPER - means any person who is responsible for any undertaking that requires a development permit, subdivision approval or consolidation approval.

DEVELOPMENT OFFICER

DEVELOPMENT - means the carrying out of any building, engineering, excavation, dumping, filling or other operations in, on, over or under land, or the making of any material change in the use, or the intensity of use of any land, buildings, or premises without limiting the generality of the foregoing.

DEVELOPMENT PERMIT - means the formal and written authorization for a person to carry out any development.

DWELLING - means a building or portion thereof designated or used for residential occupancy, but does not include hotels and motels.

"**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 for the exclusive use of such individuals, with a private entrance from outside of the building or from a common hallway or stairway inside the building .

"**Duplex Dwelling**" - a building that is divided horizontally into two dwellings, each with their own outdoor entrance.

"**Multiple Unit Dwelling**" - means a building containing three or more dwelling units.

"**Single Family Dwelling**" - means a building designed or used for occupancy as one dwelling unit, except where an *accessory apartment* is also allowed in the same building, and shall include *modular homes*.

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.

FAMILY - means an individual residing in one (1) dwelling unit, or a group of persons related by marriage, cohabitation, blood or adoption residing together in one (1) dwelling unit and includes domestic servants, non-paying guests and foster children, and not more than two (2) roomers or boarders living in the dwelling unit.

FARMING - means the outdoor cultivation of agricultural products, and the raising of farm livestock.

FARM or FARM PROPERTY - means land comprising an area of 1.2 hectares or more, including any complementary buildings, utilized for the purpose of sowing, cultivation and harvesting of crops, rearing of livestock or production of raw dairy products, and may comprise a lesser area when operated as a farm enterprise by a *bona fide* farmer as defined in the Real Property Assessment Act, R.S.P.E.I. 1988, Cap. R-4.

FARM ENTERPRISE - for the purposes of these regulations has the same meaning as set out 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 the use of land for the growing, conservation, or harvesting of trees, but shall not include the processing or manufacturing of wood products.

FRONTAGE - means the horizontal distance between the side lot lines bordering on a street and according to the direction of the front of the dwelling or structure.

GRADE - means the highest among the average, finished ground levels around each respective *main wall* of a building, excluding consideration of local depressions on the ground, such as for vehicle or pedestrian entrances.

HEAVY INDUSTRY - means a building used for the processing of products predominantly derived from extracted or raw materials, such as feed, fertilizer and gravel plants, potato processors, pulp mills and sawmills, including industries which for application purposes under this Bylaw may be considered an *obnoxious use*.

HIGHWAY, ROAD or STREET - 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 or the municipality 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.

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:

- (a) cemeteries
- (b) churches, places of worship and religious institutions
- (c) colleges, universities and non-commercial schools
- (d) community centres
- (e) golf courses
- (f) government offices
- (g) senior citizens homes, community care facilities, and nursing homes
- (h) clinics and hospitals
- (i) libraries, museums and art galleries
- (j) public and private parks
- (k) public and private recreational centres
- (l) public and private schools
- (m) experimental farms
- (n) child care facilities.

INTENSIFICATION - means the development of a property or site at a higher density than previously existed and includes redevelopment or development within existing communities, infill development, or development on vacant lots or underdeveloped lots within a built-up area, conversion or the change of use an existing structure or land use, and the creation of apartments or other accommodation in houses.

INTENSIVE AGRICULTURAL USE - see *agricultural use*

LANDSCAPING - means all the elements of a *lot* or site *development* other than the building or buildings, and may include vehicle and pedestrian facilities, grass and other ground cover, flower beds, shrubbery, trees, hedges, berms, fences and retaining structures, off-street lighting devices, forms of natural landscaping, and various combinations thereof.

LOT or PROPERTY - means any parcel of land described in a deed or as shown in a registered subdivision plan.

"**Lot Area**" - means the total area included within the lot lines.

"**Corner Lot**" - means a lot situated at an intersection of and abutting on two or more street.

"**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.

"**Lot Depth**" - means the depth from the front lot line to the rear lot line.

"**Lot Line**" - means any boundary of a lot.

"**Rear Lot Line**" - means the lot line further from and opposite to the front lot line.

"**Side Lot Line**" - means a lot line other than a front, rear or flankage lot line.

"**Through Lot**" - means a lot bounded on two opposite sides by streets.

LOT CONSOLIDATION - means the legal incorporation of two or more existing parcels of land to form a single, larger parcel.

MAIN BUILDING - means that building in which is carried on the principal purpose or purposes for which the lot is used, the nature of the use of which determines the status of the lot upon which it is authorized to be constructed or upon which it is constructed.

MAJOR DEVELOPMENT - means any *development* that will have a major impact on the Municipality as a whole or any part thereof including, but so as not to limit the foregoing, any major impact on municipal services, transportation, tax rates, retail outlets, institutions and residential expansion.

MINI-HOME - means a premanufactured dwelling unit having an average width of less than six (6) metres (20 ft), not including entries, porches or other appurtenances.

MOBILE HOME - means a transportable dwelling unit suitable for permanent occupancy, designed to be transported with or without its own wheeled chassis and may include a premanufactured dwelling unit commonly referred to as a “mini-home”.

MODULAR HOME - means a premanufactured dwelling unit having an average width of six (6) metres or more, not including appurtenances such as porches, entries, etc.

OBNOXIOUS USE - means any use of a building or land which, because of its nature, may potentially:

- (a) create a serious nuisance;
- (b) be offensive by the creation of noise or vibration or by reason of the emission of gases, fumes, dust, and any objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other materials; or
- (c) constitute a significant environmental hazard to public health or to the natural environment.

OFFICIAL PLAN - means the Municipality of Malpeque Bay’s Official Plan as adopted by *Council*.

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 drive-ways, off-street parking, or loading spaces.

OPEN STORAGE - means the outdoor storage of merchandise, goods or inventory of any kind, materials, equipment, or other items not intended for immediate sale.

PARKING SPACE - means an area of land which is suitable for the parking of a vehicle, not less than three metres (10 ft) wide and six metres (20 ft) long, accessible to vehicles without the need to move other vehicles on adjacent areas.

PERSON - means an individual, association, corporation, contractor, commission, public utility, firm, partnership, trust, heirs, executors or other legal representatives of a person, or organization of any kind, including both principal and agent in an agency situation.

PERSONAL SERVICE SHOP - means a building in which persons are employed in furnishing services and otherwise administering to the individual and personal needs of persons. (including but not limited to: barbershop, hairdressing shops, beauty parlours, shoe repair, laundromats, tailoring, dry-cleaning, etc.)

PHASE - means to develop a parcel of land over time in a series of prescribed stages; or one of such stages.

PLANNING BOARD - means the Planning Board of the Municipality of Malpeque Bay appointed by Council.

PROVINCE - means the Province of Prince Edward Island.

PUBLIC PARK or PARKLAND - means land owned by the Municipality or some other level of government used or intended for use by members of the public.

RECREATIONAL TRAILER or VEHICLE - means a vehicle which provides sleeping and other facilities for short periods of time, while travelling 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.

RESOURCE USES - means any uses involving the processing or storing of natural resource materials including but not limited to agricultural, forestry, fishing and mining resources and shall include the production of agricultural products and the keeping of farm animals, but shall not include related industrial uses such as processing plants.

RESTAURANT - means buildings or structures or part thereof where food and drink is prepared and offered for sale to the public.

RETAIL STORE - means a building or part thereof in which foods, goods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public at retail.

SERVICE SHOP - means a building or part thereof used for the sale and repair of household articles and shall include electronic and appliance repair shops but shall not include industrial, manufacturing or motor vehicle body repair shops.

SEWERAGE SYSTEM - means a system of pipes for the disposal of sewage controlled by a utility.

SIGN - means any display or lettering, logos, lights, or illuminated neon tubes visible to the public from outside or a building or from a travelled way, which either conveys a message to the public, or intends to advertise, direct, invite, announce, or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, excluding window displays and merchandise.

“Billboard Sign” - means a free-standing sign larger than 4.6 square metres (50 sq. ft.) in gross area, or a wall sign covering more than 10 percent of the wall area to which it is affixed.

“Community Identification Sign” - means a sign identifying a municipality or neighbourhood.

“Fascia Sign” - means a sign mounted on the exterior wall surface of a building.

“Free Standing Sign” - means a self-supporting sign not attached to any building, wall or fence, but in a fixed location. This does not include portable or trailer type signs.

“Mobile Sign” - means a portable sign designed and intended to be moved from one site to another and is not permanently affixed to the ground or a building but shall not include the side, body, or trailer of a commercial motor vehicle.

“Off-premise Sign” - means any sign which is not on the premises or parcel of land on which the business is situated.

“Political Sign” - means a sign promoting a candidate or political party in support of an election.

“Premise Sign” - means a sign that directs attention to a business, commodity, service, industry, or other activity, which is sold, offered, or conducted on the lot upon which such sign is located, or to which it is affixed.

“Projecting Sign” - means a sign that projects from and is supported by the wall of a building.

“Roof Sign” - means a sign which is located above, or projects above, the lowest point of the eaves of the top of the parapet wall of any building, or which is painted on or fastened to a roof.

Sandwich Sign” - means a self-supporting, two sided, A-frame style sign that is not affixed to the ground.

“Temporary Sign” - means a sign intended to be used for a period of no more than 30 days.

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.

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 feet) 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 feet) in height shall be deemed an additional storey.

STREET or ROAD - see *Highway*

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.

SUBDIVISION - means a division, consolidation, or other reconfiguration of *lots*.

SURVEY PLAN - means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island land surveyor.

TOURIST ESTABLISHMENT - means a dwelling in which is operated the seasonal business of providing or offering overnight accommodation for transient guests for compensation.

MUNICIPALITY or Community- means the area incorporated and known as the Community of Malpeque Bay.

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.

VEHICLE - means any motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.

WATERCOURSE - means the full length and width, including the sediment bed, bank and shore, of any stream, spring, creek, brook, river, lake, pond, bay, estuary, or coast water body or any part thereof, whether the same contains water or not, but does not include (i) a grassed waterway, or (ii) a tap drain, unless a watercourse has been diverted into the tap drain.

WETLAND - means lands commonly referred to as marshes, saltmarshes, swamps, bogs, flats and shallow water areas that are saturated with water long enough to promote wetland or aquatic biological processes which are indicated by poorly drained soil, water-tolerant vegetation, and biological activities adapted to a wet environment.

YARD - means an open, uncovered space on a lot appurtenant to a building and unoccupied by buildings or structures except as specifically permitted in this Bylaw and

"Front Yard" - means a yard extending fully across a lot between the *front lot line* and the nearest point of the *main wall* of any *main building* on the lot. The 'minimum front yard' is measured at the minimum yard depth as required under this Bylaw.

"Rear Yard" - means a yard extending fully across a lot between the *rear lot line* and the nearest point of the *main wall* of any *main building* on the lot. The 'minimum rear yard' is measured at the minimum yard depth as required under this Bylaw.

"Side Yard" - means a yard extending between the *front* and *rear yards* and the nearest point of the *main wall* of any *main building* on the lot. The 'minimum side yard' is measured at the minimum yard depth as required under this Bylaw.

"Flankage Yard" or **"Flanking Yard"** - means the side yard of a *corner lot* extending from the *front yard* to the *rear yard* and between the *flanking lot line* and the nearest point on the *main wall* of any *main building* on the lot. The 'minimum flankage yard' is measured at the minimum yard depth as required under this Bylaw. Where a minimum flankage yard is not separately specified, the 'minimum side yard' shall also apply to a flankage yard.

ZONE - means a designated area of land shown on the zoning map of the Bylaw within which land uses are restricted to those specified by this Bylaw.

CHAPTER 3 ADMINISTRATION

3.1 Development Approval

- (1) No person shall:
 - (a) change the use of a parcel of land or a structure;
 - (b) commence any Development;
 - (c) construct or replace any structure;
 - (d) make 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; or
 - (l) construct a fence over 1.2 metres (4 ft.) high.

without first applying for, and receiving a permit from Council.

3.2 No Development Permit Required

- (1) Unless otherwise specified, no development permit shall be required for:
 - (a) laying paving materials for patios or sidewalks or constructing a deck less than 2 feet above ground;
 - (b) constructing fences of less than 4 feet in height;
 - (c) installing clotheslines, poles, and radio or television antennae;
 - (d) making a garden;
 - (e) growing a crop or preparing land for a crop;
 - (f) making landscaping improvements or constructing ornamental structures of less than 64 sq. ft.;
 - (g) conducting routine maintenance which has the effect of maintaining or restoring a structure or any of its elements to its original state or condition;
 - (h) 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
- (i) public and private utilities located within the street right-of-way;
- although the applicable requirements of this bylaw must still be met.

3.3 Permit Application

- (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 property owner or the property owner's authorized agent, and shall be accompanied by an application fee in accordance with the fee schedule established by Council.

3.4 Payment Of Fees

Notwithstanding any section of this 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 acquired by the developer.

3.5 Development Permit

- (1) A development permit shall be valid for a twelve-month period, or such additional time as may be authorized by Council.
- (2) Council may revoke a development permit where information provided on the application is found to be inaccurate.

3.6 Site Plan

Council 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.

3.7 Conditions On Permits

Council or the Development Officer shall have the authority to impose conditions on a permit subject to such conditions being directly related to or consistent with bylaws of the Municipality or the Official Plan.

3.8 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 building permit. Failure to comply with a Development Agreement shall constitute an offense under this Bylaw.

3.9 Other Information

- (1) Council may require an applicant to submit any additional information related to the development, which it deems pertinent, including but not limited to the following:
 - (a) parking lot layout and internal circulation patterns;
 - (b) location of garbage containers and description of any screening or fencing;
 - (c) storm water management plan;
 - (d) location of open space and amenity areas;
 - (e) landscaping plan;
 - (f) buffer zones adjacent to wetland areas or watercourses; or buffer zones adjacent to differing land uses;
 - (g) existing vegetation;
 - (h) easements;
 - (i) proposed storage areas and description of any screening or fencing;
 - (j) traffic impact studies.

3.10 Authorization For Inspection

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 Municipality for the purpose of ensuring compliance with the provisions of this Bylaw.

3.11 Permits Posted

All permits shall be posted by the developer on the subject property.

3.12 Moving Of Buildings

No building shall be moved within or into the area covered by this Bylaw without a development permit and such other permits as may be required by law.

3.13 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.

3.14 Denying Permits

- (1) No development permit shall be issued if 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.

- (2) No development permit shall be issued if the proposed development could create a health, fire or accident hazard or increase the likelihood of the existence of rodents, vermin, or other pests.

3.15 Development Restrictions

- (1) Council shall not issue a development permit for a development if, in the opinion of Council:
 - (a) the proposed development does not conform to this Bylaw;
 - (b) the method of water supply is not appropriate;
 - (c) the method of sanitary waste disposal is not appropriate;
 - (d) there is not a safe and efficient access to the public highway, street, or road;
 - (e) the impact of the proposed development would be detrimental to the environment;
 - (f) the proposed development would create unsafe traffic conditions;
 - (g) the proposed development would significantly or permanently injure neighbouring properties; or,
 - (h) the proposed development would be detrimental to the convenience, health, or safety of residents in the vicinity or the general public.

3.16 Surveys Required

Where Council or a Development Officer is unable to determine whether the proposed development conforms to this Bylaw and other bylaws and regulations in force which affect the proposed development, Council may require that the plans submitted under this section be based upon an actual survey by a licensed Prince Edward Island Land Surveyor.

3.17 Construction Plans

Council may require the applicant to submit a construction plan for the development addressing such details as construction phasing, stockpiling of soil, temporary screening or fencing, erosion or run-off control measures, heavy truck access and any other item which could in the opinion of Council present a nuisance or hazard during construction.

3.18 National Building Code

- (1) Where a commercial building, industrial building, or apartment building with more than 12 units falls under the scope of Part 3 of the National Building code (1995 Edition as amended from time to time), it shall be designed by a registered professional architect and/or engineer licensed to practice in P.E.I. to meet the requirements of the National Building Code (as amended from time to time).

- (2) Where a building is required to be designed by a registered professional architect and/or engineer, the architect and/or engineer shall submit a building code design certificate(s) certifying that the building has been designed to meet the requirements of the National Building Code (as amended from time to time).
- (3) Where a building has been designed by a registered professional architect and/or engineer, the architect and/or engineer shall submit a certificate(s) of compliance certifying that the building has been constructed in accordance with their design and in accordance with the requirements of the National Building Code (as amended from time to time). The building shall not be occupied until the certificate of compliance has been submitted to the satisfaction of the Municipality.

3.19 Certificate Of Compliance

As a condition of any development permit Council may require that any applicant shall not use or occupy, or being the owner thereof, shall not permit any building or premises, or part thereof, to be used or occupied after it has been erected, altered, placed or reconstructed until there has been issued to the owner an official certificate of compliance certifying that the building or premises or part thereof conform to the provisions of this Bylaw and any conditions noted on the development permit or the development agreement.

3.20 Fire Marshal Approval

- (1) Applications must be approved by the provincial fire marshal's office prior to the permit being issued for the following types of developments:
 - (a) Commercial
 - (b) Industrial
 - (c) Apartments
 - (d) Institutional
 - (e) Garden Suites

3.21 Appeals

- (1) Any person who is dissatisfied by a decision of Council in respect to the administration of regulations or bylaws made pursuant to the powers conferred by the *Planning Act* may, within twenty-one (21) days of the decision, appeal to the Island Regulatory and Appeals Commission.
- (2) Notwithstanding subsection (1) above, no appeals may be filed regarding a decision of Council respecting the final approval of a subdivision where the grounds for the appeal are matters that could have been heard and determined at the stage of preliminary approval of the subdivision.
- (3) A notice of appeal to the Commission under subsection (1) shall be in writing and shall state the grounds for the appeal and the relief sought.

- (4) The appellant shall, within seven (7) days of filing an appeal with the Commission, serve a copy of the notice of appeal on the Council.

3.22 Minor Variance

- (1) Council may authorize a minor variance not exceeding 10% from the provisions of this Bylaw if the variance is desirable and appropriate, and if the general intent and purpose of this Bylaw is maintained.
- (2) 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 Bylaw standards.
 - (b) That strict application of all 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.
 - (d) That the proposed variance would not impact unduly on the enjoyment of adjacent properties, or on the essential character of the surrounding neighbourhood.
- (3) Authorization for a minor variance shall be documented and recorded in writing.
- (4) No variance shall be granted where the difficulty experienced is the result of intentional or negligent conduct of the applicant or the owner, or where the difficulty cannot be remedied reasonably in some other manner.
- (5) Notwithstanding any other section of this Bylaw, Council may, authorize variances in excess of ten (10%) percent variance from the provisions of this Bylaw if Council deems such a variance desirable and appropriate and if such variance is in keeping with the general intent and purpose of this Bylaw.
- (6) Where Council deems that a variance application could have a significant effect on adjacent properties or properties in the general vicinity, Council may require that a public meeting be held pursuant to the provisions of section X.

3.23 Zoning And Official Plan Amendments

3.23.1 Amendment Applications

- (1) A change to either the text or the zoning map of this Bylaw shall be considered a zoning amendment and must be consistent with Official Plan policies.
- (2) Council may amend an Official Plan policy to enable a zoning amendment, including policy statements and/or the general land use plan, but any such Official Plan amendment shall precede the zoning amendment.
- (3) A person who seeks an amendment to this Bylaw or the Official Plan shall address a written and signed application to Council.
- (4) 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;
 - (b) substantiation of marketing and financial feasibility; and
 - (c) assessment of any potentially significant development impacts on infrastructure and the natural environment.
- (5) The applicant shall at the time of submitting the application, deposit with the Municipality the application fee and any other required fees in accordance with a fee schedule which the Council shall establish.

3.23.2 Amendment Procedures

- (1) Planning Board shall review each amendment request and provide recommendations to Council.
- (2) Planning Board and Council shall consider the following general criteria when reviewing applications for zoning amendments, as applicable:
 - (a) Conformity with all requirements of this 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 projected uses.
 - (e) Any comments from residents or other interested persons.
 - (f) Adequacy of existing water, sewer, road, storm water and electrical services, and parklands 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 heritage resources.
 - (i) Impact on municipal finances and budgets.
 - (j) Other matters as specified in this Bylaw.
 - (k) Other matters as considered relevant.
- (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. Should Council not proceed with a public meeting, the application fee as per section X shall be returned to the applicant.
 - (4) Subject to section X Council shall hold a public meeting to solicit input from residents on the proposed amendment request. At least 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 on the Municipal website and in a newspaper circulating in the area;
 - (b) written notice to all property owners wholly or partially within 150 metres (492 feet) of the boundaries of the subject property; and
 - (c) placing a sign on the land being proposed for rezoning indicating that a rezoning request has been received.
 - (5) Following the public meeting, Council shall formulate a decision 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 and the applicant shall be notified in writing of the decision.
 - (6) Nothing in this Bylaw restricts the right of Planning Board or Council to initiate its own amendment requests.
 - (7) Related Official Plan and zoning amendments may be considered concurrently by 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 in compliance with section X (amendment procedures)
 - (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.

3.23.3 Zoning And General Land Use Map Revisions

- (1) Provided that there is no inconsistency with Official Plan policies, Council or the Development Officer may make technical revisions to the zoning map and/or the general land use map in the Official Plan for purposes of:

- (a) better reflecting detailed topographical or legal conditions; or
 - (b) ensuring that the zoning map and the general land use map are concurrent.
- (2) The Development Officer shall advise Council of all technical revisions made and, at his/her discretion, may refer a proposed technical revision to Council to determine its consistency with Official Plan policies.

3.24 General Provisions For Subdividing Land

3.24.1 Subdivision Approval

No person shall subdivide one or more lots or any portion of a lot and no person shall consolidate two or more parcels of land until the conditions of this Bylaw have been complied with and the applicant has received final approval from the Development Officer or Council, as applicable.

3.24.2 Conveying Interest in a Lot

No person shall sell or convey any interest in a lot in a subdivision before Council has issued a stamp of approval for the subdivision in which the lot is situated.

3.24.3 Permission to Subdivide

- (1) No land shall be subdivided within the Municipality unless the subdivision:
- (a) conforms with the requirements of this Bylaw;
 - (b) is suitable to the topography, physical conditions, soil characteristics, and natural and surface drainage of the land;
 - (c) will not cause undue flooding or erosion;
 - (d) has convenient street or road access;
 - (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 and convenient 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; and,
- (j) the parcel of land in respect of which the permit is requested has frontage on a public road or a private right-of-way established pursuant to section X of this Bylaw.

3.24.4 Changes to Existing Lots

- (1) No person shall reduce the dimensions or change the use of any lot in an approved subdivision where Council 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, Council shall notify all property owners within 150 metres (492 feet) of the boundaries of the lot in writing, informing them of the details of the application and soliciting their comments.

3.24.5 Subdivision Procedure

- (1) Any person seeking Council's approval of a subdivision shall first make application for preliminary approval, and shall be required to submit, along with the application in the form approved by Council, five (5) 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 or roads;
 - (e) location of land proposed for recreation and public open space use; and
 - (f) the existing use of the land and all immediately adjacent properties, showing buildings, fields, streams, wetlands, rivers, swamps, wooded areas and areas subject to flooding or erosion.

- (2) Council may also require the applicant to provide additional information required to assist it in evaluating a proposed subdivision, including, but not limited to:
 - (a) a soil test conducted in a manner acceptable to Council;
 - (b) contours and spot elevations;
 - (c) traffic surveys.
- (3) Council may refuse to approve a subdivision which is unsuitable under the provisions of this Bylaw. In formulating its decision, Council may consult with Government officials and private consultants and may conduct a public hearing to consider public opinion, in accordance with the procedures established in section X (Amendment Procedures)
- (4) Council 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. Council may consider preservation of scenic views and vistas as part of subdivision design.
- (5) Approval in principle for any proposed subdivision shall not be construed as final approval of such subdivision for legal conveyance or for land registration purposes.
- (6) Approval in principle shall be effective for a period of 12 months, or such additional time as may be authorized by Council.

3.24.6 Servicing

All land will be serviced in compliance with provincial regulations and with the provisions of this bylaw.

Council may require that new subdivisions be provided with central water and/ or sewer systems as a condition of subdivision approval.

3.24.7 Subdivision Agreement

- (1) Council may require an applicant to enter into a subdivision agreement as a condition of subdivision approval. The subdivision agreement may cover any matters as required by Council and may include, but not be limited to the following:
 - (a) the design and construction costs of pathways, sidewalks, water supply, sanitary and storm sewers, roads, and street lighting;

- (b) the dedication of land for recreation and public open space purposes, including possible preservation of scenic views and vistas , 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;
- (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.

3.24.8 Final Approval

- (1) Final subdivision approval shall be granted by the Municipality only after the applicant has:
 - (a) complied fully with all applicable requirements of this section and any subdivision agreement between the applicant and the Municipality;
 - (b) submitted seven (7) copies of a final survey plan showing all lots pinned and certified by a surveyor registered to practice in the province;
 - (c) completed an agreement with the provincial Department of Transportation and Infrastructure Renewal respecting road construction and the roads have been accepted as public;
- (2) The Municipality may grant final approval to part of a subdivision which is proposed to be developed in phases.
- (3) The Municipality shall give notice of final approval of a subdivision in writing, and shall place its seal on the seven copies of the survey plan and shall return one copy to the subdivider.
- (4) The Municipality shall file copies of the final survey plan with:

- (a) the Registrar of Deeds
- (b) the Dept. of Transportation and Infrastructure Renewal
- (c) Council files
- (d) local utilities, as required.

3.24.9 Severances/Consolidation

Notwithstanding the above provisions, Council may approve applications for single lot subdivisions, partial lots or easements and lot consolidations 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 Bylaw.

3.24.10 Building Permits

A building permit shall not be issued in a subdivision until all the requirements of the subdivision approval and of this Bylaw have been fulfilled.

3.24.11 Rescinding or Altering Approval

- (1) An existing approved subdivision or portion thereof may be rescinded or altered by the 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.

3.25 Penalties

- (1) A person who violates any provision of this Bylaw is guilty of an offence and liable on summary conviction.
 - (a) In the case of a first or subsequent offence, to
 - (i) In the case of a first or subsequent offence, to a fine not exceeding one thousand (\$1,000.00) dollars in each case together with the cost of prosecution and in default of payment of the fine and costs, to imprisonment for a terms not exceeding three (3) months, unless the fine and costs of enforcing the same, are sooner paid.
 - (ii) Where the offence is a continuing offence, to a fine not exceeding two hundred (\$200.00) dollars for every day the said offence continues, together with the cost of prosecution, and in default of

payment of the fine or costs, to imprisonment not exceeding three (3) months, unless the fine and costs of prosecution are paid within the time provided by the court.

(iii) The Judge presiding on any prosecution under this Bylaw may fix the costs of prosecution to be paid by the person found guilty hereunder.

(iiii) The provisions of this Bylaw may be enforced by Council via injunction.

3.26 Repeal

3.26.1 Effective Date

This Bylaw shall come into force effective

_____.

3.26.2 Repeal

Any prior zoning and development bylaws covering the Municipality of Malpeque Bay or the Communities comprising the current Municipality of Malpeque Bay are hereby repealed.

4.1 Zones and Zoning Map (General Development Standards for all Zones)

For the purpose of this Bylaw, the Municipality is divided into the following development zones, the boundaries of which are subject to section 4.1.1 as shown in Appendix "A" on the zoning map. Such zones may be referred to by the appropriate symbols.

Residential Zone	R
Parks and Recreation Zone	P
Agricultural Zone	A
Coastal Zone	C

4.1.1 Interpretation of Zone Boundaries

(1) Boundaries between zones as indicated in Appendix "A" shall be determined as follows:

- (a) Where a zone boundary is indicated as following a street, road or highway, the boundary shall be the centre line of such street, road or highway.
- (b) Where a zone boundary is indicated as following lot or property lines, the boundary shall be such lot or property lines.
- (c) Where a zone boundary is indicated as following the limits of the Municipality, the limits shall be the boundary.
- (d) Where none of the above provisions apply, the zone boundary shall be scaled from the original zoning map lodged with the municipality.

4.1.2 Development Zones

- (1) Subject to Regulation 4.1.2(2), the permitted uses, special permit uses, standards, requirements and conditions applicable to each Development Zone are set out in the Development Zone Tables in this Part of these Regulations.
- (2) Where standards, requirements and conditions applicable in a Development Zone are not set out in the Development Zone Tables, Council may in its discretion, determine the standards, requirements and conditions which shall apply.

4.1.3 Permitted Uses

Subject to these Regulations, the uses that fall within the Permitted Uses set out in the appropriate Use Zone Table shall be permitted by Council in that Development Zone.

4.1.4 Special Permit Uses

Subject to these Regulations, the uses that fall within the Special Permit Uses set out in the appropriate Use Zone Table may be permitted in that Use Zone if Council is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Official Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest, and if Council has given notice of the application in accordance with

Regulation XX and has considered any objections or representations which may have been received on the matter.

4.1.5 Uses Not Permitted

Uses that do not fall within the Permitted Uses or Special Permit Uses set out in the appropriate Use Zone Tables shall not be permitted in that Use Zone.

4.2 General Development Standards for All Zones

4.2.1 Accessibility

Council may, as a condition of granting a development permit, 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.

Accessory Structures

4.2.2 Bed and Breakfast

Bed and breakfast establishments shall be permitted to operate in any single family residence in any 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 Bylaw, separate from that required for the dwelling, shall be provided;
- (4) premise signs shall be restricted to a maximum of 0.3 square metres (465 square inches);
- (5) there shall be no other signage, open storage or visible display area.

4.2.3 Buffering

- (1) The provision and maintenance of adequate landscape buffering and/or appropriate fencing shall be required to the satisfaction of the Council between any possible conflicting land uses including new development and an existing agricultural use, and between residential uses and new commercial, industrial or other land uses characterized by significant traffic generation, the heavy use of trucks, noise, outdoor storage, congregations of people or other factors that may adversely affect adjacent residential amenity;
- (2) The provision and maintenance of adequate landscaping shall be required for new development to the satisfaction of the Municipality.

- (3) Where a non residential use abuts a Residential Zone/ use along a side and/or rear lot line, a strip of not less than 4.5 m in width along the said side and/or rear lot shall be landscaped to the satisfaction of the municipality as part of the development for which a building permit has been granted.

4.2.4 Building To Be Erected On A Lot

No building shall be erected or used unless it is erected on a single lot.

4.2.5 Driveway Access

- (1) Where an entranceway permit is required under the *Roads Act Highway Access Regulations*, its issuance shall be a precondition of the approval of a subdivision or development permit.
- (2) No person shall construct or use any access driveway except where that access driveway meets the minimum sight distance standards as established under the *Planning Act*, the *Roads Act*, or any successor act.

4.2.6 Frontage On A Street

- (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 public street or road.

4.2.7 Grade Of Site

No permanent building shall be erected or placed without first providing existing and proposed grade elevations relative to the adjoining property, as well as showing the pattern and allowing for surface water run off on the lot so as not to cause damage or water run off onto adjacent lots.

4.2.8 Height Restriction Exemption

- (1) Any maximum height requirement set out in this Bylaw shall not apply to church spires, lightning rods, water tanks, monuments, elevator enclosures, silos, flag poles, lighting standards, television or radio antennae, telecommunications towers, ventilators, skylights, barns, fire towers, drive-in theatre screens, chimneys, clock towers, solar collectors, power transmission towers, roof top cupola, wind power generators, or utility poles.

4.2.9 Home Office Uses

Where a property is used for domestic and household arts, or business and professional offices in any zone permitting residential use, the following shall apply:

- (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 business use.
- (2) there shall be no more than two non-resident assistants employed in the business or profession or the domestic and household arts carried on.

- (3) not more than 25% of the total floor area of the dwelling shall be occupied by the business or profession or domestic and household arts use.
- (4) adequate off-street parking, in accordance with this Bylaw, separate from that required for the dwelling, shall be provided.
- (5) there shall be no open storage or display area.
- (6) domestic and household arts shall include:
 - (a) Dressmaking and tailoring
 - (b) Hairdressing
 - (c) Instruction in the arts (music, dance, etc.)
 - (d) Arts and crafts, weaving, painting, sculpture, and repair of small items or of garden or household ornaments, personal effects or toys.
- (7) premise signs shall be restricted to a maximum of 0.3 square metres (465 sq. in.)
- (8) Business and professional uses shall be limited to activities which in the opinion of Council would not create a residential nuisance due to issues such as traffic generation, noise or hours of operation.

4.2.10 Illumination

No person shall erect a sign with lights external to the sign itself or illuminate an area outside any building or structure unless the illumination is directed away from adjoining properties and any adjacent street.

4.2.11 Licenses, Permits And Compliance With Other Bylaws

- (1) Nothing in this Bylaw shall exempt any person from complying with the requirements of any other Bylaw of the municipality or from obtaining any license, permission, authority, or approval required by any other Bylaw of the municipality or any legislation or regulation of the Province of Prince Edward Island or the Government of Canada.
- (2) Where the provisions of this Bylaw conflict with those of any other Bylaw of the municipality or regulation of the Province or the Government of Canada, the higher or more stringent provision shall prevail.

4.2.12 Lot Frontage

- (1) If a parcel of land in any zone is of such configuration that it cannot reasonably be subdivided in such a way to provide the required minimum frontage on a street or road, the Council may approve a reduced frontage, provided that the lot width at the front Building Line measures at least as much as the minimum lot frontage for the zone.

- (2) In any zone, lots designed with a reduced frontage along a bend in a street, road or facing a cul-de-sac, may be approved by the Municipality if in the opinion of the Municipality adequate and safe access is provided and if the lot width at the front Building Line measures at least as much as the minimum lot frontage for the zone.

4.2.13 Main Building

Except in the Residential Zone, more than one (1) main building may be placed on a lot in any zone, provided all other provisions of this Bylaw are met.

4.2.14 Maximum Lot Coverage

Maximum lot coverage shall be determined as the percentage of the lot covered by the main building, attached or detached garage, and any accessory buildings or decks.

4.2.15 Mixed Use

Where any land or building is used for more than one (1) purpose, all provisions of this Bylaw relating to each use shall be satisfied. Where there is a conflict, such as in the case of lot size or frontage, the standards that apply to the most dominant use shall prevail.

4.2.16 Mobile Homes

A Mobile Home may be permitted as an accessory use on a farm property, provided that the additional dwelling use shall have the same yard requirements and shall use the same driveway or entrance as the principal dwelling on the lot.

4.2.17 Non-Conforming Buildings

- (1) Where a building has been erected on or before the effective date of this Bylaw on a lot having less than the minimum frontage or area, or having less than the minimum setback or side yard or rear yard required by this Bylaw, the building may be enlarged, reconstructed, repaired or renovated provided that:
- (a) the enlargement, reconstruction, repair or renovation does not further reduce the front yard or side yard or rear yard which does not conform to this bylaw; and,
 - (b) all other applicable provisions of this Bylaw are satisfied.

4.2.18 Non-Conforming Lots

- (1) Notwithstanding any other provisions of this Bylaw:
- (a) a vacant lot held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum width, depth or area required, 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 applicable provisions in this Bylaw are satisfied;

- (b) a lot containing a structure and held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum frontage, depth or area required by this Bylaw, may be used for a purpose permitted in the zone in which the lot is located, and a development permit may be issued provided that all other applicable provisions in this Bylaw are satisfied; and
- (c) no person who owns a lot held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum frontage, depth or area required by this Bylaw, shall be deprived of the ability to make reasonable use of the lot in accordance with the zone in which it is located, and where such a person makes application for a development permit, Council may:
 - (i) waive rear yard, front yard or side yard setback requirements to an extent that is reasonable and feasible and does not compromise safety, convenience or the aesthetic character of the area or neighbourhood and may issue a permit; or
 - (ii) apply procedures set out in this Bylaw for the handling of variances if the variance from the required rear yard, front yard or side yard setback is substantial.
- (2) Council may approve an increase in the area of any undersized lot notwithstanding that it may still have less than the minimum frontage, depth or area required by this bylaw, provided that this increase does not further reduce an adjacent lot, which may be below the standard set out in this Bylaw.

4.2.19 Non-Conforming Uses

- (1) Subject to the provisions of this Bylaw, a building or structure, or use of land, buildings or structures lawfully in existence on the effective date of approval of this Bylaw may continue to exist.
- (2) A building or structure shall be deemed to exist on the effective date of approval of this 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 six (6) months after the date of the issue of the permit and is completed in conformity with the permit;

- (3) No structural alterations that would increase the exterior dimensions, except as required by statute or bylaw, shall be made to a building or structure while a non-conforming use thereof is continued.
- (4) Notwithstanding subsection (3) above, nothing in this Bylaw shall apply to prevent the alteration and/or extension of a single family dwelling existing at the date of passing of this Bylaw in any non-residential zone provided that the number of dwelling units is not increased and provided further that such alteration does not contravene any of the provisions of this Bylaw for such use in an R (residential zone).
- (5) If a building which does not conform to provisions of this Bylaw is destroyed by a fire or otherwise to an extent of fifty percent (50%) 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 Bylaw, except if the building or repair work would not be detrimental, in the opinion of Council, to the convenience, health or safety of residents in the vicinity or the general public.
- (6) 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 Bylaw.
- (7) A non-conforming use of land, buildings or structures shall not be permitted if it has been discontinued for a period of twelve (12) months consecutively, and in such event, the land, building or structure shall not thereafter be used except in conformity with this Bylaw.
- (8) 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.
- (9) No increase in the area occupied by the non-conforming use shall occur while a non-conforming use is being continued.

4.2.20 Permitted Uses In All Zones

- (1) Notwithstanding anything else in this Bylaw, public utility buildings and structures and service facilities provided by the municipality such as, but not limited to, sewage treatment plants, pumping stations, transit transfer stations, public streets, 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 Council to be necessary and appropriate to the municipality shall be permitted in all zones.

PETROLEUM STORAGE

- (1) Underground gasoline storage facilities shall not be permitted in any residential zone.
- (2) The storage of gasoline on a residential lot shall be limited to 50 litres (13 gallons).

4.2.21 Public And Private Utilities

Notwithstanding anything else in this Bylaw, public and private utilities located within the street or road right-of-way or underground may be placed in any zone, and no development permit shall be required and no zone standards shall apply.

SETBACK FOR FLANKING YARD

- (1) Notwithstanding anything else in this Bylaw, on a corner lot in any zone, the minimum yard requirement for the flanking yard shall be the same as that required for the front yard.
- (2) No accessory building or structure shall be permitted within the flanking yard where there are adjacent buildings facing the flanking street.

4.34 SPECIAL REQUIREMENTS FOR SEMI-DETACHED, ROW OR TOWN HOUSE DWELLINGS

- (1) No semi-detached, row or town house dwelling shall be erected in a manner which will not permit subdivision into individual units pursuant to subsection (2).
- (2) Semi-detached and row or townhouse dwellings may be divided independently for individual sale and ownership provided that:
 - (a) A subdivision of the parcel of land has been approved by Council (such subdivision to provide for appropriate easements or common area to allow entry by an owner of any portion of the building to his back yard area);
 - (b) **the units must be separated from the basement floor to the underside of the roof by a vertical masonry fire wall built in accordance with applicable National Building and Fire Code regulations;**

- (c) a separate water and sewer service is provided for each unit in accordance with policies governing water supply and sewerage services for the Town;
- (d) a separate electrical service is provided for each unit;
- (e) a separate heating device is provided for each unit;
- (f) separate parking to be provided unless Council waives same;
- (g) a copy of the agreement made between the owners covering the following terms is approved by Council and registered on the title of each unit:
 - (i) common walls
 - (ii) maintenance
 - (iii) fire insurance
 - (iv) easements
 - (v) parking
 - (vi) snow removal and
 - (vii) any other items jointly owned or used.
- (h) Any other terms and conditions as shall be imposed by Council.

4.2.22 Side Yard Waiver

Notwithstanding anything else in this Bylaw, where buildings on adjacent lots share a common wall, the applicable side yard requirement will be zero along the common lot line.

4.2.23 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.

4.2.24 Temporary Uses, Buildings And Structures Permitted

- (1) Nothing in this Bylaw shall prevent 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 and the temporary use is discontinued and removed within 30 days following completion of the main construction project.
- (2) A building or structure may be erected, or an area of land used, for a special occasion or holiday provided that no such building or structure remain in place for more than 14 consecutive days after the close of the event.
- (3) No development permit shall be required for a temporary use.

4.2.25 Visibility At Street Intersections

On a corner lot, within a triangular area 20' (6 m) 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 two feet above grade of the abutting streets.

4.2.26 Viewscapes

Within any zone whether the use is permitted or requires a special permit, the following developments if proposed within the Viewscape shown on the Viewscape Map shall be subject to a Visual Impact Analysis before Council considers whether or not to approve the development:

- (a) Buildings;
- (b) Transmission lines;
- (c) Communication towers;
- (d) Wind turbines.

YARDS

- (e)
- (f) Except for accessory buildings, every part of any yard required by this Bylaw shall be open and unobstructed by any structure from the ground to the sky, subject to section 4.9.
- (g)

4.3 Agricultural Zone

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.

ZONE TITLE		AGRICULTURAL(A)
<p>PERMITTED USES – Agriculture, resource use and conservation (parks and open space). -Accessory buildings incidental to the main use of land -Accessory buildings for human habitation, in connection with farm operation -Excavation Pits -Single Family Dwellings -Farm Gate Outlets</p>		
<p>SPECIAL PERMIT USES Multi-unit residential, telecommunication towers / wind farms, industrial, resort / tourism, light industrial / commercial dwelling</p>		
STANDARDS		
Lot Area (min)	As per section 23.(1) of the Planning Act See Appendix C	
Frontage (min)	45 m (150 ft)	
Building Line Set Back (min)	15 m (50 ft)	
Side Yard width (min)	4.5 m (15 ft)	
Rear Yard (min)	7.5 m (25 ft)	
Height (max)	10.5 m (35 ft)	
Flanking Yard	15 m (50 ft)	
Provincial Minimum Lot Standards	See Appendix C	

4.3.1 Right to Farm

The Right to Farm is hereby recognized to exist within the municipality of Malpeque Bay. Agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odours, dust, and fumes associated with normally accepted agricultural practices. The benefits and protections of this by-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices, rules and regulations set aside to govern the agriculture industry within the province of Prince Edward Island.

4.3.2 Dwellings

Single family homes associated with farm operation are permitted.
 Multi-unit dwellings for the housing of farm workers are permitted.

4.3.3 Farm buildings

Farm buildings and incidental buildings are permitted.

Water and Sewage

All development must have its arrangements for water and sewage disposal approved by the Department of Environment, Energy and Forestry before the Municipality will consider issuing a development permit.

INTENSIVE LIVESTOCK OPERATIONS

- (1) For the purpose of this section “Intensive Livestock Operation” means a feedlot, piggery, dairy, fox ranch or similar operation, or a building used for the raising of poultry.
- (2) The following separation distances shall apply to all new Intensive Livestock Operations or extensions and to new residential development in the vicinity of an Intensive Livestock Operation:

Distance from any dwelling on an adjacent property	150 m (500 feet)
Distance from Public Road	45 m (150 feet)
Distance from any Domestic Well	150 m (500 feet)
Distance from any Lot Line	45 m (50 feet)
Distance from any watercourse or wetland	90 m (300 feet)

- (3) Where a new intensive livestock operation is proposed within 300 metres of an existing residential subdivision Council shall notify the property owners within 300 metres of the proposed operation and invite their comments.
- (4) 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.

- (5) Council may consult the Department of Agriculture for manure storage capacities and design standards and shall require the livestock operator to follow these capacity and design requirements.

EXCAVATION PITS

- (1) The following separation distances shall apply to all new excavation pits:

Distance from any residential property other than a residence occupied by the applicant	300 metres (1000 ft)
Setback from property boundary	8 metres (26 ft)
Distance from any church, school, hospital, cemetery, public hall, bathing beach, public park, or public playground	500 metres (1,640 ft)
Distance from a watercourse	50 metres (164 ft)
Distance from a highway	60 metres (197 ft)

- (2) The following conditions shall apply to all new excavation pits:
- (a) the location of a road from the excavation pit giving access to a highway shall not create a hazard to the public and the applicant shall obtain an access permit from the Provincial Department of Transportation;
 - (b) the application for an excavation pit shall include provisions to provide reasonable protection for people and livestock from the hazards created by the excavation pit;
 - (c) the application for an excavation pit shall include a plan for the restoration of the site to a condition suitable for agricultural, reforestation or other use acceptable to Council and Council may require the applicant to undertake to post a bond or other surety acceptable to the Municipality to cover the cost of carrying out the restoration plan;
 - (d) the application for an excavation pit shall include a soil erosion prevention plan;

- (e) no permit shall be issued where there would be any detrimental effect on the water-table or surface drainage patterns as a result of the excavation;
 - (f) no permit shall be issued where the operation of an excavation pit would create a conflict with existing land use, natural features or aesthetic quality of the surrounding area;
 - (g) no permit shall be issued for any period of time exceeding one year from the date of issue;
 - (h) other conditions as deemed necessary by Council to protect adjacent properties and natural features such as watercourses.
- (3) Operation of excavation pits:
- (a) No person shall, in operating an excavation pit, excavate below a gradient line which slopes downward from an adjacent property boundary at a slope of one unit vertical to one unit horizontal.
 - (b) The holder of a permit for an excavation pit shall ensure that the interior of the excavation pit is screened from view of every adjacent highway either by a growth of trees of sufficient density or by the creation of an earthen berm.
 - (c) The holder of a permit for an excavation pit shall control dust on the access road to the pit by means of an approved method.
 - (d) No more than 1/3 of the permitted pit area shall be in active excavation at any point in time.
 - (e) The holder of a permit for an excavation pit shall, before the pit become an abandoned pit, comply with all terms of the restoration plan submitted with the permit application and in any event slope all walls of the excavation pit to a run-rise ratio of at least three to one.

4.3.4 Subdivision

- (1) Within an Agricultural 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 January 25, 1989.

- (3) Any lots subdivided pursuant to this section shall conform to the lot requirements for the Agricultural Zone, the driveway access requirements of section 4, and all other relevant provisions of this Bylaw.
- (4) Within an Agricultural Zone:
 - (a) A residential subdivision shall not be permitted within 150 metres of an existing intensive livestock operation or 30 metres of any other agricultural operation.
 - (b) Where a residential subdivision is proposed, Council shall notify farmers within 300 metres and invite their comments.

4.4 Coastal Zone

To be completed

ZONE TITLE COASTAL (C)	
PERMITTED USES – Single family dwellings on lots greater than 3 acres, agricultural, resource, conservation (parks and open space) institutional.	
SPECIAL PERMIT USES – Light industrial/commercial, resort/tourism, industrial, multi-unit residential, wind turbines for personal needs.	
STANDARDS	
Lot Area (min)	1.2 ha (3 acres)
Frontage (min)	46 m (150 feet)
Building Line Set Back (min)	15 m
Side Yard width (min)	4.5 m
Rear Yard (min)	7.5 m
Lot Coverage (max)	30%
Height (max)	10.5 m
Flanking Yard (min)	15 m(50 ft)

All lots shall also conform to the Provincial Minimum Lot Standards as noted in Appendix C

CONDITIONS

Where a lot or parcel of land is developed for a potentially conflicting land use, and where the lot or parcel of land directly abuts a lot or parcel of land in or planned for residential use:

a) a strip of land not less than 15 ft. / 4.5 m. in width along the lot line adjacent to the residential lot or parcel of land 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 residential lot or parcel of land; and

c) outdoor storage shall be prohibited adjacent to a residential lot or parcel of land, unless it is hidden from view by means of a landscaped buffer, hedge of adequate size, or architectural screening, such as a wall, fence or other appropriate structure.

4.5 Residential Zone

ZONE TITLE	Residential (R)
PERMITTED USES – Single dwellings, multi-unit dwellings, home offices -Parks and Playgrounds, Accessory Buildings, Private Garages, -Small Scale Agricultural uses which in the opinion of Council do not represent a significant nuisance or health hazard to adjacent properties	
SPECIAL PERMIT USES – Wind Generators for personal use	
STANDARDS	
Lot Area (min)	As per section 23.(1) of the Planning Act See Appendix C
Lot Area (max)	1.214 ha (3.0 acres)
Frontage (min)	46 m (150 ft)
Building Line Set Back (min)	9 m
Side Yard width (min)	4.6 m
Rear Yard (min)	9 m
Lot Coverage (max)	30%
Height (max)	10.5 m

CONDITIONS

1. Parkland Dedication and/or Park Dedication Fee

- (1) Council may require, for the purpose of developing parkland, that up to 10% of the lands being subdivided be conveyed to the Municipality. The

physical condition and the location of parkland shall be determined by Council.

- (2) When a dedication of land is not deemed to be appropriate or the exercising of the full ten percent (10%) conveyance is not appropriate, Council may impose a minimum park dedication fee of five percent (5%) up to a maximum of ten percent (10%) of the fair market value of the subdivided lands, which sum shall be specifically designated for the purchase, development or maintenance of public parklands in the Municipality. It is understood that the park dedication fee shall be calculated on the appraised value of the subdivided land and shall not take into account value of structures on such lands. Council retains the right to use the services of qualified property appraiser to determine the appraised value of land.

2. Conservation Subdivision

- (1) Notwithstanding the provisions of this Bylaw, within an Agricultural, Coastal or Residential Zone, Council may grant approval of conservation subdivisions with reduced minimum lot standards where the following criteria have been met:
 - (a) The overall property to be subdivided is at least 6 hectares in size.
 - (b) At least 50% of the lands being subdivided is put aside in the form of an undivided permanent conservation zone to be deeded to the Municipality, an incorporated homeowners association or a recognized land trust or conservancy, and a maintenance fund is established to protect this conservation area.
 - (c) The conservation zone shall not include land with slopes exceeding 25%, land required for street rights-of-way, or lands under permanent easements prohibiting future development (including easements for drainage, access, and utilities).
 - (d) All undivided open space capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in form acceptable to the Municipality, and duly recorded with the Provincial Registry Office.
 - (e) At least twenty-five percent (25%) of the minimum required open space shall be suitable for active recreation purposes, but no more than fifty percent (50%) shall be utilized for that purpose, in order to preserve a reasonable proportion of natural areas on the site.

- (f) The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems, subject to approval by the provincial Department of Environment. However, “mound” systems protruding above grade and aerated sewage treatment ponds shall be limited to no more than ten percent of the required minimum open space.
- (g) A portion of the conservation zone shall be designated for general public access.
- (h) The subdivision is serviced by shared on-site water and septic systems.
- (i) Council may conduct a public hearing to consider public opinion on the design of the subdivision.
- (j) Council shall establish evaluation criteria for the layout of lots and open space.

- (2) Developers of conservation subdivisions shall establish common water and waste water systems in such a manner that will not damage groundwater or surface water systems.

3. Water and Sewage

All development must have its arrangements for water and sewage disposal approved by the Department of Environment, Energy and Forestry before the Municipality will consider issuing a development permit.

SERVICING

- (1) Notwithstanding any other provisions of this Bylaw, the R Zone is established principally to retain low density uses of land where no central municipal water or sewer service will be provided in the foreseeable future.
- (2) Council may require on-site sewage treatment systems in an R Zone to be designed and certified by a qualified professional engineer. Council may also consider shared or common sewage treatment systems based on the recommendations of the Department of Environment Energy and Forestry and subject to the approval of the Municipality's consulting engineer. All costs related to the design and approval of a shared or common sewage treatment system shall be borne by the developer(s). Council may also establish individual lot levies in order to offset potential future municipal servicing costs.

4. Accessory Buildings

- a) The maximum lot coverage of all accessory buildings on a lot shall not be greater than seven (7) percent of the lot area up to a maximum of 55 square metres on lots under 0.2 hectares (0.5 acres) and a maximum of 110 square metres on lots over 0.2 hectares.
- b) The maximum height of an accessory building shall be 4.5 metres.
- c) No more than 2 accessory buildings will be permitted per residential lot.
- c) Accessory buildings shall be a minimum of 3.0 metres from other buildings located on the same lot and this distance shall be measured between the nearest parts of the buildings. This minimum separation distance shall not apply to patios and decks.
- d) All accessory buildings must be located in the rear yard (except for domestic garages) and shall be a minimum of 1.0 metres from side and rear lot lines (except for corner lots where a 7.0 metre side yard is required on the flanking street), measured from the nearest wall to the lot line.
- e) Accessory buildings are to be used strictly for ancillary purposes to the permitted uses listed in this use zone. Accessory buildings for residential properties shall not be used for non-residential uses without permission of the Community. Aside from minor vehicle maintenance, no person shall use an accessory building for the purpose of performing major repairs, painting, dismantling, or scrapping of vehicles or machinery.

5. Architectural Harmony

6. Home Based Business, Office Use

- a) Any Home Office Use must be wholly contained within the dwelling unit or ancillary building which is the principal residence of the operator of the business and shall be subsidiary to the residential use.
- b) The use shall not occupy more than 25% of the gross floor area of the main residence or 55m², whichever the lesser.
- c) The use shall not alter the principal character or exterior appearance of the dwelling unless these changes are consistent with permitted home renovations.
- d) Three non-resident employees are permitted, provided that the resident is the principal operator of the business.
- e) The home office shall only operate between the hours of 8:00 AM and 9:00 PM.
- f) Parking
 - 1) All parking for employees and clients for the business must be provided off-street;
 - 2) Parking or storage of vehicles in the front yard or side yard shall be prohibited except on a driveway.
- g) Any use involving instructional activity shall be limited to a maximum of 4 students at a time.
- h) No more than one sign shall be permitted for any home business and no such sign shall exceed 0.2m² in area. No illumination of the sign shall be permitted.
- i) Application
 - 1) Home Office Use is a special permit use. Notice of the application must be advertised in the local newspaper at the developers' expense (minimum of one insertion). All public input is to be referred to the Community for consideration.
 - 2) b) In addition to the information requirements of this regulation, each application for a development permit for the use classes Home Based Business (Office Use) shall include a description of the business to be undertaken at the dwelling, an indication of the anticipated number of business visits per week and details for the provision of parking, and where any materials or equipment associated with the business are to be stored.
- j) No change shall be made in the type, class or extent of service provided without a permit.

7. Bed and Breakfast or Tourist Home

- a) A Hospitality Home, Bed and Breakfast or Tourist Home may be permitted provided:

- 1) The use is carried out by a resident of the single dwelling;
- 2) The establishment is licensed under the Provincial Regulations.

8. Small Scale Agriculture

- a) Agricultural activities will be limited to vegetable or greenhouse farming and small scale animal husbandry.
- b) For small scale agricultural use, a barn of 110 square metres up to a height of 10.5 metres is permitted.

9. General Industry

- a) General Industry will be limited to uses associated with agriculture or forestry but only if it can be shown that there will be no adverse effects from noise, fumes, vibration or traffic on nearby residences and then only providing adequate screening is provided to buffer the use from adjacent residents.
- b) Where permitted any general industrial use shall provide sufficient off street parking for all employees and projected visitors.

10. Coastal Subdivisions

- (1) Where a subdivision is located along a coastal area or watercourse, the subdivision shall include the following:
 - (a) Access to the beach or watercourse if the property being subdivided includes frontage on a beach or watercourse, with at least one access to be located approximately every 200 metres (656 ft) of watercourse frontage.
 - (b) Where appropriate, the area to be set aside as parkland dedication shall be located at least in part along the watercourse.
 - (c) Beach and watercourse accesses shall measure at least 5 metres in width.

4.6 Parks and Recreation Zone

GENERAL

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

PERMITTED USES

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

- (a) public and private parks
- (b) campgrounds
- (c) open Space and conservation activities
- (d) golf courses, golf driving ranges and mini-golf courses
- (e) recreational uses
- (f) pavilions and band shells
- (g) marinas and yacht clubs
- (h) gardens
- (i) recreation administrative offices
- (j) parking lots related to the above
- (k) Accessory Buildings

LOT REQUIREMENTS

Minimum Lot Area	0.4 hectares (1 Acre)
Minimum Lot Frontage	45 m. (150 feet)
Minimum Front Yard	15 m (50 feet)
Minimum Side Yard	7.5 m (25 feet)
Maximum Height of Building	10.5 m (35 feet)

All lots shall also conform to the Provincial Minimum Lot Standards as noted in Appendix "C".

4.7 Special Permit Uses

4.7.1 Notice of Application

When a person seeks to develop land, and when the development proposed is listed as a special permit use, the applicant shall submit to the municipality a written and signed application for development. The municipality shall, at the expense of the applicant, give notice of the application on the municipal website, and by public notice in a local newspaper circulating in the area or by any other means deemed necessary. The applicant shall at the time of submitting the application, deposit with the Municipality the application fee and any other required fees in accordance with a fee schedule which the Council shall establish.

4.7.2 Special Permit Uses

Subject to these Regulations, the uses that fall within the Special Permit Use Classes set out in the appropriate Zoning Table may be permitted in that Use Zone if the Municipality is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Official Plan, or any other relevant rules and regulations, and to the public interest, and if the Municipality has given notice of the application in accordance with Regulation (X) (on notice of application) and has considered any objections or representations which may have been received on the matter.

4.7.3 Special Permit Process

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 the general development concept showing proposed land uses, any subdivisions, buildings, means of servicing, traffic access and parking;

- (1) Planning Board shall review each special permit request and provide recommendations to Council.
- (2) Planning Board and Council shall consider the following general criteria when reviewing applications for special permits, as applicable:

- (a) Conformity with all requirements of this 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 projected uses.
 - (e) Any comments from residents or other interested persons.
 - (f) Adequacy of existing water, sewer, road, storm water and electrical services, and parklands 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 natural resources, environmental, scenic and heritage resources.
 - (i) Impact on Municipal infrastructure, finances and budgets.
 - (j) Other matters as specified in this Bylaw.
 - (k) Other matters as considered relevant.
- (3) Council retains the right to deny a request, without holding a public meeting, if such request is deemed to be inconsistent with appropriate land use planning standards or the Official Plan. Should Council not proceed with a public meeting, the application fee shall be returned to the applicant.

- (4) Council shall hold a public meeting to solicit input from residents on the proposed request. At least 7 clear days prior to the public meeting, the Development Officer shall post the date, time and place of the public meeting, together with the general terms of the application, by:
- (a) public notice in a newspaper circulating in the area;
 - (b) formal notice on the municipality's website;
 - (c) written notice to all property owners wholly or partially within 60 m. (197 ft/ 200 ft) of the boundaries of the subject property; and
 - (d) placing a sign on the land being proposed for development indicating that a request for a special permit has been received.
- (5) Following the public meeting, Council shall formulate a decision on the proposed special permit. Council shall have the authority to determine whether the request is approved, modified, or denied and applications shall be approved or denied by resolution of Council and the applicant shall be notified in writing of the decision.
- (6) Nothing in this Bylaw restricts the right of Planning Board or Council to initiate its own special permit requests.
- (7) Related special permit requests or applications may be considered concurrently by Council, provided that applications for both amendments are posted on the same public and written notices.

4.7.4 Industrial, Light Industrial / Commercial

The Municipality may issue a special development permit for uses where it deems the development is appropriate, all other relevant provisions of the Bylaw are met, and subject to such conditions as Council may impose.

Regulations to be developed to address:

GENERAL

Except as provided in this Bylaw, all buildings and parts thereof erected, placed or altered or any land used within the Municipality for Industrial, Light Industrial/ Commercial uses shall conform with the provisions of this section.

DETERMINATION OF PERMITTED USES

(1) The following uses shall be considered as Industrial, Light Industrial /Commercial only on the special consideration and recommendation of the Municipality, who shall give attention in its determination as to whether the development would be appropriate in terms of compatibility, size, scale, visual appearance, access, buffering and effects on the environment.

:

- (a) Transport operations;
 - (b) Building supply dealerships;
 - (c) Sales and service shops for new farm machinery or heavy equipment;
 - (d) Sales and service operations for new trucks, automobiles, trailers or motor homes.
 - (e) Multiple-unit mixed-use malls for small business, service shops, light industry and the like;
 - (f) Manufacturing and assembly plants;
 - (g) Warehouse, wholesale and distribution operations and facilities;
 - (h) Business and professional offices;
 - (i) Information technology operations, call centres and the like;
 - (j) Retail commercial shops;
 - (k) Commercial uses accessory to a main plant, facility or operation on a site;
 - (l) Restaurants and cafeterias;
 - (m) Accessory buildings.
- (2) Any uses requiring outside storage capacity shall be permitted only if the means and location of storage on the site and an adequate method of screening or concealment of stored goods and materials are satisfactory to the Municipality
- (3) The following uses shall be unacceptable:
- (a) Any use that would negatively impact the peaceful enjoyment of neighbouring properties, jeopardize the overall quality and appearance of the area, create a public safety concern or place unreasonable burdens on the Municipality;
 - (b) Any use that is potentially obnoxious or hazardous by reason of sound, odour, dust, fumes, smoke or electronic interference;
 - (c) Scrap yards;

- (d) Sales establishments for used vehicles or machinery;

Any use that would potentially harm water sources shall be prohibited.
(add more detail on restrictions, possibly consult with DoE)

LOT SIZE, BUILDING HEIGHT AND SETBACKS

- (1) The following minimum requirements shall apply:

Minimum Open Space	20 percent of the total area of the lot
Minimum Lot Area	700 sq. m. (7,500 sq. ft)
Minimum Driveway Width	6.1 m (20 feet)
Minimum Frontage	23 m (75 feet)
Minimum Front Yard	3 m (10 feet)
Minimum Side Yard	3 m (10 feet)
Minimum Rear Yard	3 m (10 feet)
Maximum Building Height	12 m (40 feet)
Minimum Flankage Yard	7.6 m (25 feet)

All lots shall also conform with the Provincial Minimum Lot Standards as noted in Appendix “C.”

OPEN SPACE

A minimum of 20% of the area of any lot shall be developed as high quality landscaped open space for aesthetic purposes and for the use and enjoyment of owners and staff.

No parking area shall be considered as part of this open space requirement.

Building setbacks from lot lines, front, side and back, shall provide adequate space for required landscaping, but in all cases, the perimeter of every lot shall have landscaping of a minimum 15-foot width, with the exception of areas that are used for driveway and walkway access.

SPECIAL REQUIREMENTS: INDUSTRIAL, LIGHT INDUSTRIAL COMMERCIAL USES ADJACENT TO RESIDENTIAL ZONES/ USES

- (1) Notwithstanding any other provision of this Bylaw, where an Industrial, Light Industrial or Commercial Development located on lands that directly abut on any residential zone/use the following conditions shall be complied with:

- (a) a strip of land not less than 4.5 m (15 ft.) in width along the lot line within the Industrial, Light Industrial or Commercial use and adjacent to the residential zone/ use 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 residential zone; and
- (c) outdoor storage shall be prohibited adjacent to a residential zone/ use unless it is hidden from view by means of a landscaped buffer hedge of adequate size or architectural screening such as a wall, fence or other appropriate structure.

DEVELOPMENT AGREEMENT

- (1) A developer who receives a building permit shall be required to enter into an agreement with the Municipality.

- (2) The agreement may set out and require such security as may be acceptable to the Municipality and shall encompass the responsibilities on the part of the developer and the Municipality.
- (3) The agreement shall address all aspects of the development including, but not limited to the following:
 - (a) Parking;
 - (b) Loading Zones;
 - (c) Internal circulation;
 - (d) Ingress and egress;
 - (e) Any improvements deemed to be required to the public streets adjacent to the development and arrangements for cost-sharing of such improvements
 - (f) Public and private utilities;
 - (g) Storm water drainage and run-off;
 - (h) Buffer zones adjacent to neighbouring properties;
 - (i) Signage;
 - (j) Sidewalks;
 - (k) Landscaping and visual screening;
 - (l) Exterior lighting;
 - (m) Noise and other nuisances; and
 - (n) Any other matter deemed by Council to affect the health, well-being, safety or convenience of the public or to impose a detriment or financial burden on the Municipality or any other person.

4.7.5 Resort / Tourism

The Municipality may issue a special development permit for uses where it deems the development is appropriate, all other relevant provisions of the Bylaw are met, and subject to such conditions as Council may impose.

Regulations to be developed to address:

- Lot Requirements
- Site Design
- Screening and Buffering

PERMITTED USES

SPECIAL PERMIT USES

Council may issue a special development permit for the following uses subject to such terms and conditions as shall be imposed by Council where it deems the development is appropriate, the development is physically separated from existing residential development, the development is fully serviced, all other

relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:

Golf Courses

Hotels

Motels

Resorts

Cottages

LOT REQUIREMENTS

All lots shall also conform with the Provincial Minimum Lot Standards as noted in Appendix "C"

SERVICING

All developments must be serviced in accordance with Provincial regulations and municipal bylaws.

4.7.6 Institutional

INSTITUTIONAL USE

GENERAL

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

PERMITTED USES

SPECIAL PERMIT USES

- (1) 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:
 - (a) Institutional buildings
 - (b) Group Homes
 - (c) civic centres
 - (d) Accessory Buildings
 - (e) public and private parks
 - (f) recreational uses

- (g) Retail operations associated with hospitals and clinics such as pharmacies and medical supply stores.

LOT REQUIREMENTS

All lots shall also conform with the Provincial Minimum Lot Standards as noted in Appendix "C."

4.7.7 Multi Unit Residential

The Municipality may issue a special development permit for uses where it deems the development is appropriate, all other relevant provisions of the Bylaw are met, and subject to such conditions as the Municipality may impose.

Regulations to be developed to address:

Site Design

- MULTIPLE FAMILY RESIDENTIAL

GENERAL

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

SPECIAL PERMIT USES

- (1) Council may issue a special development permit for the following uses subject to such terms and conditions as shall be imposed by Council where it deems the development is appropriate, the development is physically separated from existing residential development, the development is fully serviced, all other relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:
 - (a) Group Homes
 - (b) Child Care Facilities
 - (c) Duplex & Semi-Detached Dwellings
 - (d) Row or Town House Dwellings up to six (6) units (owned either individually, or as condominiums or by a single owner)
 - (e) Parks and Playgrounds
 - (f) Accessory Buildings
 - (g) Private Garages

SERVICING

All developments must be serviced in accordance with Provincial regulations and municipal bylaws.

SCREENING AND BUFFERING

Notwithstanding any other provision of this Bylaw, where an residential development located on lands that directly abut on any agricultural zone/use the following conditions shall be complied with:

- (a) a strip of land not less than 4.5 m (15 ft.) in width along the lot line within the residential use and adjacent to the agricultural zone/ use 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 residential zone; and
- (c) outdoor storage shall be prohibited unless it is hidden from view by means of a landscaped buffer hedge of adequate size or architectural screening such as a wall, fence or other appropriate structure.

LOT REQUIREMENTS

LOT REQUIREMENTS

All lots shall also conform with the Provincial Minimum Lot Standards as noted in Appendix "C."

(Planning Act Subdivision and Development Regulations Section 23)

- (1) The following requirements shall apply to developments:
- (2) Council may impose restrictions on the number of dwelling units where, in the opinion of Council, the development would create unsafe traffic conditions.
- (4) Semi-detached, Row, and Townhouse Dwellings must be built in accordance with section XX.
- (5) Block Townhouse dwelling units must be separated from the basement floor to the underside of the roof by a vertical fire wall built in accordance with applicable National Building and Fire Code regulations.

Planning Act Subdivision and Development Regulations Section 23

4.7.8 Telecommunication Towers / Wind Farms

The Municipality may issue a special development permit for uses where it deems the development is appropriate, all other relevant provisions of the Bylaw are met, and subject to such conditions as the Municipality may impose.

All telecommunication towers and wind turbines, including wind farms, will be developed in accordance with provincial regulations.

Regulations to be developed to address:

Lot Requirements

Site Design

Wind Farms and Tower Uses adjacent to Residential Zones

Screening and Buffering

APPENDIX A

Zoning Map

Table 1 continued

APPENDIX B

Viewscape Map

APPENDIX C

Minimum Lot Size Standards

- 1) Notwithstanding any other provisions of this Bylaw, no person shall subdivide a lot intended to be serviced by an on-site sewerage system except in conformance with the minimum lot size standards noted in Table 1 and Table 2 below.

**TABLE 1
MINIMUM LOT SIZE STANDARDS
RESIDENTIAL DEVELOPMENTS**

a) servicing	b) lot category	c) number of dwelling units	d) minimum lot area sq. ft./sq. m.	e) minimum circle diameter to be contained within the boundaries of the lot feet/metres
on-site water and on-site sewerage system	I	1	25,000 sq.ft. / 2,322.5 sq.m.	150 ft. / 45.7 m.
		2	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
		3	35,000 sq. ft. / 3,251.5 sq.m.	175 ft. / 53.3 m.
		4	40,000 sq. ft. / 3,717 sq. m	200 ft. / 61 m.
		more than 4	40,000 sq. ft. / 3,717 sq. m. plus 1,500 sq. ft. / 457 sq.m. for each additional unit	200 ft. / 61 m.
on-site water and on-site sewerage system	II	1	35,000 sq.ft. / 3,251.5 sq.m.	175 ft. / 53.3 m.
		2	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
		3	45,000 sq. ft. / 4,180.5 sq. m.	225 ft. / 68.6 m.
		4		250 ft. / 76.2 m.

Table 1 continued

		more than 4	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	250 ft. / 76.2 m.
on-site water and on-site sewerage system	III	1	51,000 sq. ft. / 4,738 sq. m.	225 ft. / 68.6 m.
		2	56,000 sq. ft. / 5,202 sq. m.	250 ft. / 76.2 m.
		3	61,000 sq. ft. / 5,667 sq. m.	275 ft. / 83.8 m.
		4	66,000 sq. ft. / 6,131 sq. m.	300 ft. / 91.4 m.
		more than 4	66,000 sq. ft. / 6,131 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	300 ft. / 91.4 m.

central water supply and on-site sewerage system	I	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 on-site sewerage system	II	1	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
		2	30,000 sq.ft. / 2,787 sq. m.	160 ft. / 48.8 m.
		3	35,000 sq. ft. / 3,251.5 sq.m.	175 ft. / 53.3 m.
		4	40,000 sq.ft. / 3,717 sq. m.	200 ft. / 61 m.
		more than 4	40,000 sq. ft. / 3,717 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m.

central water supply and on-site sewerage system	III	1	40,000 sq.ft. / 3,717 sq.m.	200 ft. / 61.m.
		2	45,000 sq.ft. / 4,180.5 sq.m.	225 ft. / 68.6 m.
		3	50,000 sq. ft. / 4,045 sq. m.	250 ft. / 76.2 m.
		4	55,000 sq. ft. / 5,110 sq. m.	275 ft. / 83.8 m.
		more than 4	55,000 sq. ft. / 5,110 sq. m. plus 1,500 sq. ft. / 457 sq. m. for each additional unit	275 ft. / 83.8 m.
on-site water supply and central waste treatment system	I or II	1	15,000 sq.ft. / 1,393.5 sq.m.	100 ft. / 30.5 m.
		2	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
		3	25,000 sq.ft. / 2,322.5 sq.m.	150 ft. / 45.7 m.
		4	30,000 sq. ft. / 2,787 sq. m	160 ft. / 48.8 m.
		more than 4	30,000 sq. ft. / 2,787 sq. m. plus 1,500 sq. ft. / 457 sq. m for each additional unit	160 ft. / 48.8 m.
on-site water supply and central waste treatment system	III	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	any number	as determined by the authority having jurisdiction	as determined by the authority having jurisdiction

TABLE 2

**MINIMUM LOT SIZE STANDARDS
NON-RESIDENTIAL DEVELOPMENTS**

a) servicing	b) lot category	c) minimum lot area sq. ft. / sq. m.	d) minimum circle diameter to be contained within the boundaries of the lot feet / metres
on-site water and on-site sewerage disposal system	I	25,000 sq. ft. / 2,322.5 sq. m. (1)	150 ft. / 45.7 m.
on-site water and on-site sewerage disposal system	II	35,000 sq. ft. / 3,251.5 sq. m. (1)	175 ft. / 53.3 m.
on-site water and on-site sewerage disposal system	III	51,000 sq. ft. / 4,738 sq. m.	225 ft. / 68.6 m.
central water supply and on-site sewerage disposal system	I	20,000 sq. ft. / 1,858 sq. m. (1)	125 ft. / 38.1 m.
central water supply and on-site sewerage disposal system	II	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
central water supply and on-site sewerage disposal system	III	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	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	as determined by the authority having jurisdiction	as determined by the authority having jurisdiction

- 1) Notwithstanding the minimum lot areas set out in this column, the development of a non-residential lot which is serviced by an on-site sewerage system shall be subject to the minimum requirements of the *Environment Protection Act Sewage Disposal Regulations*.

- 2) With respect to the minimum circle diameter requirement set out in column (e) of Table 1 and column (d) of Table 2, where applicable, the space encompassed by the circle shall be in a location on the lot which will accommodate on-site sewerage system.
- 3) Lots shall be categorized according to the following:
 - (i) Category I, where the lot has a dept of permeable natural soil of 2 ft. / 0.61 m. or more, and where the depth of bedrock and the depth to the maximum water table elevation is greater than 4 ft. / 1.22 m.;

(ii) Category II, where the lot has a depth of permeable natural soil of 1 ft. / 0.3 m. or more, but less than 2 ft. / 0.61 m., and where the depth to bedrock and the depth to the maximum water table elevation is 4 ft. / 1.22 m or greater;

(iii) Category III, where the lot has a depth of permeable natural soil less than 1 ft. / 0.3 m., and where the depth to bedrock and the depth to the maximum water table elevation is less than 4 ft. / 1.22 m.

4) Except where such a lot is serviced by a central sewerage system, development of a Category III lot shall not be permitted unless it is upgraded to the satisfaction of the Minister of Environmental Resources to conform with Category II as described in clause 3 (iii).

