

COMMUNITY OF LOWER MONTAGUE

ZONING & SUBDIVISION CONTROL (DEVELOPMENT) BYLAW

This Bylaw is made under the authority of the *Planning Act*, R.S.P.E.I. 1988, Cap. 4 and the *Municipalities Act*, R.S.P.E.I.

BE IT ENACTED by the Community of Lower Montague as follows:

SECTION #1 – SCOPE

1.1 TITLE

This Bylaw shall be known and may be cited as the Community of Lower Montague Zoning and Subdivision Control Bylaw or the Development Bylaw.

1.2 AREA DEFINED

This Bylaw applies to the geographical area within which the Community of Lower Montague Council has jurisdiction.

1.3 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 Community of Lower Montague, except in conformity with this Bylaw and subject to the provisions contained herein.

1.4 AUTHORITY OF DEVELOPMENT OFFICER

Council may appoint a Development Officer whose duties shall be as provided in this Bylaw. The Development Officer shall have the authority to administer this Bylaw. Notwithstanding the foregoing, the Development Officer shall have the authority to approve or deny Development Permits in accordance with this Bylaw in all areas except for:

- (1) Permanent Commercial
- (2) Institutional
- (3) Industrial
- (4) Multiple Family Dwellings

Where the Development Officer is unable to determine whether the proposed Development conforms with this Bylaw, the Development Officer shall forward the application to Council for a decision.

SECTION #2 – DEFINITIONS

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

In this Bylaw:

- 2.01 **“Accessory Building”** – means a building whose use is incidental and subordinate to, and consistent with, the main or approved use of the lot on which the building is located.
- 2.02 **“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.
- 2.03 **“Agricultural Use”** – means a use of land and buildings for farming, dairying, pasturage, agriculture, apiculture, floriculture, horticulture, and animal and poultry husbandry and the necessary accessory uses for packing, storing or treating the produce.
- 2.04 **“Alter”** – means to make a change in the structural component or physical appearance of a building or any increase in the volume of a building or structure.
- 2.05 **“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 percent (20%) of the length of the wall or roof line is common with the main building or structure wall or roof.
- 2.06 **“Automobile Sales and Service Establishment”** – means a building or part of a building or a clearly defined space on a lot used for the sale and maintenance of used or new automobiles.
- 2.07 **“Automobile Service Station or Service Station”** – means a building or part of a building or a clearly defined space on a lot used for the sale of lubricating oils and/or gasolines and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.
- 2.08 **“Automobile Washing Establishment”** – means a building or part thereof used for the operation of automobile washing equipment which is manual, automatic or semi-automatic.
- 2.09 **“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.

- 2.10** “**Block**” – means any unit of land consisting of a grouping of lots bounded on all sides by watercourses, streets or large parcel boundaries or as otherwise defined by the municipality.
- 2.11** “**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.
- 2.12** “**Building Height**” – means the vertical distance measured from the averaged finished grade to the highest point of roof surface.
- 2.13** “**Building Line**” – means any line regulating the position of a building or structure on a lot.
- 2.14** “**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.
- 2.15** “**Business or Professional Office**” – means premises where services are offered for a fee, except in the case of a not-for-profit entity, but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.
- 2.16** “**Campground**” – means a tract of land, managed as a unit, providing short term accommodation for tents, tent trailers, travel trailers, recreational vehicles and campers.
- 2.17** “**Child Care Facility**” – means any institution, agency, or place, whether known as a day nursery, nursery school, kindergarten or play school, which receives for temporary care apart from the parents on a daily or hourly basis, with or without stated educational purposes and during or all of the day, more than three children under seven years of age.
- 2.18** “**Church**” – means a building dedicated to religious worship and includes a church hall, church auditorium, Sunday School, parish hall, rectory, manse and day nursery operated by the church.
- 2.19** “**Club**” – means an association of persons, whether incorporated or not, united by some common interest, meeting periodically for co-operation or conviviality. Club shall also mean, where the context requires, premises owned or occupied by members of such association within which the activities of the club are conducted.
- 2.20** “**Commercial Use**” – means the use of a building on a lot for the storage, display or sale of goods or services and includes hotels, motels, inns or rental cottages.
- 2.21** “**Community Care Facility**” – means an establishment that provides care services for compensation to five or more residents who are not members of the operator’s immediate family but does not, unless otherwise ordered by the Lieutenant Governor in Council, include:

- (i) a group home recognized as such by the Minister;
- (ii) a residential school;
- (iii) an establishment providing accommodation only;
- (iv) a hospital;
- (v) a correctional institution;
- (vi) a facility in which treatment services are provided under the *Addiction Services Act* R.S.P.E.I. 1988, Cap. A-3;
- (vii) a nursing home; or
- (viii) a residential institution as defined in Part II of the regulations made under the *Welfare Assistance Act* R.S.P.E.I. 1988, Cap. W-3 which is operated or funded by the Minister.

- 2.22 “Convenience Store”** – means a retail commercial establishment, not exceeding 1,500 sq. ft. (135 m) of gross floor area, supplying daily household necessities for the immediate surrounding area in which articles for sale are restricted to a limited range of primarily food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy, meat, and to compliment such items which may include the limited sale of magazines, books, housewares, toiletries, stationary, patent medicines, tobacco products and video tape sales and rentals.
- 2.23 “Council”** – means the Council for the Community of Lower Montague.
- 2.24 “Councillor”** – means any resident who has been duly elected and sworn to office in order that such resident may execute those duties as prescribed by the law.
- 2.25 “Deck”** – means a structure abutting a dwelling with no roof or walls except for visual partitions and railings which is constructed on piers or a foundation above-grade for use as an outdoor living area.
- 2.26 “Demolition”** – means to remove, pull down or destroy a structure.
- 2.27 “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.
- 2.28 “Development Officer”** – means the person charged by the Council with the duty of administering the provisions of this Bylaw.
- 2.29 “Development Permit”** – means the formal and written authorization for a person to carry out any development.
- 2.30 “Display”** – includes any item, group of items, sign, or billboard visible to the general public, indicating that items or services are offered for sale or trade, but does not include Premise Signs of 900 square inches or less.

2.31 “Domestic Animals” – includes dogs, cats, budgies, parrots, parakeets, hamsters, gerbils, guinea pigs and fish.

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

(i) *“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.

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

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

(iv) *“Multiple Family Dwelling”* – means a building containing three or more dwelling units.

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

(vi) *“Townhouse Dwelling or Row House Dwelling”* – means a building that is divided vertically into three or more dwelling units, each of which has independent entrances to a front and rear yard immediately abutting the front and rear walls of each dwelling unit.

2.33 “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.

2.34 “Existing” – means a parcel of land that existed at the time of approval of this Bylaw.

2.35 “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 dwelling unit and includes:

(i) domestic servants, non-paying guests and foster children; and

(ii) not more than two (2) roomers or boarders living in the dwelling unit.

“Immediate Family” – means the following persons:

(i) parents of the owner and their spouse;

- (ii) the sons and/or daughters of the owner and their spouse;
- (iii) the grandparents of the owner and their spouse;
- (iv) the brothers and/or sisters of the owner and their spouse; and
- (v) the aunts and/or uncles of the owner and their spouse.

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

2.37 “Farm” or “Farm Property” – means arable land, dwelling and complementary buildings containing at least ten (10) acres, operated as a farm enterprise and includes land leased from the Crown, but does not include land leased or rented from owners who are not bona fide farmers.

2.38 “Farm Market” – means a building in which farm produce comprises the major portion of goods offered or kept for sale directly to the public at retail value.

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

2.40 “Floor Area” – means:

- (i) *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.
- (ii) *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.
- (iii) *With reference to “Accessory Building”* – the area contained within the outside walls.

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

2.42 “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.

2.43 “Garden Suite” – means a temporary development consisting of a detached dwelling unit which

- i) has a width no greater than 24 feet & 7.31 metres),
- ii) is no greater than one storey in height,
- iii) is constructed and erected in such a manner as to be capable of being readily removed from the site,
- iv) does not exceed 800 square feet (92.9 metres) in area, or is a mini home, and
- v) is for the sole and exclusive use as an accessory dwelling to a single unit dwelling on the same lot or parcel of land by
 - (A) the parents or grandparents of the owner or spouse of the owner of the single unit dwelling on the same lot or parcel of land,
 - (B) any person who is physically or intellectually challenged or experiences a chronic disability or who, due to illness frailty or age, requires home care, and is under the care of the owner or spouse of the owner of a single unit dwelling on the same parcel of land, or
 - (C) a caregiver for a family member of the owner or spouse of the owner of the single unit dwelling on the same lot or parcel of land who qualifies under paragraph (A) or (B) and who also resides in the garden suite.

2.44 “Grade” – (as it applied to the determination of building height) means the lowest of the elevation of the finished surface of the ground, paving or sidewalks within the area between the building and the property line or when the property line is more than five (5) ft. (1.5 m) from the building, between the building and a line five (5) ft. (1.5 m) from the building.

2.45 “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.

2.46 “Hotel” – means a building other than a motel occupied or intended to be occupied as the temporary lodging place for any individual for a fee.

2.47 “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.

- 2.48 “Institutional Use”** – means the use of land or buildings for non-profit or public purposes including but not limited to, hospitals, government buildings, religious institutions, churches, public schools, colleges, cultural centres, libraries and public recreational and park buildings.
- 2.49 “Kennel”** – means a building or structure where more than four (4) domestic animals excluding livestock are kept, bred and raised for profit or gain.
- 2.50 “Landscaping”** – means any combination of trees, shrubs, flowers, grass, other horticultural elements, paving, or other architectural elements, all of which are designed to enhance the visual amenity of a property.
- 2.51 “Livestock”** – means horses, cattle, sheep, swine, goats, poultry, fox, mink, chinchilla and rabbits.
- 2.52 “Loading Space”** – means an unencumbered area of land provided and maintained upon the same lot or lots upon which the principal use is located and which area is provided for the temporary parking of one (1) commercial motor vehicle while merchandise or materials are being loaded or unloaded, and such parking space shall not be for the purpose of sale or display.
- 2.53 “Lot or Property”** – means any parcel of land described in a deed or as shown in a registered subdivision plan.
- (i) “Lot Area” – means the total area included within the lot lines.
 - (ii) “Corner Lot” – means a lot situated at an intersection of and abutting on two or more streets.
 - (iii) “Flankage Lot Line” – means the side lot line which abuts the street on a corner lot.
 - (iv) “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.
 - (v) “Interior Lot” – means a lot other than a corner lot.
 - (vi) “Lot Depth” – means the depth from the front lot line to the rear lot line.
 - (vii) “Lot Line” – means any boundary of a lot.
 - (viii) “Rear Lot Line” – means the lot line further from and opposite to the front lot line.

- (ix) “Side Lot Line” – means a lot line other than a front, rear or flankage lot line.
 - (x) “Through Lot” – means a lot bounded on two opposite sides by streets.
- 2.54 “Lot Consolidation”** – means the legal incorporation of two or more existing parcels of land to form a single, larger parcel.
- 2.55 “Lounge”** – means a commercial facility or structure licensed to sell alcoholic beverages to the public.
- 2.56 “Main Building”** – means that building, 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.
- 2.57 “Mini-Home”** – means a pre-manufactured dwelling unit having an average width of less than 20 feet, not including appurtenances such as porches, entries, etc. and certified under the Z240 provisions of the Canadian Standards Association (CSA).
- 2.58 “Mobile Home”** – means a transportable dwelling unit suitable for long term occupancy, designed to be transported with or without its own wheeled chassis.
- 2.59 “Modular Home”** – means a pre-manufactured dwelling unit having an average width of 20 ft. or more, not including appurtenances such as porches, entries, etc.
- 2.60 “Motel”** – means a building occupied in whole or in part as a temporary lodging place for an individual and for which there is an exit for any room or suite of rooms directly to the outdoors with access to grade level.
- 2.61 “Nursing Home”** – means a building, part of building, or group of buildings in which, for a fee, charge or reward, direct or indirect, there are housed patients requiring or receiving active treatment for, or convalescing from, or being rehabilitated after illness or injury, but does not include a public hospital, mental hospital, tuberculosis hospital or sanitorium.
- 2.62 “Obnoxious Use”** – means a use which, from its nature or operation, creates a nuisance or is offensive by the creation of noise or vibration or 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 material.

- 2.63 “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 or off-street parking.
- 2.64 “Outdoor Display”** – means an area of land where goods are displayed and which are available for sale to the general public from a retail outlet located on the same lot.
- 2.65 “Outdoor Storage”** – means the storage of merchandise, goods, inventory, materials or equipment or other items which are not intended for immediate sale, by locating them outside.
- 2.66 “Parking Lot”** – means an open area of land other than a street or an area within a structure for the parking of vehicles.
- 2.67 “Panhandle Lot”**- means a lot that does not have the minimum frontage on a road required by these regulations, but has a driveway or right-of-way connection providing access to a public road or privately owned subdivision road.
- 2.68 “Parcel”** – means a lot, block or other division of land or property which is recognized as a separate unit of land for the purposes of this bylaw.
- 2.69 “Parking Space”** – means an area of land which is suitable for the parking of a vehicle, not less than nine feet wide and eighteen feet long, accessible to vehicles without the need to move other vehicles on adjacent areas.
- 2.70 “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, (e.g. barbershop), but does not include a tattoo parlour.
- 2.71 “Phase”** – means to develop a parcel of land over time in a series of prescribed stages; or one of such stages.
- 2.72 “Plant Nursery(and Greenhouse)”** – means a premise or any land used primarily to raise and store trees, shrubs, flowers, and other plants for sale or for transplanting.
- 2.73 “Private Garage”** – means a building or part thereof which is used for the sheltering of private motor vehicles and storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

- 2.74 **“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.
- 2.75 **“Public Park or Parkland”** – means land owned by the Community or some other level of government used or intended for use by members of the public.
- 2.76 **“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.
- 2.77 **“Recreational Use”** – means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, athletic fields, golf courses, picnic areas, swimming pools, day camps, and similar uses but does not include a tract for the racing of animals or any form of motorized vehicles.
- 2.78 **“Recycling Depot”** – means premises on which recoverable materials such as newspaper, glassware, and metal cans are separated prior to shipment but does not include any processing of the material or a salvage yard.
- 2.79 **“Recycling Plant”** – means a building in which recoverable resources, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production but it does not include a salvage yard.
- 2.80 **“Residential Care Facility”** – means a building or premises licensed by the Province of Prince Edward Island, where accommodation and supervisory and/or personal care is provided or made available for more than three persons and includes a group home.
- 2.81 **“Resource Use”** – means the use of land or buildings for production and harvesting or extraction of any agricultural, forestry, or fisheries product.
- 2.82 **“Resource Commercial Use”** – means the use of a building or lot for the storage, display or sale of goods directly and primarily related to resource uses.
- 2.83 **“Resource Industrial Use”** – means the use of land or buildings for any industrial development directly associated with agriculture, fisheries or forestry industries.

- 2.84 “Restaurant”** –means buildings or structures or part thereof where food and drink is prepared and offered for sale to the public.
- 2.85 “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.
- 2.86 “Rural Tourism Use”** – means the use of a building or land for non-recreational commercial uses related to tourism, including rental accommodations and campgrounds.
- 2.87 “Salvage Yard”** – means an area of land used for the storage, handling or processing of and sale of scrap material, and without limiting the generality of the foregoing, may include waste paper, rags, bones, used bicycles, vehicles, tires, metals or other scrap material or salvage, but shall not include a hazardous waste material storage or disposal site or recycling depot.
- 2.88 “Senior Citizen”** – means a person deemed to be eligible for accommodation in a Senior Citizen Home under the terms of the *PEI Housing Corporation Act* or comparable Provincial statute.
- 2.89 “Senior Citizen Home”** – means any home for Senior Citizens either privately sponsored or administered by any public agency or any service club either of which obtains its financing from federal, provincial or municipal governments or agencies or by public subscription or donations, or by a combination thereof, and shall include auxiliary uses such as lounges and recreation facilities usually associated with senior citizens’ developments, and solely for the use of its residents.
- 2.90 “Service Shop”** – means a building or part thereof used for the sale and repair of household articles and shall include radio, television, and appliance repair shops but shall not include industrial, manufacturing or motor vehicle body repair shops.
- 2.91 “Sewage Disposal System”** – means any system or part thereof for disposing of sewage or waste by means of one or more settling or septic tanks and one or more disposal fields, and any other system or part thereof for sewage or waste disposal not directly connected to a municipal or approved central waste treatment system.
- 2.92 “Sign”**- means a structure, device, light or natural object including the ground itself, or any part, or any device attached, or painted or represented on which shall be used to advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry or business, or which display or include any letter, work, model, number, banner, flag, pennant, insignia, device or representation used

as an announcement, direction, or advertisement, and which is intended to be seen from off the premises or from a parking lot.

- 2.93 “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.
- 2.94 “Street or Road”** - see Highway, Section 2.44.
- 2.95 “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.
- 2.96 “Subdivision”** – means a division of a parcel of land by means of a plan of subdivision, plan or survey, agreement, deed or any instrument, including a caveat transferring or creating an estate or interest in part of the parcel.
- 2.97 “Survey Plan”** – means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island land surveyor.
- 2.98 “Swimming Pool”**- means any outdoor structure, basin, chamber, or tank used or which may be used for swimming, diving, or recreational bathing and having a depth of 60 cm (approximately 24 inches) or more at any point or with a surface area exceeding 10 square metres (108 square feet).
- 2.99 “Tourist Establishment”** – means a dwelling in which is operated the business of providing or offering overnight accommodation for transient guests for compensation.
- 2.100 “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.
- 2.101 “Warehouse”** – means a building used for the storage and distribution of goods, wares, merchandise, substances or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.
- 2.102 “Watercourse”** – shall have the same meaning as defined under the *Environmental Protection Act Watercourse and Wetland Protection Regulations* and in the case of any dispute the final determination shall be

made by the Provincial Department having authority to enforce these Regulations.

2.103 “Wetland” – shall be defined as noted above under “Watercourse”.

2.104 “Yard” – means an open, uncovered space on a lot purtenant to a building and unoccupied by buildings or structures except as specifically permitted in this Bylaw and

i) *“Front Yard”* – means a yard extending across the width of a lot between the front lot line and nearest wall of any building or structure on the lot and “minimum front yard” means the minimum depth of a front yard on a lot between the front lot line and the nearest main wall of any building or structure on the lot.

(ii) *“Rear Yard”* – means a yard extending across the width of a lot between the rear lot line and the nearest wall of any main building or structure on the lot and “minimum rear yard” means the minimum depth of a rear yard on a lot between the rear lot line and the nearest main wall of any main building or structure on the lot.

(iii) *“Side Yard”* – means a yard extending from the front yard to the rear yard of a lot between a side lot line and nearest wall of any building or structure on the lot, and “minimum side yard” means the minimum width of a side yard on a lot between a side lot line and the nearest main wall of any main building or structure on the lot.

(iv) *“Flankage Yard”* – means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flankage lot line and the nearest main wall of any building or structure on the lot.

2.105 “Zone” – means a designated area of land shown on the Official Zoning Map of the Bylaw within which land uses are restricted to those specified by this Bylaw.

SECTION #3 – DEVELOPMENT ZONES

3.1 DEVELOPMENT ZONES

For the purpose of this Bylaw the Community is divided into the following development Zones, the boundaries of which are subject to Section 3.2, as shown in Appendix “A” on the Official Zoning Map. Such Zones may be referred to by the appropriate symbols.

<u>ZONE</u>	<u>SYMBOL</u>
General Commercial	C1
Agricultural	A1
Serviced Residential	RS
Residential	R1
Mobile Home Park	MHP
Public Service and Institutional	PSI
Industrial	M1
Recreation and Open Space	OS
Environmental Reserve	O2

3.2 INTERPRETATION OF ZONE BOUNDARIES

Boundaries between Zones as indicated in Appendix “A” shall be determined as follows:

- i) Where a Zone boundary is indicated as following a Street or Highway, the boundary shall be the center line of such Street or Highway.
- ii) Where a Zone boundary is indicated as following Lot or property lines, the boundary shall be such Lot or property lines.
- iii) Where a Zone boundary is indicated a following the limits of the Municipality the limits shall be the boundary.
- iv) Where none of the above provisions apply, the Zone boundary shall be scaled from the original zoning map lodged with the municipality.

3.3 OFFICIAL ZONING MAP

Appendix “A” may be cited as the “Official Zoning Map” and forms a part of this Bylaw.

3.4 CERTAIN WORDS

In this Bylaw, words used in the present tense include future; words in the singular number include the plural; the word “shall” is mandatory and not permissive; and the word “he” includes “she”.

3.5 UNITS OF MEASURE

Units of measure and conversion shall be in accordance with either Imperial or Metric standards.

SECTION #4 – GENERAL PROVISIONS FOR ALL ZONES

4.1 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) construct a deck of over 400 sq. ft.;
 - e) make structural alterations to any Structure;
 - f) make any water or sewer connection;
 - g) make any underground installation such as a septic tank, a fuel tank, a foundation wall or the like;
 - h) move or demolish any Structure;
 - i) establish or operate an excavation pit;
 - j) construct a highway;
 - k) place, dump any fill or other material;
 - l) subdivide or consolidate a parcel or parcels of land; or
 - m) construct a Fence over four (4) feet (1.2 m) high

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

2. For the purpose of this Bylaw:
 - a) laying paving materials for patios or sidewalks;
 - b) constructing Fences of less than four (4) feet in height;
 - c) installing clotheslines, poles, and radio or television antennae, except satellite dishes over 24” in (0.6 m) diameter;
 - 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. (6.4 sq. m); and
 - 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.

shall not be interpreted as changing the Use of land or a Structure or constructing or replacing a Structure, and shall not require a permit from Council.

4.2 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 Community.

- (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 a fee schedule which the Council shall establish.

4.3 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.

4.4 DEVELOPMENT PERMIT

A Development Permit shall be valid for a twelve-month period, or such additional time as may be authorized by Council.

4.5 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. Such plan(s) to be submitted in duplicate, drawn to an appropriate scale and showing:

- a) the true shape and dimensions of the Lot to be used, and upon which it is proposed to erect any Building or Structure;
- b) the location, height and dimensions of the Building, Structure, or work proposed to be erected;
- c) the location of every Building or Structure already erected on the Lot and the general location of Buildings on abutting Lots;
- d) the proposed location and dimensions of any parking spaces, loading spaces, driveways and landscaped areas;
- e) the proposed Use of the lot and each Building or Structure to be developed; and
- f) any other information which the Development Officer deems necessary to determine whether or not the proposed development conforms with the requirements of this Bylaw.

4.6 CONDITIONS ON PERMITS

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

4.7 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.

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

- i) site design;
- ii) the design and construction cost of sidewalks, pathways and other pedestrian access matters;
- iii) landscaping and screening;
- iv) vehicular accesses and exits;
- v) signage
- vi) security and safety lighting;
- vii) architectural harmony;
- viii) methods of waste disposal;
- ix) Fencing; and
- x) any other matters that Council deems necessary to ensure the health, safety and convenience of Community residents and the travelling public.

4.8 EXISTING NON-CONFORMING LOTS

- (1) Notwithstanding anything else in this Bylaw, the use of a Building on a Lot on the effective date of this Bylaw may be changed to a Use permitted on the Lot where the Lot Area or frontage or both is less than that required by this Bylaw, provided that all other applicable provisions of this Bylaw are satisfied.
- (2) Notwithstanding any other provisions of this Bylaw, a vacant Lot held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum width 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 of this Bylaw are satisfied.

- (3) Where the Lot is intended to be serviced by an on-site sewage disposal system Council may require that the system be designed by a PEI licensed engineer and the installation also certified by the engineer prior to occupancy of the structure.
- (4) An existing undersized Lot may be increased in area or frontage, or both, and still remain an existing undersized Lot if after the increase, the Lot still remains undersized.

4.9 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, the Council may approve a reduced frontage, provided that the Lot width at the 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 or facing a cul-de-sac, may be approved by Council if in the opinion of Council adequate and safe access is provided and if the Lot width at the building line measures at least as much as the minimum Lot frontage for the Zone.

4.10 EXISTING NON-CONFORMING BUILDINGS

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:

- (1) 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
- (2) all other applicable provisions of this Bylaw are satisfied.

4.11 OTHER INFORMATION

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:

- parking lot layout and internal circulation patterns;
- location of garbage containers and description of any screening or fencing;
- storm water management plan;
- location of open space and amenity areas;
- landscaping plan;
- buffer zones adjacent to wetland areas or watercourses;
- existing vegetation;
- easements;
- proposed storage areas and description of any screening or fencing;
- traffic impact studies;

4.12 ACCESS

- (1) No Development Permit shall be issued unless the Lot or parcel of land intended to be used or upon which the building or structure is to be erected abuts and fronts upon a Street.
- (2) Notwithstanding Section 4.12 (1) above, Council may approve a Development Permit for a residential or commercial structure which fronts on a private right-of-way, provided that the following criteria are met:
 - (i) no reasonable provision can be made to provide access to a public street;
 - (ii) safe ingress and egress from the lot can be provided;
 - (iii) an agreement is registered in the PEI Registry Office, binding on all land owners abutting or fronting on the private right-of-way providing for the long term ownership and maintenance of the right-of-way, such agreement shall be binding on all heirs, successors and assigns of the current property owners.

4.13 ENTRANCEWAY PERMIT

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.

4.14 SIGHT DISTANCE

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* or the *Roads Act*.

4.15 DEVELOPMENT RESTRICTIONS

Council shall not issue a development permit for a Development if, in the opinion of Council:

- (1) the proposed Development does not conform to this Bylaw;
- (2) the method of water supply is not appropriate;
- (3) the method of sanitary waste disposal is not appropriate;
- (4) there is not a safe and efficient access to the public Highway, Street, or Road;
- (5) the impact of the proposed Development would be detrimental to the environment;
- (6) the proposed Development would create unsafe traffic conditions;
- (7) the proposed Development would significantly or permanently injure neighbouring properties by reason of architectural disharmony;
- (8) the proposed Development would be detrimental to the convenience, health, or safety of residents in the vicinity or the general public;
- (9) the proposed Development could injure or damage neighbouring property or other property in the Community due to water, drainage or other water run-off damage.

4.16 MAIN BUILDING

No person shall erect more than one main building on a Lot except:

- (a) in the General Commercial (C1) Zone;
- (b) in the Industrial (M1) Zone;
- (c) in the Agricultural (A1) Zone for other than residential use except on a farm; and

(d) in a PSI Zone.

4.17 ACCESSIBILITY/BARRIER FREE DESIGN

No Development Permit shall be issued for a Building intended to serve the public until Council receives a “Conformation of Receipt of a Quality Control Plan” from the Provincial Government, pursuant to the Barrier Free Design Regulations or subsequent regulations invoked for the same purpose.

4.18 MIXED USE

- (1) 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.
- (2) Where there is a conflict such as in the case of Lot size or Lot frontage, the higher or more stringent standard shall prevail.

4.19 YARDS

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.

4.20 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.

4.21 OTHER REQUIREMENTS

Nothing in this Bylaw exempts any person from the requirement to obtain any permit, license, permission, authority or approval required by any other regulations or laws in force.

4.22 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.

4.23 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 Community for the purpose of ensuring compliance with the provisions of this Bylaw.

4.24 ACCESSORY STRUCTURES

Accessory uses, Buildings and Structures shall be permitted on any Lot but shall not:

- (1) be used for human habitation except where a Dwelling is a permitted Accessory Use;
- (2) be located within the front yard or flanking side yard of a Lot;
- (3) be built closer than five (5.0') feet (1.5 m) to any lot line;
- (4) except in a commercial Zone or on a farm property exceed eight hundred (800) sq. ft. (80 sq. m) in total floor area or 50% of the total floor area of the main Building on the Lot, whichever is less;
- (5) be built within fifteen feet (15') (4.5 m) of the main Building on the Lot;
- (6) except in a Commercial Zone or on a farm property, exceed two (2) structures, one of which shall be a garden shed not exceeding 200 sq. ft. (20 sq. m.) in total floor area.
- (7) exceed 20 feet (6 m.) in height.

Satellite dishes greater than 2 feet (0.6 m) in diameter shall not be erected in any Zone in the Community unless a special permit has been issued by Council.

Notwithstanding the above provisions, Council may authorize a licensed bona Fide Fisherman to erect an additional storage shed for the purpose of storing a fishing vessel and related gear of no greater than 1,500 sq. ft. (150 sq. m.) in total floor area.

Notwithstanding the above provisions, Council may issue a special development permit for an accessory Structure located within the front yard or flanking side yard of a Lot, where Council is satisfied the Structure will be

architecturally compatible with adjacent Structures and no permanent injury would be caused to adjoining properties, subject to such conditions as Council may impose.

4.25 GARDEN SUITES

One (1) Garden Suite may be constructed or placed per Lot under the following conditions:

- (a) there shall be a legally established Single Family Dwelling on the Lot;
- (b) the occupants of the Garden Suite shall be members of the Immediate Family of the owners of the Lot and the owners shall reside in the Single Family Dwelling located on the Lot;
- (c) ingress and egress to the Garden Suite shall be by way of the driveway serving the main Dwelling;
- (d) the Garden Suite shall share the same water and waste water treatment services as the main Dwelling, and such services shall be of adequate capacity to service both Dwellings;
- (e) the Garden Suite shall not be placed on a permanent foundation;
- (f) the Garden Suite shall not be greater than six hundred square feet (600 sq. ft.) (60 sq. m.) in total floor area;
- (g) the owner(s) of the Lot shall enter into an agreement with the Community that should the family member/members living in the Garden Suite cease to occupy the unit for any reason, the Garden Suite shall be removed from the Lot within six (6) months of the date of vacancy and the Garden Suite shall not be used for any other purpose while on the Lot.

4.26 PERMITS POSTED

All permits shall be posted by the developer in a location easily visible for viewing.

4.27 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.

4.28 HEIGHT REGULATIONS

The height regulations of this Bylaw shall not apply to church spires, water tanks, flag poles, lighting standards, television or radio antennae, ventilators, skylights, chimneys, clock towers, or utility poles.

4.29 INTERSECTION TRIANGLE

On a corner Lot, a Fence, sign, hedge, shrub, bush or tree or any other Structure or vegetation shall not be erected or permitted to grow to a height greater than two feet above grade of the streets which abut the Lot within the triangular area indicated by the Street boundary lines for a distance of 20' (6 m) from their point of intersection.

4.30 PERMITTED USES IN ALL ZONES

The following Uses are permitted in all zones:

- (i) Temporary construction facilities such as sheds, scaffolds and equipment incidental to building on the premises for so long as work is in progress or for a maximum period of six (6) months, whichever is the shorter period.
- (ii) Public and private utility Buildings and Structures which are considered by Council to be necessary and appropriate to the municipality, subject to such Lot requirements as Council deems appropriate.

4.31 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.

4.32 DENYING PERMITS

- (i) 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 as injury or damage to include but not be limited to water, drainage or other water run-off damage.
- (ii) 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.

4.33 UNDERGROUND PETROLEUM STORAGE TANKS

Underground Petroleum Storage Tanks shall require a Development Permit from the Community before installation may proceed. In processing such application, the Community shall refer the application initially to the government authority having jurisdiction for these facilities whereupon such application will be processed in accordance with applicable regulations. The Community shall not issue a permit to the Developer until it has received written approval from the appropriate authority. However, the written approval of the latter shall not alone be conclusive of the right to have a permit issued hereunder.

4.34 OUTDOOR SWIMMING POOLS

The installation of a Swimming Pool shall be permitted in any Zone in accordance with the following provisions:

- (i) The land owner shall first secure a Development Permit from Council;
- (ii) A 6 ft. (1.8 m) Fence shall be constructed in such a manner so as to impede unauthorized persons from entering over or under said Fence. Such Fence shall be aesthetically presentable and preference will be given to wood type Fence;
- (iii) Any gate on such Fence shall be capable of being locked;
- (iv) The Developer shall agree that other reasonable initiatives regarding maintenance and safety which are reasonable and prudent shall be carried out either at the initiative of the Developer or the Council; and

- (v) the Swimming Pool is not to be located within a required Yard that abuts a Street right-of-way.

4.35 SURVEYS REQUIRED

Where the 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.

4.36 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.

4.37 GRADE OF SITE

No Building shall be erected or placed except in conformance with the finished Grade for its site, adjacent Structures or the Road, after its construction.

4.38 PETROLEUM STORAGE

- (1) Underground gasoline storage facilities shall not be permitted in any Zone without a special permit from Council; and
- (2) the storage of gasoline on a residential Lot shall be limited to 50 litres (13 gallons).

4.39 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 within a reasonable time;
- (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) If a Building which does not conform to provisions of this Bylaw is destroyed by a fire or otherwise to an extent of seventy-five percent (75%) or more of the assessed value of the Building above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of this 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;
 - (5) Any change of tenants or occupants of any premises or Building shall not of itself be deemed to affect the use of the premises or Building for the purposes of this Bylaw;
 - (6) 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, except if the Use would not be detrimental, in the opinion of Council, to the convenience, health or safety of residents in the vicinity or the general public.

**4.40 BUSINESSES IN AGRICULTURAL OR RESIDENTIAL ZONES
-IN-HOME OCCUPATIONS**

Where a property is used for domestic and household arts, or business and professional offices in a Residential or Agricultural zone, the following shall apply:

- (i) 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.

- (ii) there shall be no more than two (2) non-resident assistants employed in the business or profession or the domestic and household arts carried on.
- (iii) not more than twenty-five percent (25%) of the total floor area of the Dwelling shall be occupied by the business or profession or domestic and household arts Use.
- (iv) adequate off-street parking, in accordance with this Bylaw, separate from that required for the Dwelling, shall be provided.
- (v) there shall be no open storage or display area.
- (vi) Premise Signs shall be restricted to a maximum of nine hundred (900) square inches(.625 sq. m) in total.
- (vii) 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 garden or household ornaments, personal effects or toys.
- (viii) no accessory building shall be used for in-home occupation unless a special permit has been issued by Council.

4.41 RECREATIONAL TRAILERS OR VEHICLES

- (1) No person shall use or occupy a Recreational Trailer or Vehicle other than in an approved Campground, unless Council has issued a temporary permit for such Use.
- (2) A permit issued in accordance with subsection (1) shall be valid for a period of not more than 120 days, but may be renewed by Council.
- (3) A Recreational Trailer or Vehicle placed in accordance with these Regulations shall be removed from the Lot or Parcel of land immediately following expiry of the temporary permit.

4.42 MOBILE HOMES

Mobile homes shall not be permitted to be located outside of the Mobile Home Park Zone.

4.43 BED AND BREAKFAST

Bed and breakfast establishments shall be permitted to operate in any Single Family Dwelling in any Agricultural or Residential 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. This requirement may be waived where Council deems there is adequate on-street or off-street parking capacity in the area;
- (4) Premise Signs shall be restricted to a maximum of 900 square inches (0.625 sq. m);
- (5) there shall be no other signage, open storage or visible display area.

Notwithstanding 4.43.2 above, Council may authorize a larger number of rooms, where it is deemed that such a development is appropriate and there would be no significant inconvenience or nuisance to adjoining properties.

4.44 STORAGE OF FISHING VESSELS AND GEAR

The storage of Fishing Vessels and related gear shall be permitted in any Residential or Agricultural Zone subject to the following:

- (1) any fishing vessel or fishing gear must be stored within the established set back provisions for the zone;
- (2) storage of shell fish harvesting equipment and any activity related to shell fish processing such as stripping, washing, grading or related activities shall be restricted to Industrial (M1) Zones.

SECTION #5 – WIND ENERGY SYSTEMS

5.1 DEFINITIONS

For the purpose of this section the following definitions shall apply:

Wind Energy System (WES)

A Wind Energy System consists of a wind turbine, a tower, guy wires and associated control or conversion electronics to convert wind mechanical energy to electricity.

On-site Wind Energy System (OWES)

An On-Site Wind Energy System consisting of a wind turbine, a tower, and associated control or conversion electronics, which is intended to provide electrical power for on-site use only and is not intended or used to produce power for resale or distribution. An OWES might be connected to the local utility grid or be off-grid. On-site wind energy systems are classified as follows:

a) Micro OWES:

A wind energy conversion system, which has a rated capacity of less than 5 KW.

b) Small OWES:

A wind energy conversion system, which has a rated capacity of between 5 and 30 KW.

c) Medium OWES:

A wind energy conversion system, which has a rated capacity of between 30 and 100 KW.

Commercial Wind Energy System (CWES):

A Commercial Wind Energy System is a system, which is intended to produce electricity for resale or distribution purposes. A commercial wind energy system could consist of a single freestanding windmill or a cluster of a number of windmills situated in the same location called a wind farm.

Turbine:

The parts of a wind system including the rotor, generator and tail.

Total System Height:

The height from ground level to the top of the rotor at its highest point.

Wind Turbine Tower:

The guyed or freestanding structure that supports a wind turbine generator.

Wind Turbine Tower Height:

The height above grade of the fixed portion of the wind turbine tower, excluding the wind turbine and rotor.

Off-grid:

A stand-alone generating system not connected to or in any way dependent on the utility grid.

Behind the meter:

A generating system producing power for use on a grid-connected property, but which system may or may not be capable of sending power back into the utility grid.

5.2 PERMITTED USE

Establishment of micro wind energy systems (with a rated capacity not more than 5 KW) shall be permitted in all zones subject to meeting all requirements of this section and any other relevant provisions of this Bylaw.

No person shall erect, construct or install a wind energy system without first obtaining a development permit from Council. All OWES(s) shall be constructed and operated in a manner that minimizes any adverse visual, safety and environmental impacts.

No permits shall be issued for a Commercial Wind Energy System (CWES) without an amendment to this Bylaw.

5.3 DEVELOPMENT PERMITS AND AGREEMENTS

Council may issue a Development Permit for the establishment of an OWES with a rated capacity between 5 and 100 KW, subject to a written development agreement signed by the applicant pursuant to such terms and conditions, as Council deems necessary. Prior to the issuance of a development permit, Council shall ensure that:

1. The development does not cause any hardship to surrounding property owners due to excessive noise, safety issues, traffic congestion or any other potential disturbance;
2. The development is deemed appropriate and complements the scale of any existing development;

3. Property owners within 200 m (600 feet) of the subject OWES shall be notified in writing of details of the proposed development and asked to provide their comments;
4. All other relevant provisions of this Bylaw and provincial *Planning Act* and related national regulations shall be met.

5.4 SHARED WIND ENERGY SYSTEMS

An on-site SWES with a rated capacity between 5 and 100 KW shared by multiple Single Family Dwellings may be permitted subject to meeting the requirements of Section 5.3.

5.5 WALL OR ROOF-MOUNTED SYSTEMS

Considering wind energy fast pace technology, emerging new structures, materials and specifications, every small wind energy system fixed to a building shall be considered individually.

1. A structural engineering analysis of such a wind turbine during installation and operation may be required and certified by a licensed professional engineer including requirements if the turbine is to be installed on any Duplex and multi unit dwelling.
2. The Wall or Roof-mounted turbine height shall be no higher than 5 ft. above the building height.

5.6 WIND TURBINE TOWER HEIGHT

The Wind Turbine Tower Height is subject to the setback requirements below, and provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

5.7 SETBACK

1. The turbine base shall be no closer to the property line than the two times the height of the wind turbine.
2. No part of the wind system structure, including guy wire anchors, may extend closer than one meter (3 ft.) to the property boundaries of the installation site.

3. The tower height of any OWES shall not exceed 24.4 metres (80 feet) in any residential zone and 48.8 metres (160 feet) in any other zone.
4. Any OWES shall be located at a distance of at least 1.5 times the total system height from any habitable buildings.

Council may waive setback requirements from adjacent properties if such adjacent property owner agrees to grant an easement binding on the current and future owners.

In addition to satisfying the minimum setback requirement noted above, the minimum distance of a freestanding wind turbine from an inhabited dwelling shall meet the setback requirements for the noise generated (see section 5.8 below).

5.8 NOISE

1. The mean value of the sound pressure level from any wind energy systems shall not exceed more than 5 decibels (dBA) above background sound, as measured at the exterior of the closest existing or potential neighbouring inhabited dwelling (at the time of installation or during operation), for wind speeds below 10 m/s and except during short term events such as utility outages and/or severe wind storms.
2. Notwithstanding the above noise regulation, the maximum allowed noise level generated by a wind energy system in residential areas shall be 45 dBA for wind speed 10m/s, as measured at the exterior of the existing (or future) closest neighbouring inhabited dwelling.

5.9 SHADOW FLICKER

Shadow flicker at any point of neighbouring inhabited dwelling shall be minimized and not be permitted to exceed 30 hours per year as a result of the operation of the wind turbine.

5.10 NUMBER OF TURBINES

A maximum of one small wind turbine (OWES) per property is permitted.

5.11 COMPLIANCE WITH CANADIAN BUILDING CODE

Permit applications for small wind energy systems (OWES) shall be accompanied by standard drawings of the wind turbine structure, including

the tower, base, and footings, anchoring method and drawn to scale. An engineering analysis of the wind turbine tower showing compliance with the Canadian Building Code and certified by a licensed professional mechanical, structural, or civil engineer shall also be submitted. Documentation of this analysis supplied by the manufacturer shall be accepted.

5.12 COMPLIANCE WITH AIR TRAFFIC SAFETY REGULATIONS

Where it is required, small wind energy systems must comply with applicable air traffic safety regulations. A statement on compliance by the applicant is sufficient. Transport Canada must be notified of the location (latitude and longitude) and height of all wind turbine installations through the aeronautical clearance application process. Small wind turbine towers shall not be artificially lighted except as required by Navigation Canada.

5.13 COMPLIANCE WITH EXISTING ELECTRIC CODES

Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to existing electrical codes, if applicable.

5.14 UTILITY NOTIFICATION

No grid-interconnected wind energy system shall be installed until evidence has been provided that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. A copy of a letter to the applicant's utility is sufficient. No response or evidence of approval from the utility is required.

Off-grid systems and grid-tied systems that are capable of feeding onto the grid with advanced control grid fault protection and disconnect switches covered under the electrical code shall be exempt from this requirement.

5.15 ABANDONMENT OR DECOMMISSIONING

Should a wind energy system located on a site appear to Council to have discontinued producing power for a minimum one year, the system's owner must upon request from Council, prepare a status report. Following review of the status report, if in the opinion of Council power will not be produced on the site within a reasonable period of time, Council may order that the wind energy system located on the site be decommissioned in accordance with the decommissioning plan submitted at the time of the issuance of the development permit.

5.16 APPLICATION REQUIREMENTS

Applications shall contain the following information:

- i) The applicant's and property owner's name, address and phone number;
- ii) A plot plan to scale showing property lines, easements, setback lines and layout of all structures on the lot as certified by a surveyor registered to practice in the Province of Prince Edward Island;
- iii) The location of all structures, habitable buildings, power lines or other utility lines on site and on adjoining properties within a radius equal to three (3) times the proposed tower height as certified by a surveyor registered to practice in the Province of Prince Edward Island;
- iv) Standard drawings, to scale, of the structural components of the WES, including structures, pole or tower, base, footings, guy lines where required, and guy line anchor bases;
- v) The drawing shall include the distance of these components from all property as certified by a surveyor registered to practice in the Province of Prince Edward Island;
- vi) The height and location of any structure over 10.7 metres (35 feet) within a 153 metres (500 foot) radius on-site or off-site of the proposed WES as certified by a surveyor registered to practice in the Province of Prince Edward Island;
- vii) Certification from a professional engineer licensed to practice in the Province of Prince Edward Island that the rotor and overspeed control has been designed for the proposed use on the proposed site;
- viii) Copy of letters notifying in writing all property owners within 200 metres (600 feet) of the proposed WES.
- xi) Decommissioning Plan.

5.17 DESIGN REQUIREMENTS

1. Height

The minimum height of the lowest position of the WES blade shall be at least 6.1 metres (20 feet) for “mini” WES and at least 9.1 metres (30 feet) for “small” and “medium” WES above the ground and/or above the highest structure or tree within a 91.4 metres (300 foot) radius.

2. Fencing, Safety and Lighting

All towers or poles must be un-climbable by design or protected by anti-climbing devices such as:

- i) fences with locking portals at least 1.8metres (6 feet) high;
- ii) anti-climbing devices 3.7 metres (12 feet) from the base of the pole;
- iii) guy wires shall be marked in a fashion to make them clearly visible with reflective guy wire guards to a minimum height of 1.8 metres (6 feet) from the ground up;
- iv) lighting of the facility shall be prohibited, unless required by Transport Canada;
- v) warning signs shall be posted at each property line and each guy wire location;
- vi) no signs shall be displayed on any part of the WES. Manufacturer’s logos may be displayed only on the nacelle and shall be no larger than 0.02 square metres (0.25 sq. ft.);
- vii) the WES shall be designed and placed in such a manner to consider all adverse visual impacts on neighbouring areas. The colours and surface treatment of the WES and supporting structures shall minimize disruption of the natural characteristics of the site.

5.18 CERTIFICATION AND DESIGN

- i) The WES shall be designed and installed in accordance with CSA standards;

- ii) The safety of the design and installation of all WES towers shall be certified by a professional engineer licensed to practice in the Province of Prince Edward Island;
- iii) All WES shall be equipped with manual and automatic overspeed controls to limit rotation of blades to speeds below the designed limits of the conversion system. The professional engineer licensed to practice in the Province of Prince Edward Island shall certify that the rotor and overspeed control design and fabrication conform to proper engineering practices;
- iv) The WES shall be designed and installed to withstand natural lighting strikes as certified by a professional engineer licensed to practice in the Province of Prince Edward Island.

5.19 APPROVALS

Preliminary approval of the WES shall only be granted after successful completion of the application in conformance with this Bylaw and subject to the provisions contained herein. Only then shall the applicant proceed to construct the WES.

Final approval of the WES shall only be granted after successful inspection by a professional engineer licensed to practice in the Province of Prince Edward Island. Only then shall the applicant proceed to operate the WES.

5.20 SEVERABILITY

If any provision of this Section shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

SECTION #6 – PARKING REQUIREMENTS

6.1 PREAMBLE

For every Building to be erected, placed, used or enlarged, there shall be provided and maintained off-street parking on the same Lot to the extent, at least, prescribed in this Section.

6.2 PARKING REQUIREMENTS

	Primary Type of Building	# of Parking Spaces
i)	Single Family Dwelling	2 parking spaces
ii)	Duplex Dwelling	2 parking spaces for each unit
iii)	Multiple Family Dwelling	1.5 parking spaces per dwelling unit
iv)	Hotel, Motel or other Tourist Establishment	1 parking space per quest/room or rental unit and 1 parking space for each 23 sq. m. (250 sq. ft.) of floor area devoted for public use (e.g. banquet rooms, lounge)
(v)	Auditoriums, churches, halls, libraries, museums, theatres, arenas, private clubs, and other places of assembly	Where there are fixed seats, 1 parking space for every four (4) seats; where there are no fixed seats, the seat count will be based on the Fire Marshall's seating capacity rating.
vi)	Hospitals and Nursing Homes	.75 parking spaces per bed
vii)	Senior Citizens Apartments and Community Care Facilities	1.0 parking spaces per dwelling unit
viii)	Elementary School	1.5 parking spaces per teaching classroom and 1 parking space for each six seats of seating capacity in the auditorium
ix)	Funeral Home	1 parking space per four seats of seating capacity

x)	Business and Professional Offices, Service and Personal Service Shops	1 parking space per 28.0 sq. meters (300 sq. ft.) of floor area.
xii)	Shopping Centre (Indoor Mall)	1 parking space per 18.6 sq. meters (200 sq. ft.) of gross floor area
xiii)	Restaurant or Lounge	1 parking space per four seats of seating capacity
xiv)	Other Commercial/Retail Stores	1 parking space per 14 sq. meters (150 sq. ft.) of floor area
xv)	Industrial	1 parking space per 28 sq. meters (300 sq. ft.) of floor area or 1 parking space per employee, whichever is greater.
xvi)	Secondary School, Colleges	As determined by Council at the time of application.

6.3 ADDITIONAL PARKING SPACES

Additional parking spaces may be required, if in the opinion of Council the spaces required under Section 7.2 will not meet anticipated parking requirements.

6.4 OTHER REQUIREMENTS

Where parking facilities are required or permitted:

- (1) The parking area shall be maintained with a stable surface;
- (2) The lights used for illumination of the parking lot or parking station shall be so arranged as to divert the light away from the streets, adjacent Lots and Buildings;
- (3) The parking area shall be within three hundred ft. (300') (91.4 m) of the location which it is intended to serve and shall be situated in the same Zone;
- (4) When the parking area is of a permanent hard surfacing, each parking space shall be clearly demarcated with painted lines and maintained on the parking lot;

- (5) A parking space shall consist of an area of not less than two hundred sq. ft. (18.6 sq. m) measuring ten ft. (10') by twenty ft. (20') (6 m) exclusive of driveways and aisles, unless otherwise authorized by Council;
- (6) Entrances and exits to parking areas shall not exceed a width of thirty ft. (30') (9 m) at the street line and edge of pavement; and
- (7) The width of a driveway leading to a parking or loading area, or of a driveway or aisle in a parking area, shall be a minimum width of ten ft. (10') (3 m) for one-way traffic, and a minimum width of twenty ft. (20') (6 m) for two-way traffic.

6.5 LOADING ZONES

- (1) In any commercial or institutional zone, no person shall erect or use any building or structure for manufacturing, storage, warehouse, department store, retail store, wholesale store, market, freight or passenger terminal, hotel, hospital, mortuary or other uses involving the frequent shipping, loading or unloading of persons, animals, or goods, unless there is maintained on the same premises with every such building, structure or use one (1) off-street space for standing, loading and unloading for every thirty thousand (30,000) sq. ft. (2,790 sq. m.) or fraction thereof of building floor area used for any such purpose;
- (2) Each loading space shall be at least twelve feet (12') (3.6 m) wide with a minimum of fourteen ft. (14') (4.25 m) height clearance.
- (3) The provision of a loading space for any building with less than fifteen hundred (1,500) sq. ft. (139.5 sq. m.) shall be optional.
- (4) No such loading spaces shall be located within any required front yard or be located within any yard which abuts a residential or open space Zone, unless in the opinion of Council adequate screening is provided.

SECTION #7 – SERVICED RESIDENTIAL ZONE (RS)

7.1 GENERAL

Except as provided in this bylaw, all Buildings and parts thereof erected, placed or altered or any land used in an RS Zone shall conform with the provisions of this Section.

7.2 PERMITTED USES

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

- 1) Single Family Dwellings
- 2) Duplex Dwellings
- 3) Accessory Buildings

7.3 LOT REQUIREMENTS

The following requirements shall apply to all uses in the Serviced Residential (RS) Zone:

- | | |
|-------------------------------------|--------------------------------|
| i) Minimum Lot Area | 10,000 sq. ft. (1,000 sq. m.) |
| ii) Minimum Frontage | 75 ft. (23 m) |
| iii) Minimum Front Yard | 25 ft. (7.5 m) |
| iv) Minimum Rear Yard | 25 ft. (7.5 m) |
| v) Minimum Side Yard | 10 ft. (3 m) |
| vi) Maximum Height of Main Building | 2.5 stories or 35 ft. (10.5 m) |

All Lots shall also conform to the Provincial Minimum Development Standards as noted in Appendix “B” or as amended from time to time.

Lot Requirements for Duplex Dwellings shall be as established by Council, based on an assessment of the projected sewage loadings and specific site conditions.

7.4 SERVICING

All developments in a Serviced Residential (RS) Zone shall be serviced by municipal central sewer and central water systems.

SECTION #8 – RESIDENTIAL ZONE (R1)

8.1 GENERAL

Except as provided in this bylaw, all Buildings and parts thereof erected, placed or altered or any land used in an R1 Zone shall conform with the provisions of this Section.

8.2 PERMITTED USES

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

- 1) Single Family Dwellings
- 2) Garden Suites
- 3) Accessory Buildings
- 4) Agricultural Uses
- 5) Bed & Breakfast (up to 3 rental rooms)

8.3 SPECIAL PERMIT USES

Notwithstanding Section 8.2 above, Council may issue a Special Development Permit for the following uses where it deems the Development is appropriate, all other relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:

- 1) Duplex Dwellings
- 2) Summer Cottages
- 3) Bed & Breakfast (over 3 rental rooms)
- 4) Child Care Facilities
- 5) Innovative Multi-Family Dwellings
- 6) Tourism Establishments and Rental Cottages

8.4 LOT REQUIREMENTS

The following requirements shall apply to uses in the Residential (R1) Zone:

- | | |
|---|---------------------------------------|
| i) Minimum Lot Area | 43,560 sq. ft. (1 acre) (4,430 sq. m) |
| ii) Minimum Frontage | 150 ft. (45 m) |
| iii) Minimum Front Yard | 50 ft. (15 m) |
| iv) Minimum Rear Yard | 25 ft. (7.5 m) |
| v) Minimum Side Yard | 15 ft. (4.5 m) |
| vi) Minimum Flankage Yard | 50 ft. (15 m) |
| vii) Maximum Height of Main Building | 2.5 stories or 35 ft. (10.5m) |
| viii) Maximum Total Living Area of Dwelling | - 10% of Lot Area |

All Lots shall also conform to the Provincial Minimum Development Standards as noted in Appendix “B” or as amended from time to time.

Notwithstanding the above, Lot Requirements for Child Care Facilities, Duplex Dwellings,, Bed & Breakfast with over 3 rental rooms, Innovative Multi-Family Dwellings, Tourism Establishments and Rental Cottage developments shall be as established by Council, based on an assessment of the projected sewage loadings and specific site conditions.

8.5 SERVICING

- (1) Where in the opinion of Council site conditions may pose limitations for the long term operation of on-site water supply and wastewater treatment systems, Council may require that these systems be designed and certified by a professional engineer licensed to practice on Prince Edward Island.
- (2) For any Innovative Multi-Family Dwelling Council shall require that the on-site water supply and wastewater treatment systems be designed and certified by a professional engineer licensed to practice on Prince Edward Island.
- (3) For any Bed & Breakfast containing over 3 rental bedrooms Council shall require that the on-site water supply and wastewater treatment systems to designed and certified by a professional engineer licensed to practice on Prince Edward Island.

SECTION #9 – MOBILE HOME PARK ZONE (MHP)

9.1 GENERAL

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

9.2 PERMITTED USES

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

- (1) Mobile Homes
- (2) Mini Homes
- (3) Accessory Buildings

9.3 LOT REQUIREMENTS

The following requirements shall apply to all uses in the Mobile Home Park (MHP) Zone:

- 1) each mobile home or mini-home space shall meet the following requirements:
 - i) Minimum Area of 3,000 sq. ft. (290 sq. m.)
 - ii) Minimum Frontage 25 ft. (7.5 m)
 - iii) Minimum Building Separation 15 ft. (4.5 m)
 - iv) Minimum Setback from park boundaries 15 ft. (4.5 m)
 - v) Minimum Parking Spaces 2 per unit

9.4 OTHER REQUIREMENTS

- (a) mobile home park grounds, facilities, outdoor furnishings and equipment shall be maintained in good repair and sanitary condition;
- (b) a mobile home park shall have an operator providing daily supervision;
- (c) sufficient covered receptacles shall be provided for garbage, refuse, and liquid wastes, and removal of wastes shall be done at least once a week;
- (d) all areas shall be kept free of litter, rubbish and inflammable material;

- (e) all Lots/sites shall be served by a piped common water and sewage disposal system, and each mobile home shall be connected to the system;
- (f) all lands within the mobile home park shall be landscaped in such a way as to provide a suitable residential environment;
- (g) each site shall have access on a continuous right-of-way which is not less than 25 feet (25') (7.5 m) wide, and is connected to a public Road; and each Lot shall have access to a public Road;
- (h) the travelled portion of a right-of-way shall be surfaced with a minimum width of 20 feet (20') (6 m) of gravel or other durable material as approved by Council.

SECTION #10 – GENERAL COMMERCIAL ZONE (C1)

10.1 GENERAL

Except as provided in this bylaw, all Buildings and parts thereof erected, placed or altered or any land used in a C1 Zone shall conform with the provisions of this Section.

10.2 PERMITTED USES

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

- (i) Retail Stores
- (ii) Business and Professional Offices
- (iii) Service and Personal Service Shops
- (iv) Banking and Financial Institutions
- (v) Restaurants and Lounges
- (vi) Hotels, Motels or other Tourist Establishments
- (vii) Entertainment Facilities
- (viii) Institutional Buildings
- (ix) Accessory Buildings
- (x) Transient or Temporary Commercial
- (xi) Funeral Homes
- (xii) Other uses deemed by Council to be compatible with the surrounding uses in the Zone.

10.3 SPECIAL PERMIT USES

Notwithstanding Section 8.2 above, Council may issue a Special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Bylaw are met and subject to such conditions as Council may impose:

- (1) Child Care Facilities
- (2) Dwelling units in a commercial Building
- (3) Service Stations and other activities associated with the automobile trade, except for a scrap yard or auto body shop.

10.4 LOT REQUIREMENTS

The following regulations shall apply to Development in a C1 Zone:

- (i) Minimum Lot Area - 43,560 sq. ft. (1 acre)
- (ii) Minimum Frontage - 150 feet (45 m)
- (iii) Minimum Front Yard - 25 feet (7.5 m)
(if no parking in front of building)
- (iv) Minimum Flankage Yard - (Same as front yard requirements above)
- (v) Minimum Side Yard - 15 feet (4.5m)
- (vi) Minimum Rear Yard - 25 feet (7.5 m)
- (vii) Maximum Height - 2.5 stories or 35 ft. (10.5 m)

Notwithstanding the above, Council may consider reduced Lot requirements where the Lot is connected to central municipal water and sewer services. All Lots shall also conform to the Provincial Minimum Development Standards as noted in Appendix “B” or as amended from time to time.

Notwithstanding the above, Council may also impose higher Lot Requirements based on an assessment of the projected sewage loadings and specific site conditions.

10.5 SPECIAL REQUIREMENTS: COMMERCIAL ZONES ADJACENT TO AGRICULTURAL OR RESIDENTIAL ZONES

Notwithstanding any other provision of this Bylaw, where a Commercial Development located on lands zoned General Commercial (C1) directly abuts on any Agricultural or Residential Zone, the following conditions shall be complied with:

- (i) a strip of land not less than 15 ft. (4.5 m) in width along the Lot line within the C1 Zone and adjacent to the Agricultural or Residential Zone shall be maintained clear of any Structure, driveway or parking area and shall be adequately landscaped to provide a visual buffer;
- (ii) any exterior lighting or illuminated sign shall be so arranged as to deflect light away from the adjacent Agricultural or Residential Zone; and
- (iii) outdoor storage shall be prohibited adjacent to an Agricultural or Residential Zone unless it is hidden from view by means of a landscaped buffer hedge or adequate size or architectural screening such as a wall, Fence or other appropriate structure.

10.6 DWELLINGS IN COMMERCIAL BUILDINGS

Where a Dwelling unit is provided in connection with a commercial Use the following minimum standards shall apply:

- (i) the Dwelling unit is not above a restaurant, lounge, automobile service station, dry cleaning establishment or repair shop storing explosive materials;
- (ii) separate entrances serve the Dwelling unit;
- (iii) for each Dwelling unit, 400 sq. ft. (47 sq. m.) of landscaped open area and 1.0 parking spaces are provided;
- (iv) each Dwelling unit meets the requirements of the Provincial Fire Marshall;
- (v) the floor area in residential use is a minimum of four hundred (400) sq. ft. and does not exceed the commercial floor area.

10.7 TRANSIENT OR TEMPORARY COMMERCIAL PERMITS

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

- (i) the Development shall not result in any traffic hazard;
- (ii) the Development shall not interfere with the parking requirements of permanent users of the lot in which the development will be located;
- (iii) the Development shall not create a public nuisance;
- (iv) the temporary permit shall not exceed a four (4) week period;
- (v) the applicant shall provide a letter of approval from the owner of the lot on which the temporary development will be situated;
- (vi) where required, the applicant shall satisfy Council that such Development complies with all health regulations.

10.8 AUTOMOBILE SERVICE STATION

- (i) Notwithstanding any other provisions of this Bylaw, the following special provisions shall apply to an Automobile Service Station:

- (a) Minimum Lot Frontage 150 ft. (45 m)
- (b) Minimum Pump Setback 20 ft. (6 m)
- (c) Minimum Pump Distance from access
or egress 30 ft. (9 m)
- (d) Minimum Width of Driveway 25 ft. (7.5 m)

(ii) Where the service station includes an automobile washing facility, all washing operations shall be carried out inside the building.

10.9 PARKING IN FRONT OF BUILDING

Where parking is provided in front of any Building in a C1 Zone a fifteen foot (15') (4.5 m) landscaped buffer shall be provided between the parking area and the Street boundary.

SECTION #11– AGRICULTURAL ZONE (A1)

11.1 GENERAL

Except as provided in this Bylaw, all Buildings and parts thereof erected, placed or altered or any land used in an A1 Zone shall conform with the provisions of this Section.

11.2 PERMITTED USES

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

- (1) Single Unit Dwellings
- (2) Agricultural
- (3) Forestry
- (4) Parks and Open Space
- (5) Bed & Breakfast (up to 3 rental rooms)
- (5) Accessory Buildings which in the opinion of Council are clearly incidental to the main Use of land.
- (6) Accessory Buildings for the purpose of human habitation, in connection with a Farm.

All permits for residential Uses in an Agricultural (A1) Zone shall contain a caveat informing the applicant that he or she is choosing to construct a home in an established Agricultural area and they should expect to be exposed to normal agricultural activities such as: manure spreading; chemical spraying; planting, cultivating and harvesting activities; and slow moving equipment on roadways.

11.3 SPECIAL PERMIT USES

Notwithstanding Section 9.2 above, Council may issue a Special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:

- (1) Duplex Dwellings
- (2) Resource Based Commercial
- (3) Resource Based Industrial
- (4) Child Care Facilities
- (5) Bed & Breakfast (over 3 rental rooms)

11.4 LOT REQUIREMENTS

The following requirements shall apply to all Uses in the Agricultural (A1) Zone:

- (i) Minimum Lot Area 43,560 sq. ft. (1 acre)
- (ii) Minimum Frontage 150 feet (45 m)
- (iii) Minimum Front Yard 50 feet (15 m)
- (iv) Minimum Rear Yard 25 feet (7.5 m)
- (v) Minimum Side Yard 15 feet (4.5 m)
- (vi) Maximum Height of Any Building 2.5 Stories or 35 ft. (10.5m)
- (vii) Minimum Floor Area 500 sq. ft.

All Lots shall also comply with the Provincial Minimum Development Standards Regulations as noted in Appendix B or as amended from time to time.

Notwithstanding the above, Lot Requirements for Child Care Facilities, Duplex Dwellings and Bed & Breakfast with over 3 rental rooms shall be as established by Council, based on an assessment of the projected sewage loadings and specific site conditions.

11.5 INTENSIVE LIVESTOCK OPERATIONS

- (1) For the purpose of this Section “Intensive Livestock Operations” means a place where Livestock are found in a density greater than seven animal units per acre of living space, with the calculation of animal units to be determined by reference to Column 2 of Schedule D of the Watercourse and Wetland Protection Regulations made pursuant to the *Environmental Protection Act*.
- (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 of new or expanded Intensive Livestock Operations from any dwelling on an adjacent Property	1000 feet (305 m)
Distance of new dwelling from an existing Intensive Livestock Operations	500 feet (150 m)
Distance from public Road	150 feet (45 m)
Distance from any domestic well	1000 feet (305 m)
Distance from any Lot line	50 feet (15 m)

- (3) All intensiveLivestock buildings shall have a manure storage facility with a capacity for retention of manure for a period of time for which conditions do not permit spreading.
- (4) 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.
- (5) The Developer may also be required to undertake an Environmental Impact Assessment in conjunction with the Department of Environment and provide details of the assessment to Council as part of the application process.

11.6 EXCAVATION PITS

- (1) No person shall operate an Excavation Pit in an Agricultural Reserve Zone unless a valid permit has been issued pursuant to the provisions of this Section.
- (2) In this Section
 - (i) “abandoned” in relation to an Excavation Pit, means an Excavation Pit for which a valid permit has not been in force for a period of one year;
 - (ii) “contractor” means any Person who has an understanding, agreement or contract with a Property Owner to open or operate an Excavation Pit on the land of the Property Owner;
 - (iii) “Excavation Pit” means any excavation in the ground for the purpose of searching for or removing clay, gravel, sand, shale, sub-soil, topsoil, rock or any other surface or subterranean deposit, but does not include an excavation made within the boundaries of a highway, or a snow-trap constructed to protect a roadway from snow accumulation;
 - (iv) “operate” in relation to an Excavation Pit, means to search for, move or remove any clay, gravel, sand, shale, sub-soil, topsoil, rock or any other surface or subterranean deposit, or any part thereof;
- (3) Requirement for Permit
 - (i) No person shall:

- (a) open or operate an Excavation Pit;
- (b) remove excavated material from an Excavation Pit;
- (c) being a Property Owner

- (1) allow any other Person to operate an Excavation Pit on that Property; or
- (2) allow any other Person to remove excavated material from that Property

Except in compliance with a valid permit issued under this Bylaw.

- (ii) A Property Owner upon which an Excavation Pit is situated, whether or not there has been a permit issued therefore, shall at his or her own expense, comply with the provisions of an order by Council for closure and restoration of the Excavation Pit.

(4) Application for Permits

- (i) Before opening or operating any Excavation Pit, a contractor or Property Owner shall have made application for and be in possession of a valid permit issued therefore.

- (ii) An application shall be made:

- (a) by the contractor in the case of an Excavation Pit that is to be operated by a contractor, but must contain the approval in writing of the Property Owner of the Property upon which the Excavation Pit is to be located; or
- (b) by the Property Owner on which the Excavation Pit is to be located, in the case of an Excavation Pit that is to be operated by the Property Owner.

- (iii) An application shall contain:

- (a) a map or plan showing the location, shape, dimension, approximate area and description of the Property upon which the Excavation Pit is to be located and the location of the proposed Excavation Pit, together with existing grades of the Property on which the Excavation Pit is to be located, and the anticipated grades of the Excavation Pit when it has been abandoned;

- (b) details of the existing land Use of the proposed site of the Excavation Pit;
 - (c) information in respect of the Use of all land within a distance of 500 metres (1,600 feet) of the boundary of the proposed pit;
 - (d) the location and extent of all Watercourses within the Property boundaries or within 250 metres (800 feet) of the proposed Excavation Pit;
 - (e) the details of all drainage from the proposed Excavation Pit;
 - (f) the plans to prevent soil eroded from the Excavation Pit from entering any adjacent Watercourses;
 - (g) a description of all entrances and exits from the proposed Excavation Pit;
 - (h) the location and amount of all stockpiles of the mater being excavated, overburden and waste;
 - (i) proposals for the protection of people and livestock from any hazards that may be created by the Excavation Pit, including proposals for the fencing and posting of Signs for the Excavation Pit;
 - (j) a plan for the restoration of the site to a condition suitable for agricultural, reforestation or other Use acceptable to Council;
 - (k) an undertaking to post a bond or other surety acceptable to Council to cover the costs of carrying out the restoration plan required in sub-clause (j); and
 - (l) such other information as may be required by Council.
- (iv) Each application under subsection (i) shall contain the real property tax number and the name of the owner appearing on the tax notices under the *Real Property Tax Act*, R.S.P.E.I. 1988, Cap. R-5.
- (v) A plan referred to clause (iii)(a) may be an aerial photograph, a Survey Plan certified by a Prince Edward Island land surveyor, or it may be a line drawing made by the Applicant, but any plan submitted shall be of such detail and shall identify the matters referred to in subsection (3) with such clarity as shall be satisfactory to Council.
- (vi) Each application shall be accompanied by a fee of \$100 made payable to the Community of Lower Montague.

(vii) No fee shall be payable in respect of an Excavation Pit for which a valid permit has been in force within six months prior to the date the application is received by Council and for which a fee has been paid.

(5) Issuance of Permits

- (i) No permit shall be issued:
- (a) if an application in accordance with subsection (4) has not been submitted;
 - (b) if the plan submitted by the Applicant does not contain sufficient particulars;
 - (c) if the Use of the land as an Excavation Pit would be in contravention of any other act, regulation or bylaw;
 - (d) if any part of the proposed Excavation Pit is within 300 metres (1000 feet) of any residential Property other than a residence occupied by the Applicant or within 500 metres (1600 feet) of any church, school, Hospital, cemetery, public hall, bathing beach, Public Park or public playground;
 - (e) if, in the opinion of Council, the location of a Road from the Excavation Pit giving access to the highway would create a hazard to the public;
 - (f) if, in the opinion of Council, the proposals of the Applicant are insufficient to provide reasonable protection for people and livestock from the hazards created by the Excavation Pit;
 - (g) if, in the opinion of Council, any detrimental effect on the water table or surface drainage patterns would occur;
 - (h) if any part of the site proposed for an Excavation Pit is within 50 metres (160 feet) of a Watercourse;
 - (i) if, in the opinion of Council, the operation of an Excavation Pit at that location would create a conflict with existing land Use, natural features or aesthetic quality of the surrounding area;
 - (j) if the bond or surety referred to in clause (4)(iii)(k) has not been executed;
 - (k) for any period of time exceeding one year from the date of issue; or
 - (l) for an Excavation Pit to be located within 60 metres (200 feet) of a Highway.

- (ii) Where Council is satisfied that the requirements of this Bylaw have been complied with, it shall issue a permit for an Excavation Pit subject to any conditions contained in the permit.
- (6) Excavations from Excavation Pits
- (i) No Person shall in operating an Excavation Pit:
 - (a) excavate below a line extending horizontally from an adjacent Property boundary, within eight (8) metres of that boundary; or
 - (b) excavate below a gradient line which slopes downward from an adjacent Property boundary at a slope of one unit vertical to one unit horizontal.
 - (ii) The holder of a permit for an Excavation Pit shall:
 - (a) 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;
 - (b) control dust on the access Road to the Excavation Pit by means of an approved method.
 - (iii) The holder of a permit for an Excavation Pit shall, before an Excavation Pit becomes an abandoned pit, slope all of the walls of the Excavation Pit to a minimum 3:1 slope (horizontal to vertical).
 - (iv) No Person who holds a permit under this section shall fail to carry out any proposal contained in the application or any condition placed on the operation of the Excavation Pit.

SECTION #12 – RECREATION AND OPEN SPACE ZONE (OS)

12.1 GENERAL

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

12.2 PERMITTED USES

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

- (i) Public and Private Parks
- (ii) Open Space and Conservation Activities
- (iii) Golf Courses
- (iv) Recreational Uses
- (v) Pavillions and Band Shells
- (vi) Recreation Administrative Offices
- (vii) Parking lots related to the above
- (viii) Accessory Buildings

12.3 LOT REQUIREMENTS

Minimum Lot Area	43,560 sq. ft. (1 Acre) (.40 hectares)
Minimum Lot Frontage	150 feet (45m)
Minimum Front Yard	50 feet (15 m)
Minimum Rear Yard	50 feet (15 m)
Minimum Side Yard	25 feet (7.5 m)
Maximum Height of Building	2.5 stories or 35 feet (10.5 m)

All Lots shall also conform to the Provincial Minimum Development Standards as noted in Appendix “B” or as amended from time to time.

SECTION #13 – PUBLIC SERVICE AND INSTITUTIONAL ZONE (PSI)

13.1 GENERAL

Except as provided in this Bylaw, all Buildings and parts thereof erected, placed or altered or any land Used in a PSI zone shall conform with the provisions of this Section.

13.2 PERMITTED USES

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

- (1) Institutional Buildings and uses
- (2) Group Homes
- (3) Civic Centres
- (4) Accessory Buildings
- (5) Public and Private Parks
- (6) Recreational Uses
- (7) Clubs

13.3 LOT REQUIREMENTS

Minimum Lot Area	43,560 sq. ft. (1 acre)
Minimum Lot Frontage	150 feet (45 m)
Minimum Front Yard	50 feet (15 m)
Minimum Rear Yard	25 feet (7.5 m)
Minimum Side Yard	15 feet (4.5 m)
Minimum Flankage Yard	50 feet (15 m)

All Lots shall also conform with the Provincial Minimum Development Standards as noted in Appendix “B” or as amended from time to time.

13.4 PARKING IN FRONT YARD

Where parking is provided in front of any Building in a PSI Zone a fifteen foot (15’) (4.5 m) landscaped buffer shall be provided between the parking area and the Street boundary.

SECTION #14 – ENVIRONMENTAL RESERVE ZONE (02)

14.1 GENERAL

Except as provided in this Bylaw, all Buildings and parts thereof erected, placed or altered or any land used in a 02 Zone shall conform with the provisions of this Section.

14.2 PERMITTED USES

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

- (1) Passive recreational uses, such as skiing or hiking
- (2) Conservation related activities
- (3) Other development as approved by Council.

14.3 ZONE BOUNDARIES

The Zone Boundaries shall be interpreted to include all the area defined as either a “wetland” or “watercourse” in Section 2 and in addition shall include the area within fifteen metres (50 feet) of a “wetland” or “watercourse”.

Zone Boundaries shall also include those areas prone to flooding, subject to high rates of erosion or with steep slopes which could impose limits on building construction or installation of sewage treatment systems.

14.4 ZONE REQUIREMENTS

Within an Environmental Reserve 02 Zone no Development may occur and no disturbance to the ground soil or vegetation shall occur except in conformance with the Watercourse and Wetland Protection Regulations made pursuant to the *Environmental Protection Act*.

SECTION #15 – VARIANCES

15.1 MINOR VARIANCE

- (1) Council may authorize a minor variance not exceeding ten percent (10%) from the provisions of this Bylaw if:
 - (a) the variance does not violate the general intent and purpose of this Bylaw;
 - (b) the variance is for a unique circumstance and is not a difficulty common to properties in the area;
 - (c) the circumstance for which the variance is requested is not the result of an intentional disregard for the requirements of this Bylaw; and
 - (d) there is, in the opinion of Council, no reasonable alternative.
- (2) Authorization for a minor variance shall be documented and recorded in writing.
- (3) No variance shall be granted where the difficulty experienced is the result of intentional or negligent conduct of the applicant in relation to the property.

15.2 VARIANCES GREATER THAN 10%

- (1) Notwithstanding any other section of this Bylaw, Council may, authorize variances in excess of ten percent (10%) variance from the provisions of this Bylaw if:
 - (a) the variance meets the provisions of subsection 15.1;
 - (b) the owners of adjoining properties have been notified of the proposed variance, and given the opportunity to comment on the matter.
- (2) Where Council deems that a variance application could have a significant affect on adjacent properties or properties in the general vicinity, Council may require that a public meeting be held pursuant to the provisions of Section 16.6.

SECTION #16– AMENDMENTS

16.1 APPLICATION FOR AMENDMENT

Any person desiring an amendment (s) to the provisions of these Bylaws shall apply to Council, in writing, describing, in detail, the reasons for the desired amendment(s) and requesting Council to consider the proposed amendment(s).

16.2 APPLICATION FOR RE-ZONING

- (a) Any application for re-zoning shall be deemed to be an application to amend these Bylaws.
- (b) Any application to re-zone shall include a legal description of and the location of the property(ies) to be re-zoned, the name and address of the owners of the property(ies) and, if the applicant is not the owner, a statement as to the applicant's interest in the property.

16.3 AMENDMENT FEE

- (a) Any application for an amendment shall be made, in writing, along with a non-refundable application fee.
- (b) If the amount paid by the applicant as set out in Subsection 4 is not sufficient to cover the costs of notifying affected property owners and other expenses related to the cost of the amendment, the applicant shall pay to the Development Officer the additional amount required, before Council gives final approval to the amendment; or if the amount paid is more than sufficient, the Development Officer shall refund the excess amount.

16.4 NOTICE TO PROPERTY OWNERS

- (a) When an application has been received for a re-zoning, all affected property owners within a five hundred foot (500') (15.2 m) radius of the subject property shall be notified of the application by the administrator.
- (b) This notification of affected property owners set out in clause (a) shall be in addition to the advertisements for the public hearing, and shall be delivered to all affected property owners by mail at least seven (7) clear days prior to the date fixed for the public meeting.

16.5 COUNCIL'S REVIEW

- (a) Council shall determine whether or not to pursue such an amendment, and before making any decision shall examine the Official Plan to ensure that the proposed amendment will not be contrary to any policy within the Official Plan.
- (b) No amendment shall be made in these Bylaws which would be contrary to any policy of the Official Plan without a review and amendment of the Official Plan in accordance with the requirements of Section 18 (2) of the *Planning Act* (1988).

16.6 PUBLIC MEETING

- (a) No amendment shall be made to the provisions of these Bylaws unless Council provides for adequate public notice and a public meeting pursuant to the provisions of the *Planning Act*.
- (b) At any public meeting called in respect of a proposed amendment(s) to these Bylaws, Council shall preside, the person proposing the amendment or their designate shall describe and defend the proposed amendment, and the opinions of any person shall be heard for consideration by Council.
- (c) Council shall instruct the Development Officer to notify the applicant that the proposed amendment to these Bylaws has been approved or denied. Where a proposed amendment to these Bylaws has been denied by Council, the reasons for the denial shall be stated, in writing to the applicant.
- (d) Council shall not entertain any new application for the same proposed amendment(s) to these Bylaws for a period of one (1) year from the date of previous application of proposed amendment to these Bylaws.

SECTION #17 – GENERAL PROVISIONS FOR SUBDIVIDING LAND

17.1 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 Council.

17.2 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.

17.3 PERMISSION TO SUBDIVIDE

No person shall subdivide land within the Community unless the subdivision:

- (i) conforms with the requirements of this Bylaw;
- (ii) is suitable to the topography, physical conditions, soil characteristics, and natural and surface drainage of the land;
- (iii) will not cause undue flooding or erosion;
- (iv) has convenient street access;
- (v) has adequate utilities and services available or can be conveniently provided with such utilities and services;
- (vi) will reasonably conform with existing land use in the immediate vicinity;
- (vii) will provide for safe and convenient traffic flow;
- (viii) is designed so that lots will have suitable dimensions, shapes, orientation and accessibility;
- (ix) is suitable to the Use for which it is intended, and the future Use of adjacent lands;

- (x) 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 4.12 of this Bylaw;
- (xi) would not be detrimental to the convenience, health or safety of residents in the vicinity or the general public;
- (xii) would not precipitate premature development, necessitate unnecessary public expenditure, or would place undue pressure on the Community or Province to provide services; or
- (xiii) would not result in undue damage to the natural environment.

17.4 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 these 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 500 feet (152 metres) of the boundaries of the lot in writing, informing them of the details of the application and soliciting their comments.

17.5 ACCESS LIMITATIONS

No person shall establish more than one access driveway in an Agricultural (A1) Zone or a Residential (R1) Zone onto Route 17, the Whim Road, Commercial Road or the Wood Island Road for each 660 ft. (200m) of property frontage on the highway, or portion thereof.

17.6 SUMMER COTTAGE SUBDIVISIONS / PRIVATE ROADS

Any new Summer Cottage Subdivisions shall comply with the following provisions:

- (1) All new Summer Cottage Subdivisions of over five (5) Lots shall be required to prepare an Environmental Impact Assessment, the terms of which shall be determined by Council.
- (2) The Developer of any new Summer Cottage Subdivision shall establish a Home Owners Association which shall, at a point to be determined by Council, assume ownership and maintenance of all private Roads, open

spaces and any central services such as central water systems or central waste water treatment systems.

- (3) Where Council has authorized a private Road to service a Summer Cottage Subdivision or any other Development, for developments of over two (2) Lots but less than five (5) Lots, the Road shall be designed and certified by a licensed engineer to be capable of providing safe year round access and appropriate storm water management. For Roads servicing five (5) or more Lots, the Road shall be constructed by the Developer in accordance with the standards established by the Provincial Government for public Roads, with the exception of finished pavement. Final subdivision approval shall not be granted by Council until the Road has been certified by a professional engineer licensed to practice on Prince Edward Island.

17.7 SPECIAL REQUIREMENTS – AGRICULTURAL (A1) ZONE

- (1) Within an Agricultural (A1) Zone, no Person shall be permitted to subdivide from any existing Parcel of land more than two (2) 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 2, 2007.
- (3) Any Lots subdivided pursuant to this Section shall conform to the Lot requirements for an A1 Zone and all other relevant provisions of this Bylaw.
- (4) Within an Agricultural (A1) Zone:
 - (i) a residential Subdivision shall not be permitted within 150 metres (500 feet) of an existing intensive livestock operation.
 - (ii) where a residential Subdivision is proposed, Council shall notify operators of intensive livestock operations within 300 metres (1,000 feet) and invite their comments.
- (5) Notwithstanding the above, Council may authorize the Subdivision and consolidation of farmland for farm purposes, provided that any residual parcels which are created comply with the provisions of this Bylaw
 - (i) where a new intensive livestock operation is proposed within 300 metres (1,000 feet) of an existing residential Subdivision Council shall notify the Property owners and invite their comments.

17.8 SPECIAL REQUIREMENTS – COASTAL SUBDIVISIONS

- (1) Where a Subdivision is located along a Coastal Area or Watercourse, the Subdivision shall include the following:
- (i) public 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;
 - (ii) where appropriate, the area to be set aside as Parkland dedication shall be located at least in part along the Watercourse; and
 - (iii) beach and Watercourse accesses shall measure at least 20 ft. (6.1 metres) in width.

17.9 PARKLAND DEDICATION AND/OR PARK DEDICATION FEE

Except for the subdivision of a single lot for residential purposes, any person who subdivides two (2) or more lots within the Community may, at the time of subdivision, be required to dedicate and deed to the Community, free of all encumbrances, 10 percent (10%) of the land included in the subdivision, to the Community for recreation and public open space purposes; as per the following:

- (a) Council shall have the power to choose what land within the subdivision shall be deeded; and
- (b) Where no dedication of land is deemed appropriate with respect to the severing of five (5) or more lots, Council shall require a cash payment equivalent to ten percent (10%) of the value of the unsubdivided land. Any monies so collected shall be designated for the purpose of purchase or maintenance of recreational and public open space lands within the Community.

17.10 SUBDIVISION AGREEMENT

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:

- (i) design and construction costs of water supply, sanitary and storm sewers, Roads, and Street lighting;

- (ii) dedication of land for recreation and public open space purposes, or payment of a fee in lieu of land;
- (iii) deeding of Roads to the Province;
- (iv) deeding of utility systems to the Community;
- (v) posting of a financial guarantee satisfactory to Council;
- (vi) assignment of costs associated with the drafting and execution of this agreement; and
- (vii) any other matter(s) that Council deems necessary to conform with this Bylaw or to ensure the health, safety and convenience of community residents and the travelling public.

All subdivision agreements require registration with the Registry of Deeds.

17.11 APPLICATION AND APPROVAL PROCESS

- (1) Applications to Subdivide land in the Community of Lower Montague shall be submitted on a form as prescribed by Council.
- (2) All Subdivision applications may be required to be accompanied by the following:
 - (i) an orthophoto showing the location of the land and all adjoining properties;
 - (ii) a description of land Uses on the surrounding properties;
 - (iii) a contour map showing the topography of the site with at least 2 metre (6.5 ft.) contour lines;
 - (iv) a conceptual design showing the location and dimensions of all proposed Lots, Roads, sidewalks, walkways and trails, Parks and Open Space, streams, wetlands and other site features such as woodlands.
- (3) The Development Officer may require such other information as may reasonably be required to assess the impact of any Subdivision, including but not limited to the following:
 - (i) a written assessment by the Provincial Government on any potential

Environmental impacts, including any requirements imposed by provincial legislation or regulations;

- (ii) soil and water testing;
 - (iii) a written assessment by the Provincial Government on any access, transportation or pedestrian issues related to the design;
 - (iv) a storm water management plan prepared by a qualified engineer;
 - (v) a conceptual servicing plan prepared by a qualified engineer;
 - (vi) any other studies or documentation required by the Development Officer in order to adequately assess the impact of the proposed subdivision.
- (4) After reviewing all information required by the Development Officer, Planning Board may make a recommendation to Council for approval or rejection of the subdivision application.
 - (5) Council may either accept or reject the recommendations of Planning Board. Where Council generally accepts the details of a Subdivision Application, Council may issue a preliminary approval, which shall include all conditions which shall be imposed on the Development.
 - (6) The Development Officer shall then negotiate and execute a Subdivision Agreement which addresses all the above noted conditions and all other matters noted in Section 17.10.

17.12 FINAL APPROVAL

- 1. Final subdivision approval shall be granted by Council only after the applicant has complied fully with all applicable requirements of this Section and has submitted seven (7) copies of a final subdivision plan showing all Lots pinned and certified by a an accredited member of the Association of Prince Edward Island Land Surveyors.
- 2. The Development Officer, on behalf of Council, shall give notice of final approval of a subdivision in writing to the applicant. Council shall place its approval stamp on the seven (7) copies of the survey plan and shall return one copy to the applicant.
- 3. Final approval of a subdivision plan shall not be given by Council until:

- (a) the survey plan has been submitted for recommendations to any appropriate provincial or federal government departments;
- (b) all agreements and other pertinent documents have been prepared and concluded to the satisfaction of Council;
- (c) all transactions involving the transfer of money or land in conjunction with the subdivision of land have been secured to the satisfaction of Council,
- (d) a digital file containing the (real earth) geographic co-ordinates of said plan of subdivision has been submitted.

17.13 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.

17.14 BUILDING PERMITS

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

SECTION #18 – APPEAL AND ENFORCEMENT

18.1 APPEAL

1. Any person who is dissatisfied with a decision of Council in the administration of the Official Plan or the Zoning and Subdivision Bylaws may appeal Council's decision to the Island Regulatory and Appeals Commission.
2. The appellant will register a notice of Appeal to the Commission, stating the grounds for the appeal and the relief sought. Appeals must be made within twenty-one (21) days of Council's decision.
3. The appellant will, within seven (7) days of filing an appeal with the Commission, serve a copy of the notice of Appeal on the Council.
4. No Appeal lies from 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.

18.2 ENFORCEMENT

A person who violates any provision of this Bylaw is guilty of an offence and liable on summary conviction.

- (i) In the case of a first or subsequent offence, to a fine not exceeding two thousand (\$2,000.00) dollars in each case together with the cost of prosecution and in default of payment of the fine and costs, to imprisonment for a term 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 four hundred (\$400.00) 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.
- (iv) The provisions of this Bylaw may be enforced by Council via injunction.

SECTION #19 – REPEAL

19.1 EFFECTIVE DATE

This Bylaw shall come into force effective _____.

19.2 REPEAL

The Community of Lower Montague Zoning and Subdivision Control Bylaw 2006 is hereby repealed.

APPENDIX "A"

OFFICIAL ZONING MAP

APPENDIX “B”

1. Notwithstanding any provisions of this Bylaw, no person shall subdivide a lot except in conformance with the Planning Act Province-Wide Minimum Development Standards Regulations as noted below or as amended from time to time.

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

a) Servicing	b) Lot Category	c) Minimum Lot Frontage	d) Number of Dwelling Units	e) Minimum Lot Area sq. ft./sq. m	f) Minimum Circle Diameter to be contained within the boundaries of the lot feet/metres
On-site water supply and on-site sewerage disposal system	I	100 feet/ 30.5 m (or 50 feet/15.25 m, where the frontage is on the interior curve of a street)	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/ 53.3m
			4	40,000 sq.ft./3,717 sq.m	200 ft./ 61m
			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 supply and on-site sewage disposal system	II	100 feet/ 30.5 m (or 50 feet/15.25 m, where the frontage is on the interior curve of a street)	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	50,000 sq.ft./4,645 sq. m	250 ft./ 76.2 m
			more than 4	50,000 sq. ft./4,645 sq.m, plus 1,500 sq.ft./457sq. m for	250 ft./ 76.2 m

				each additional unit	
On-site water supply and on-site sewage disposal system	III	100 feet/ 30.5 m (or 50 feet/15.25 m, where the frontage is on the interior curve of a street)	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
On-site water supply and on-site sewage disposal system	IV	100 feet/ 30.5 m (or 50 feet/15.25 m, where the frontage is on the interior curve of a street)	1	75,000 sq.ft./6,975 sq.m	300 ft./91.4 m
			2	80,000 sq.ft./7,440 sq. m.	
			3	85,000 sq. ft./7,905 sq. m	
			4	90,000 sq. ft./8,370 sq. m	
			more than 4	90,000 sq. ft./8,370 sq. m plus 1,500 sq. ft./457 sq. m for each additional unit	
On-site water supply and on-site sewage disposal system	V	N/A	N/A	Not developable	N/A
Central water supply and on-site sewage disposal system	I	50 feet/ 15.25 metres	1	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	175 ft./ 53.3 m

			more than 4	sq.m 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 sewage disposal system	II	50 feet/ 15.25 m	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 sewage disposal system	III	50 feet/ 15.25 metres	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./4,645 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
Central water supply and on-site sewage disposal system	IV	50 feet/ 15.25 metres	1	60,000 sq. ft./5,580 sq. m	275 ft./83.8 m
			2	65,000 sq .ft./6,450 sq. m	
			3	70,000 sq. ft./6,510 sq. m	
			4	75,000 sq. ft./6,975 sq. m	

			more than 4	75,000 sq. ft./6,975 sq. m 1,500 sq.ft/457 sq.m for each additional unit	
Central water supply and on-site sewage disposal system	V	N/A	N/A	Not developable	N/A
On-site water supply and central waste treatment system	I or II	50 feet/ 15.25 metres	1 2 3 4 more than 4	15,000 sq.ft./1,393.5 sq.m 20,000 sq.ft./1,858 sq. m 25,000 sq.ft./2,322.5 sq.m 30,000 sq.ft./2,787 sq.m 30,000 sq.ft./2,787 sq.m plus 1,500 sq.ft./457 sq.m for each additional unit	100 ft./ 30.5 m 125 ft. 38.1 m 150 ft./ 45.7 m 160 ft./ 48.8 m 160 ft./ 48.8 m
On-site water supply and central waste treatment system	III	50 feet/ 15.25 metres	1 2 3 4 more than 4	20,000 sq.ft./1,858 sq.m 25,000 sq.ft./2,322.5 sq.m 30,000 sq.ft./2,787 sq. m 35,000 sq.ft./3,251.5 sq.m 35,000 sq.ft./3,251.5 sq.m plus 1,500 sq.ft./457 sq.m for each additional unit	125 ft./ 38.1 m 150 ft./ 45.7 m 160 ft./ 48.8 m 175 ft./ 53.3 m 175 ft./ 53.3 m
Central water supply and waste treatment systems	I, II or III	n/a	any number	as determined by the Minister	as determined by the Minister

TABLE 2
MINIMUM LOT SIZE STANDARDS:
NON-RESIDENTIAL LOTS

a) Servicing	b) Lot Category	c) Minimum Lot Frontage	c) Minimum Lot Area	d) Minimum Circle Diameter to be contained within the boundaries of the Lot feet/metres
On-site water and on-site sewage disposal system	I	100 feet/ 30.5 metres (or 50 ft/15.25 metres, where the frontage is on the interior curve of a street)	25,000 sq. ft./2,322.5 sq. m	150 ft./ 45.7 m
On-site water and on-site sewage disposal system	II	100 feet/ 30.5 metres (or 50 ft/15.25 metres, where the frontage is on the interior curve of a street)	35,000 sq. ft./3,251 sq. m	175 ft./ 53.3 m
On-site water and on-site sewage disposal system	III	100 feet/ 30.5 metres (or 50 ft/15.25 metres, where the frontage is on the interior curve of a street)	51,000 sq. ft./4,738 sq. m	225 ft./ 68.6 m
Central water supply and on-site sewage disposal system	I	50 feet/ 15.25 metres	20,000 sq. ft./1,858 sq. m	125 ft./ 38.1 m
Central water supply and on-site sewage disposal system	II	50 feet/ 15.25 metres	25,000 sq. ft./2,322.5 sq. m	150 ft./ 45.7 m

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

2) Every lot on a plan of subdivision shall be categorized in accordance with the following site suitability standards:

- (a) Category I, where
 - (i) the depth to permeable natural soil is 2 feet (0.61 metres) or greater,
 - (ii) the depth to bedrock is 4 feet (1.22 metres) or greater, and
 - (iii) the depth to the maximum groundwater elevation is 4 feet (1.22 metres), or greater;
- (b) Category II, where
 - (i) the depth of permeable natural soil is greater than 1 foot (0.3 metres), but less than 2 feet (0.61 metres),
 - (ii) the depth to bedrock is 4 feet (1.22 metres) or greater, and
 - (iii) the depth to the maximum groundwater elevation is 4 feet (1.22 metres) or greater;
- (c) Category III, where
 - (i) the depth of permeable natural soil is 1 foot (0.3 metres) or greater,
 - (ii) the depth to bedrock is 2 feet (0.61 metres) or greater, but less than 4 feet (1.22 metres), or

- (iii) the depth to the maximum groundwater elevation is 2 feet (0.61 metres) or greater, but less than 4 feet (1.22 metres);
- (d) Category IV, where
 - (i) the lot has a depth of permeable natural soil of less than 1 foot (0.3 metres),
 - (ii) the depth to bedrock is greater than 1 foot (0.3 metres), and
 - (iii) the depth of the maximum groundwater elevation is greater than 2 feet (0.61 metres);
- (e) Category V, where
 - (i) the depth to bedrock is less than 1 foot (0.3 metres), and
 - (ii) the depth to the maximum groundwater elevation is greater than 2 feet (0.61 metres).