



Town of Kensington Land Use and Development Bylaw

2023



Prepared by DV8 Consulting

Town of Kensington Land Use and Development Bylaw (2023)

Land Acknowledgement

The land upon which the Town of Kensington (Kataqanek) is located is in unceded Mi'kmaq territory and is covered by the historic Treaties of Peace and Friendship.

We pay our respects to the Indigenous Mi'kmaq People who have occupied this land for over 12,000 years; past, present, and future.

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1. SCOPE

1.1. TITLE

- (1) This Bylaw shall be known and may be cited as the Town of Kensington *Land Use and Development Bylaw (2023)*, or the Bylaw.

1.2. PURPOSE

- (1) The purpose of the Bylaw is to implement the policies of the Town of Kensington Official Plan (2023), referred to in the Bylaw as the *Official Plan*, and to establish a fair and systematic means of Development control for the Municipality.

1.3. AUTHORITY FROM THE PROVINCE OF PRINCE EDWARD ISLAND

- (1) The Bylaw is enacted pursuant to the Planning Act, R.S.P.E.I. 1988, Cap. P-8, referred to here as the *Planning Act*.

1.4. AREA DEFINED

- (1) This Bylaw applies to the geographical area within which the Town of Kensington Council has jurisdiction.

1.5. SCOPE

- (1) 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 subdivided, consolidated, or used in the Municipality, except in conformity with this Bylaw.

1.6. AUTHORITY OF DEVELOPMENT OFFICER

- (1) Council shall appoint a Development Officer whose duties shall be as provided in this Bylaw.
- (2) The Development Officer shall not be a member of Council.
- (3) The Development Officer shall have the authority to administer this Bylaw, and shall have the authority to approve Subdivision applications and Development Permits that comply with the provisions of this Bylaw, except for a:
 - a. Commercial, Institutional or Industrial Development involving a new Building, or addition to an existing Building, with a Floor Area greater than 300 m² (3,230 ft²);

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- b. Residential Development for a Multi-unit Building with 3 or more Dwelling Units, or a Cluster Housing Development;
 - c. Subdivisions of more than four Lots or one that involves the Development of a new Street and/or extension of municipal services;
 - d. Variances of more than ten percent (10%);
 - e. Changes in Land Use that involve a rezoning application; or
 - f. Discretionary approvals as identified in the Bylaw.
- (4) Where the Development Officer is unable to determine if an application meets the requirements of this bylaw, or other bylaws or statutes which may be in force, the Development Officer may refer the application to Council, and Council shall give direction on the disposition of the application.
- (5) The Development Officer shall post all decisions relating to applications in accordance with Section 23.1 of the *Planning Act*.

1.7. INTERPRETATION

- (1) In this Bylaw, words used in the present tense include the future tense; words in the singular number include the plural; the word “used” includes “arranged, designed or intended to be used”; the word “shall” is mandatory and not permissive; and the word “may” is permissive and not mandatory.
- (2) All official measurements are in metric. Where imperial measurements are provided, they are for information purposes only.

1.8. EFFECTIVE DATE

- (1) This Bylaw shall come into force on the date approved by the Minister responsible for administering the *Planning Act*.
- (2) The effective date of this Bylaw is **xxxxxx**

1.9. REPEAL

- (1) Any previous bylaws covering the lands and Structures contained within the current boundaries of the Town of Kensington are hereby repealed as of the Effective Date in the previous section.

2. ADMINISTRATION

2.1. APPLICATIONS

- (1) The following types of applications shall be administered in accordance with the Bylaw:
 - a. Development Permit;
 - b. Variance;
 - c. Bylaw and/or Official Plan Amendment, including rezoning applications; and
 - d. Subdivision.
- (2) An application submitted in accordance with the Bylaw shall be:
 - a. Completed on a form prescribed by Council;
 - b. Submitted to the Municipal Office with all additional information as required by the Bylaw;
 - c. Signed and dated by the Lot Owner or the Lot Owner's designate, and who shall be referred to as the applicant; and
 - d. Shall be accompanied by an application fee in accordance with the Fee Schedule.
- (3) Where an application is considered incomplete, a decision shall not be rendered on such an application until such time as all required information is submitted, including the:
 - a. Application form signed and dated by the Owner or the Owner's designate;
 - b. Non-refundable administrative fee, the application fee and any other required fees;
 - c. Site plans, drawings and other representations of the proposed Development, as required;
 - d. Approval(s) from other governments and/or agencies, as required; and
 - e. Additional information, as required by the Development Officer.
- (4) An application shall be considered null and void if the applicant does not submit the required information or does not make payment in full on the application within six (6) months of submitting the initial application form or inquiry.
- (5) An application submitted in accordance with the Bylaw shall constitute authorization for inspection of the Structure or land in question, by the Development Officer or an officer or agent of the Municipality, for the purpose of ensuring compliance with the provisions of the Bylaw.

2.2. FEE SCHEDULE

- (1) Council shall set fees for applications and related services in a Fee Schedule.

2.3. DEVELOPMENT PERMITS

- (1) No Development, including Demolition work, shall be undertaken until an application has been made to the Municipality and the Development Officer has issued a Development Permit.
- (2) Notwithstanding Section 3.3(1), a Development Permit is required to:
 - a. Change the Use of a Lot, Building or Structure;
 - b. Commence a Development;
 - c. Construct, place, move or demolish a Building or Structure;
 - d. Make structural Alterations to a Building;
 - e. Erect or place a Temporary Structure, or commence a Temporary Land Use;
 - f. Make a connection to a central water supply or sewerage disposal system;
 - g. Install a Swimming Pool that will not be removed and disassembled seasonally;
 - h. Install underground a septic tank, a fuel/petroleum storage tank, a foundation wall;
 - i. Create or extend a Cluster Housing Development;
 - j. Create or construct an entrance way, or lay new paving material for a driveway, Internal Drive or Parking Lot that was previously unpaved and provides access for more than one Dwelling Unit;
 - k. Start a Home Occupation;
 - l. Dig an excavation pit;
 - m. Place or dump fill or other material in a manner that alters the grade of the lot; or
 - n. Install ground-mounted solar panel(s) or solar array.
- (3) Notwithstanding Section 3.3(1), a Development Permit is not required to:
 - a. Erect or place a Temporary Structure that is incidental to an approved Development;
 - b. Lay paving materials for a patio, driveway for a single Dwelling Unit, or sidewalk;
 - c. Construct a Fence of less than 1.8 m (6 ft) in height;
 - d. Install a clothesline, pole, or radio/television antennae, not including satellite dishes;

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- e. Install a temporary and/or seasonal Swimming Pool or children's play equipment;
 - f. Make a garden for Personal Use;
 - g. To make or use a space within a Dwelling as a home office for use by resident(s) of the Dwelling.
 - h. Make Landscaping improvements or construct an ornamental Structure of less than 6 m² (64.6 ft²);
 - i. Grow a crop or prepare land for a crop;
 - j. Install public or private utilities within the public right of way;
 - k. Replace roofing, shingling, or siding;
 - l. Install a roof mounted Solar Array on an existing Structure;
 - m. Chimney Maintenance or chimney rebuilding;
 - n. Replacement of windows and doors in existing openings without changing the size;
 - o. Interior renovations to a Building that will not change the shape, dimensions, Footprint or number of Dwelling Units, and will not result in a change in Use of the Building;
 - p. Routine Maintenance of a Building or Structure in a manner that does not involve structural alterations.
- (4) No Person shall carry out any site work in any Zone which, when judged by reasonable community living standards, can be considered improper activity such as to create a nuisance, hardship, or other inconvenience to Persons in the vicinity.
- (5) When a Development does not require a Development Permit, the requirements of the Bylaw and any other applicable bylaws of the Municipality or any statute, regulation, or other enactment of the Provincial government or the Government of Canada, shall still apply.
- (6) A Development Permit shall be valid for a twelve (12) month period from the date of approval, or such additional time as may be authorized by the Development Officer in advance of the permit expiring. If work has not commenced within that time period, the Development Permit shall be considered null and void.
- (7) Council may revoke a Development Permit where information provided on the application is found to be inaccurate, and Council may treat any ongoing Development as a violation of the Bylaw.
- (8) An approved permit shall be posted on the subject Lot in a location visible to the public.

2.4. DEMOLITION OR MOVING PERMIT

- (1) No Building shall be demolished, or moved on to or from a Lot, without a Development Permit and such other permits as may be required.
- (2) Debris from a Demolition site shall be hauled to and disposed of at a provincially approved location.
- (3) When a Structure is demolished or moved from a Lot, the foundation shall be levelled to Grade, unless a Development Permit for new construction has also been approved for the same Lot.
- (4) When a Structure is demolished or moved from a Lot, the applicant shall be responsible for ensuring that the on-site well and sewage disposal system, if applicable, are decommissioned, or temporarily capped in accordance with any applicable statute, regulation, or other enactment.

2.5. BUILDING CONSTRUCTION DRAWING REQUIREMENTS

- (1) Every Person proposing to Erect a Building or Structure as part of a Development shall, when applying for a Development Permit, submit the following:
 - a. floor plans, with the room size and/or dimensions labelled to confirm the Floor Area dedicated to each proposed Use within the Building; and
 - b. elevation drawings, to confirm proposed height of the Building or Structure.

2.6. SITE PLAN REQUIREMENTS

- (1) A Development Permit application shall be accompanied by a site plan drawn to scale certifying the agreement of the applicant to develop the site in accordance with the plan.
- (2) The site plan shall include the following information, where applicable to the site and proposed Development:
 - a. The boundaries of the subject Lot, including dimensions;
 - b. All existing Highways, rights-of-way and/or easements on and adjacent to the Lot;
 - c. The location of existing and proposed driveways, including the distance of the driveway to the nearest Lot Line;
 - d. The distance from the proposed Building or Structure to all Lot Line;
 - e. The location and exterior dimensions of the proposed Building or Structure;

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- f. The location and exterior dimensions of all existing Buildings or Structures on the Lot;
 - g. The distance from the proposed Building or Structure to the Lot Line fronting on a Highway and/or Private Road;
 - h. The distance from the proposed Building or Structure to any existing Buildings or Structures;
 - i. The distance from the proposed Structure to the boundary of any Wetland or Watercourse and the location of the Environmental Buffer Zone as defined in the Watercourse and Wetland Protection Regulations prescribed under the Environmental Protection Act;
 - j. The distance from the proposed Building or Structure to any existing or proposed on-site well or sewerage disposal system (including tank and field tile);
 - k. The distance between any existing or proposed well and sewerage disposal system;
 - l. The proposed Use of the Lot and any Building or Structure;
 - m. The location of any well, sewerage disposal system;
 - n. Parking Spaces and driveways within 30 m (98.4 ft) on adjacent Lots;
 - o. The existing or proposed location, width and type of land Use buffer or Fence to be maintained, if a land Use buffer is required under this Bylaw; and
 - p. Any other information which the Development Officer considers necessary to demonstrate compliance with the requirements of the Bylaw.
- (3) The Development Officer may waive the requirement for any or all of the above information on the site plan, for minor alterations, additions and/or development of accessory structures, where the Development Officer finds the additional information unnecessary for the determination of the status of the permit application.
- (4) The following additional information is required for Commercial, Industrial, Institutional, and multi-unit (3 or more units) Residential Developments, including but not limited to the following:
- a. Parking Lot layout showing adequate off-Street parking for residents, employees, visitors and other traffic and dimensions for the internal circulation pattern and turning radius for service vehicles, where applicable;
 - b. Location of garbage containers and a description of any screening or fencing proposed; and
 - c. Proposed storage areas and description of any screening or fencing, if applicable.
- (5) Council may require the following additional information for major Commercial, Industrial or Agricultural Developments, or new large Subdivision proposals:

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- a. Traffic impact studies
 - b. Environment impact assessment
- (6) Following the approval of a Development Permit, should there be a change in any of the information submitted for the approval, the applicant shall submit the proposed changes by way of written description or revised drawings and representations for review and the Development Officer will determine if the changes are substantial enough to warrant a new Development Permit application and review.
- (7) The Development Officer may waive the requirement for a Site Plan for:
- a. The Demolition or removal of a Building or Structure;
 - b. The Change of Use of an existing Building or Structure, where no exterior Alterations are being made to the Building or site; or
 - c. Any other Development that is unlikely to impact the existing Grade, hard surface area or runoff from the Lot in question.

2.7. STORMWATER MANAGEMENT PLANS REQUIREMENTS

- (1) A Development Permit application shall be accompanied by a Stormwater Management Plan, prepared by a licensed engineer, or qualified landscape architect, drawn to scale, and showing the following information:
- a. Existing and proposed Grade elevations relative to the adjoining Lot(s) and the public right of way;
 - b. Stormwater management design features (i.e., swale, berm etc.) and the proposed direction of flow for the surface water runoff, which shall not result in direct water runoff onto adjacent Lots, including existing Private Roads and rights-of-way;
 - c. The finished floor or foundation elevation of existing Buildings or Structures on the Lot and of existing Buildings or Structures on adjacent Lots located within 15 m (49.2 ft) of the adjoining Lot Line; and
 - d. The proposed surface finished floor or foundation elevation of the proposed Building or Structure.
- (2) If a Development does not involve an Alteration or other change to the existing Grade of the land within the minimum side or Rear Yard Setbacks of the Lot, the requirement of a stormwater management plan may be waived for the following types of Development:
- a. A Development that conforms with a preapproved stormwater management plan as prepared for the Subdivision approval of the Lot;

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- b. A Development of a Structure with a Footprint less than 65 m² (699.7 ft²) and a proposed Setback of more than 15 m (49.2 ft) from any Lot Line or existing Building or Structure;
 - c. A Development that will result in a total Lot Coverage of less than 10%;
 - d. A Development of a Building or Structure with a Footprint less than 20 m² (215.3 ft²);
 - e. A Development of a Building or Structure that will be built on raised sono-tubes, posts or piles and will not affect the natural and existing flow for drainage; or
 - f. The replacement of a Building Structure with one of the same size and in the same general location, provided no changes are being made to the Grade of the Lot under or around the original foundation.
- (3) The information submitted on the required Site Plan and Stormwater Management Plan may be submitted on a single combined plan if all necessary information can be presented on a single plan and the plan has been prepared and stamped by the appropriate licensed/qualified professional(s).

2.8. FOOTING CERTIFICATION

- (1) When the proposed location of a Building or Structure is that of the minimum Setback permitted in the Zone, or when a variance has been approved for a reduced minimum Setback, the Development Permit shall be approved in two Phases.
- (2) The first Phase of the Development Permit will allow only for site work and the construction of the Building's footing.
- (3) When a Phased Development Permit has been issued, a footing certificate or Survey Plan shall be submitted to confirm the location of the Building's footing prior to the second Phase Development Permit being approved and construction commencing beyond the footing stage.

2.9. CONSTRUCTION PLAN REQUIREMENTS

- (1) An applicant may be required to submit a Construction Plan for a Development to address 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 present a nuisance or hazard during construction.

2.10. DENYING PERMITS

- (1) A Development Permit shall be denied, if, in the opinion of the Development Officer or Council:
 - a. the Development does not conform to this Bylaw;

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- b. the method of water supply or sewer disposal is not appropriate;
- c. the proposed location of Structures, access, or water and sewer lines hinders future Development options;
- d. the Development has been denied an entrance way permit by the Province;
- e. the Development would be Detrimental to the environment;
- f. the Development would create unsafe traffic conditions;
- g. the Development could create a hazard, including but not limited to health, fire or accidental hazard to the public or an adjoining Lot;
- h. the Development could increase the likelihood of existence of rodents, vermin, or other pests;
- i. the Development would significantly or permanently injure neighbouring Lots by reason of architectural disharmony;
- j. the Development would be Detrimental to the convenience, health, or safety of residents in the vicinity or the public; or
- k. the Development could injure or damage a neighbouring Lot or other Lot in the Municipality due to water drainage or other water run-off damage.

2.11. CONSTRUCT IN ACCORDANCE WITH APPLICATION

- (1) 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 within the Development agreement and shall comply therewith.

2.12. BUILDING PERMIT

- (1) A Development Permit issued under the Bylaw does not substitute or supersede the requirement for a Building Permit for the construction, Demolition, occupancy, or Use of a Building under the *Building Codes Act* and applicable regulations.
- (2) A Building Permit issued under the *Building Codes Act* and applicable regulations, does not substitute, or supersede the requirement for a Development Permit under the Bylaw.

2.13. TEMPORARY COMMERCIAL USE PERMITS

- (1) Notwithstanding any other provision of this Bylaw, temporary permits may be issued for a temporary Commercial Use, subject to the following:
 - a. the Development shall not result in a traffic hazard;

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- b. the Development shall not interfere with the parking requirements of regular users of the Lot in which the Development will be located;
- c. the Development shall not create a public nuisance;
- d. the temporary permit shall not exceed a twenty (20) week period; and
- e. if applicable, the applicant shall submit the necessary information to confirm that such Development complies with all health regulations.

2.14. COMPLIANCE WITH OTHER BYLAWS AND REGULATIONS

- (1) Nothing in this Bylaw shall exempt any Person from complying with the requirements of any other bylaw of the Municipality or from obtaining any license, permission, authority, or approval required by any other bylaw of the Municipality or any legislation or regulation of the Province of Prince Edward Island or the Government of Canada.
- (2) Where the provisions of this Bylaw conflict with those of any other bylaw of the Municipality or with a statute regulation, or other enactment of the Provincial Government or the Government of Canada, the highest, strictest, or more stringent provision shall prevail.

2.15. VARIANCES

- (1) When a Development Permit application cannot be approved because the proposed Development does not meet the minimum requirements of the Bylaw, the applicant may apply for a variance to:
 - a. reduce the minimum Setback requirements for a front, rear, side and/or Flankage Yard;
 - b. reduce the minimum regulation pertaining to Lot Area or Lot Frontage; and/or
 - c. increase the maximum permitted height.
- (2) The Development Officer may approve, reject, or approve with conditions a minor variance (not exceeding 10%) if the variance is desirable and appropriate, and if the general intent and purpose of this Bylaw is maintained, and:
 - a. The Lot in question has peculiar physical conditions, including but not limited to a small Lot size, irregular Lot shape, or exceptional topographical conditions, which make it impractical to develop in strict compliance with Bylaw standards;
 - b. Strict application of all Bylaw standards would impose undue hardship on the applicant by excluding them from the same rights and privileges for reasonable Use of their Lot as enjoyed by other Persons in the same Zone;
 - c. The variance is of the least magnitude required to enable reasonable Use of the Lot; or

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- d. The proposed variance will not impact unduly on the enjoyment of adjacent Lots, or on the essential character of the surrounding neighbourhood.
- (3) Authorization for a minor variance shall be documented and recorded in writing.
 - (4) Notwithstanding any other section of this Bylaw, Council may authorize variances of more than ten percent (10%) if Council deems such a variance desirable and appropriate and if such variance is in keeping with the general intent and purpose of this Bylaw.
 - (5) Before Council considers a variance of more than 10%, the Development Officer shall:
 - a. Receive from the applicant sufficient funds to cover the costs associated with a mail out and the application fee.
 - b. Provide written notice by ordinary mail or hand delivery, explaining the details of the proposed application, to all Owners within 150 m (492.1 ft.) of the boundaries of the subject Lot.
 - c. Ensure that the notice identifies the subject Lot and describes the application and the date by which written comments must be received.
 - d. Accept all comments submitted within fourteen (14) calendar days from the date of the notice.
 - e. The applicant or their authorized agent shall be provided an opportunity to present their proposal for a variance and to answer any questions that may arise from comments received from the public notice.
 - (6) Where Council deems that a variance application could have a significant effect on adjacent Lots or Lots in the general vicinity, Council may require that a public meeting be held.
 - (7) No variance shall be granted where the difficulty experienced is the result of intentional or negligent conduct of the applicant in relation to the Lot.
 - (8) Council may approve, reject, or approve with conditions a variance application, including approval of a variance which is less than requested, by way of resolution, and authorization for a variance shall be documented and recorded in writing.
 - (9) If a variance is approved or approved with conditions, the variance approval shall be noted on the applicable Development Permit and any conditions of the approval shall also be stated on the Development Permit or within a Development agreement.

2.16. BYLAW AMENDMENTS AND REZONINGS

- (1) An application to change the text of the Bylaw or to change the designated Zone of a Lot on the *Zoning Map*, which may be referred to as a rezoning, shall be considered a Bylaw amendment.

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- (2) Applications to amend the Bylaw must demonstrate that they are consistent with the policies and objectives of the Official Plan and the Future Land Use Map, otherwise the application shall also involve an amendment to the Official Plan and/or Future Land Use Map.
- (3) Bylaw and Official Plan amendments may be heard concurrently, provided that:
 - a. Applications for both amendments are posted on the same public and written notices; and
 - b. The Official Plan amendment precedes the Bylaw amendment.
- (4) An application to amend the Bylaw and/or Official Plan shall include information as may be required for the purpose of adequately assessing the proposal, which may include but is not limited to:
 - a. A written description of the proposed amendment(s), and the applicable *Official Plan* policies and objectives that support the amendment(s), or a description of the section(s) of the *Official Plan* to be amended to enable the Bylaw amendment(s);
 - b. For a rezoning application, a legal description of the Lot(s) to be rezoned, the name and address of the Owners of the Lot(s) and, a statement as to the applicant's interest in the Lot(s);
 - c. A general Development concept plan showing details such as proposed land uses, Subdivisions, Buildings locations, means of servicing, access and parking, as applicable;
 - d. A Development concept plan showing details such as the proposed site plan, Building elevation drawings, landscape and stormwater management plan, access, and parking; or
 - e. A written description on the potential impacts or implications on existing infrastructure.
- (5) Any application for an amendment shall be made, in writing, along with a non-refundable application fee according to the Fee Schedule set by Council.
- (6) The Municipality may initiate a Bylaw and/or *Official Plan* amendment by preparing a report and all other necessary information, consistent with that of an external application.
- (7) Council shall review the *Official Plan* to ensure that the proposed amendment will not be contrary to any policy within the *Official Plan*, and will decide if the application may proceed to a public meeting; to reject the application; or to request additional information on the application.
- (8) No amendment shall be made to the Bylaw and/or *Official Plan* unless Council provides for adequate public notice and a public meeting pursuant to the provisions of the *Planning Act*.
- (9) Council has the right to reject an amendment request without holding a public meeting if such request is deemed to be inconsistent with appropriate land Use planning standards or the

Official Plan. Should Council not proceed with a public meeting, the applicable portion of the application fee shall be returned to the applicant.

2.17. PUBLIC NOTICE AND PUBLIC MEETINGS

- (1) At least seven (7) clear days prior to holding a public meeting public notice shall be distributed as follows:
 - a. The date, time and place of the public meeting, together with the general terms of the application or amendment shall be published in a newspaper circulating in the area on at least two occasions, and
 - b. Written notice of the application or amendment shall be delivered, by ordinary mail or hand delivery, explaining in general terms, the nature of a rezoning application, to all Owners within 150 m (492.1 ft) of the boundaries of the subject Lot, if applicable;
- (2) When residents or other interested persons are unable to attend the public meeting, the Municipality will accept written comments on the application up to the date of the public meeting.
- (3) At the public meeting called in respect of a proposed amendment(s) to the Bylaw and/or Official Plan:
 - a. Council shall preside at the meeting;
 - b. the Person proposing the amendment(s) or their designate shall describe and defend the proposed amendment and shall answer any questions presented to them; and
 - c. Council shall hear the comments and opinions of any Person who wishes to be heard on the matter at hand.
- (4) Following the public meeting, the Development Officer shall prepare a report to Council including a summary of the application, the public meeting and all comments made by the public and/or received in writing in response to the notices.
- (5) Council shall determine if the proposed amendment(s) application is approved or rejected. The decision shall be made in accordance with Sections 14 and 19 of the *Planning Act* and the applicant will be notified that the proposed amendment(s) has been approved or denied.
- (6) Where a proposed amendment to the Bylaw has been denied by Council, the reasons for the denial shall be stated, in writing to the applicant.
- (7) When an application has been denied, Council shall not entertain any new application for the same proposed amendment(s) for a period of one (1) year from the date of previous application of proposed amendment to the Bylaw.

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- (8) Bylaw and Official Plan amendments approved by Council also require approval by the Minister responsible for administering the Planning Act or any successor enactment. No Development Permits or Subdivision applications related to the amendment(s) shall be approved by the Municipality, until the approval from the Minister has been granted for the necessary amendments.

2.18. CONDITIONAL APPROVALS AND DEVELOPMENT AGREEMENTS

- (1) In deciding to approve an application for a variance and/or amendment, Council may require any applicant to enter into a Development Agreement which may describe additional conditions negotiated as a condition of the approval.
- (2) A Development Agreement may address but shall not be limited to the following matters:
- a. site design;
 - b. the design and construction cost associated with sidewalks, pathways and other pedestrian access matters;
 - c. Landscaping and screening;
 - d. vehicular accesses and exits;
 - e. signage;
 - f. security and safety lighting;
 - g. architectural harmony;
 - h. methods of waste disposal;
 - i. fencing; and
 - j. any other matters that Council deems necessary to ensure the health, safety and convenience of community residents and the travelling public.
- (3) A Development Agreement shall be a contract binding on both parties, containing all conditions which were attached to Council's decision to approve a variance and/or amendment. Failure to comply with a Development Agreement shall constitute an offense under this Bylaw.
- (4) A Development Permit issued subject to a Development Agreement shall reference the signed agreement as a Condition on the Permit.
- (5) A Development Agreement shall be registered in accordance with the *Registry Act*.
- (6) Fees associated with the preparation, registration and enforcement of a Development Agreement shall be paid by the applicant.

2.19. APPEALS

- (1) Any Person who is dissatisfied with a decision of the Development Officer or Council in respect of an application made pursuant to this Bylaw may appeal the decisions to the Island Regulatory and Appeals Commission in accordance with section 28 of the *Planning Act*.

2.20. BYLAW ENFORCEMENT

- (1) The Development Officer is authorized, with cause, to enter any land, Building, or Structure in the Municipality, provided such entry is not excessive or by force, is at a reasonable time, and is for the purpose of implementation and enforcement of this Bylaw.
- (2) Bylaw enforcement may be undertaken by the Municipality in accordance with *Planning Act*.
- (3) The Municipality, its officers and employees shall not be liable for any damage caused to any Lot or Structure when acting under the authority of this section.

2.21. VIOLATIONS AND PENALTIES

- (1) A Person who violates a provision of the Bylaw is guilty of an offence and liable on summary conviction to the penalties set forth in the *Planning Act*.
- (2) The Municipality is entitled to enforce the Bylaw and restrain any breach of the Bylaw in accordance with the *Planning Act* and the *Municipal Government Act*.

3. GENERAL PROVISIONS FOR LAND USE AND DEVELOPMENT

3.1. ACCESS

- (1) No Development Permit shall be issued unless the Lot intended to be used or upon which the Building or Structure is to be Erected has Lot Frontage on a Highway.
- (2) Notwithstanding the foregoing, Council may approve a Development Permit for a Residential or Commercial Development which has Frontage on an existing Private Road, provided that the following criteria are met:
 - a. no reasonable provision can be made to provide access to a public Street,
 - b. safe ingress and egress from the Lot and from the Private Road can be provided,
 - c. an agreement is registered in the P.E.I. Registry Office, binding on all landowners and heirs, successors and assigns of the current Lot Owners of all Lots abutting or fronting on the Private Road that:
 - i. provides for the long-term Ownership and Maintenance of the right-of-way; and
 - ii. acknowledges that the Private Road is not owned or maintained by either the Province of Prince Edward Island or the Municipality and therefore (a) Lots located on the Private Road are not entitled to any provincial or municipal services including grading, ditching, snowplowing, gravelling, school busing, or solid waste collection; and, (b) emergency service access may be impacted, delayed and/or limited if the Private Road is not properly maintained for emergency vehicles.
- (3) Where an entrance way permit is required under the *Roads Act Highway Access Regulations*, its issuance shall be a precondition of the approval of a Development Permit.
- (4) No Person shall construct or Use an entrance way except as per the conditions of the approved entrance way permit.
- (5) Driveway access for a Through Lot may be provided to either or both Streets, but in no case shall a Driveway or Internal Drive continue directly from one Street to the other.

3.2. ACCESSORY BUILDINGS AND STRUCTURES

- (1) Accessory Buildings shall be permitted on any Lot, subject to the following:
 - a. An Accessory Building shall not be used for human habitation except where an Accessory Apartment has been approved as a permitted Accessory Use;
 - b. The Accessory Building shall be located within the rear or Side Yard, unless in the O1 or O2 Zones, in which case, it may be permitted in the Front Yard;

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- c. The minimum Setback of an Accessory Building is 0.9 m (3 ft) to any Lot Line;
 - d. The maximum height of an Accessory Building shall be 6.7 m (22 ft);
 - e. The maximum Floor Area of the Accessory Building on a Residential Lot shall not exceed 111.5 m² (1,200 ft²); and on a non-Residential Lot shall not exceed 600 m² (6,458 ft²);
 - f. The minimum Building separation distance between the Accessory Building and any other Building on the Lot shall be 2.1 m (7 ft); and
 - g. No more than two (2) Accessory Buildings are permitted on a Lot, except three (3) Accessory Buildings are permitted on a Residential Lot with a Lot Area greater than 3 acres.
- (2) An Accessory Building or Structure shall not be constructed prior to the construction of the Main Building to which it is accessory.
- (3) In a Zone that permits more than one Main Building on a Lot, an application for an Accessory Building that exceeds the maximum height or total Floor Area permitted may be treated as a second Main Building on the Lot if it meets the Development requirements for a Main Building in the Zone.
- (4) Free standing Accessory Structures, including but not limited to gazebos, utility structure and ground mounted solar arrays, shall be required to meet the Setback requirements of an Accessory Building in the Zone.
- (5) Accessory Structures that are attached to and project from a Building, including but not limited to a staircase, ramp, Deck, balcony, shall be subject to the same Building Setback requirements as the Main Building or the Accessory Building within the Zone; unless the height of the attached accessory Structure is less than 0.6 m (2 ft) above Grade, in which case the Structure may be permitted within the minimum side or Rear Yards with a minimum Setback of 1 m (3.3 ft) to the Lot Line.
- (6) A Fence may be Erected or placed on a Lot subject to the following regulations:
- a. The maximum height for a Fence in any Zone is 2.5 m (8.2 ft);
 - b. The maximum height for a Fence in the front or Flankage Yard is 1.8 m (5.9 ft); and
 - c. Where a Fence is placed on a Lot Line, the Lot shall be surveyed by a licensed surveyor in accordance with the *Land Surveyors Act*, prior to construction to ensure the Fence line does not encroach on an adjacent Lot.
- (7) Satellite dishes or wind turbines greater than 0.9 m (3 ft) in diameter shall not be Erected in any Zone in the Municipality.
- (8) Notwithstanding the above provisions, Council may issue a special Development Permit for an accessory Building or Structure that does not meet the requirements of this section, where

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Council is satisfied the Building or Structure will be architecturally compatible with adjacent Structures and no permanent injury would be caused to adjoining Lots, subject to such conditions as Council may impose.

3.3. ACCESSORY APARTMENTS

- (1) One (1) Accessory Apartment may be constructed within a Single Detached Dwelling, OR in an Accessory Building to a Single Detached Dwelling, and the Accessory Apartment shall be incidental and subordinate to the main Use.
- (2) An Accessory Apartment shall be less than 80% of the gross Floor Area of the main Dwelling, excluding the garage; and less than 80 m² (861 ft²) in Floor Area.
- (3) Accessory Apartments shall not contain more than 2 bedrooms.
- (4) At least one on-site Parking Space shall be provided, in addition to the parking requirements for the main Dwelling.
- (5) Where an Accessory Apartment is located in a detached Building or within an Accessory Building to the Single Detached Dwelling, the following provisions shall apply:
 - a. the Accessory Apartment must share the water supply and sewerage disposal system of the Main Building;
 - b. In the case of connection with an on-site water supply and sewerage disposal system, the Intensification of Use and necessary upgrades to the system(s) must be approved by the responsible provincial government department; and
 - c. The minimum Side Yard and Rear Yard Setbacks for an Accessory Building containing an Accessory Apartment shall be the minimum Side Yard and Rear Yard Setbacks as required for the Main Building.
- (6) No variances shall be approved to increase the maximum size of an Accessory Apartment and where an application is received for a larger Accessory Apartment, it shall be treated as an application for a second Dwelling Unit on the Lot.

3.4. BUILDING SEPARATION DISTANCES

- (1) Where more than one Main Building is permitted on a Lot, the minimum separation distance between the Main Buildings shall be 6.0m (19.7 ft).
- (2) The minimum separation distance between a Main Building and an Accessory Building, accessory Structure, or temporary Building shall be 2.1 m (7 ft).

3.5. CLUSTER HOUSING DEVELOPMENTS

- (1) A Cluster Housing Development shall comprise a minimum of 4 residential buildings, and a maximum of 48 Dwelling Units.
- (2) A Cluster Housing Development shall have a minimum of 10% of the total Lot Area designated as a common open space or shall have a shared Accessory Building for communal use.
- (3) A Cluster Housing Development shall have sufficient space for receptacles for garbage, compost and recycling, and access to the receptacles for collection must be accommodated in the site design.
- (4) Each Dwelling Unit within the Cluster Housing Development shall:
 - a. Be connected to the municipal water and sewerage systems,
 - b. Have access to a continuous Internal Drive not less than 7.5 m (24.6 ft) wide and the Internal Drive will be paved with a minimum width of 6 m (19.7 ft).
 - c. Have a dedicated Parking Space which does not have direct access to a public road.
- (5) Council may require a Development Agreement with regards to the integrated site design, including but not limited to the proposed dwelling types, water and sewerage servicing agreements, property maintenance, snowplow service and maintenance of the internal drive, garbage storage and collection. The agreement shall be registered on title.

3.6. EXEMPTIONS: HEIGHT REGULATION

- (1) The height regulations of this Bylaw shall not apply to spires, lightning rods, water tanks, monuments, elevator enclosures, silos, flag poles, lighting standards, television or radio antennae, telecommunications towers, ventilators, skylights, barns, fire towers, chimneys, clock towers, roof mounted solar array, power transmission towers, roof top cupola, wind power generators, or utility poles.
- (2) Council may approve an application for a Building or Structure exceeding the maximum Building Height of the Zone, subject to a variance application, and provided that the proposed height of the Building or Structure would not exceed 20 m (65.6 ft).

3.7. EXEMPTIONS: BUILDING SETBACKS

- (1) Notwithstanding the Side Yard Setback requirements for any Zone in the Bylaw, where two units within a Building share a Common Wall, the Side Yard requirement will be 0 m (0 ft) along the common Lot Line to permit Subdivision of the units.

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- (2) In the Commercial (C1) Zone, if a proposed Building is to be located adjacent to an existing Building on an adjoining Lot and the adjacent Building has a reduced Side Yard Setback, the minimum Side Yard Setback for the proposed Building may also be reduced to 0 m (0 ft).
- (3) If a proposed Building is to be located between existing Buildings on adjoining Lots and the adjacent Buildings have a reduced Front Yard Setback, the minimum Front Yard Setback for the proposed Building shall be that which aligns with the front walls of the adjacent Buildings.
- (4) When the main entrance of a proposed Building is to be oriented towards the Flankage Yard, then the Rear Yard and Side Yard Setbacks may be interchanged.

3.8. HERITAGE DESIGNATIONS

- (1) Buildings or Lots located within the Municipality that have been designated as National Heritage Sites or Provincial Heritage Places shall comply with the following requirements:
 - a. If a Building which still has a façade reflecting the original architectural style needs exterior renovation, replacement or repair, said facade shall be replaced or repaired in the original style of the Building. Detailed renovation or repair plans shall be submitted and shall receive Council's approval prior to the commencement of any renovation or repair.
 - b. No designated Building or Structure shall be demolished or moved without approval of Council, and Council may seek public consultation or may hold a public meeting to consider the merits of the application.

3.9. HOME OCCUPATIONS

- (1) Nothing in this Bylaw shall prevent the Use of a portion of any Dwelling Unit or Accessory Building to a Dwelling Unit as a home office provided the home office is not intended to be visited by members of the public and no signage is posted.
- (2) The following types of Home Occupations are a permitted Use, subject to an approved Development Permit, in a Single Detached Dwelling or in an Accessory Building to a Single Detached Dwelling:
 - a. Business or Professional Offices, providing clerical, computer and/or telephone-based services only;
 - b. Craft Studio
 - c. Multi-level marketing retail sales;
 - d. Private lessons, tutoring or training sessions (maximum 2 students at a time); or

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- e. Bed and Breakfast or Short-term Rental, subject to the Home Occupations: Tourism Establishments in Dwellings regulations in this Bylaw.
- (3) Home Occupations, excluding permitted Tourism Establishments, shall comply with the following requirements:
- a. the Dwelling shall be occupied as a residence by the principal operator;
 - b. the external appearance of the Dwelling shall not be changed by the Use;
 - c. there shall be no more than two non-resident assistants employed in the business;
 - d. not more than 25% of the Floor Area of the Dwelling shall be occupied by the business;
 - e. adequate off-Street parking, in accordance with this Bylaw, in addition to that required for the Dwelling, shall be provided;
 - f. there shall be no open storage or outdoor Display area; and
 - g. signage shall be restricted to a maximum size of 0.25 m² (2.7 ft²).
- (4) Council may approve other types of Home Occupation, or the operation of a Home Occupation in a Dwelling type other than a Single Detached Dwelling, provided that the Use is found to be compatible with adjacent land uses, and that no permanent injury or nuisance will be caused to the existing or permitted uses of the adjoining Lots and/or attached Dwelling Units.

3.10. HOME OCCUPATIONS: TOURISM ESTABLISHMENTS IN DWELLINGS

- (1) A Bed and Breakfast or a Short-Term Rental, may be permitted to operate in a Dwelling in a Residential Zone subject to the following:
- a. the Dwelling Unit is a Single Detached Dwelling and is not located within a Cluster Housing Development;
 - b. the external appearance of the Dwelling shall not be changed by the Use;
 - c. adequate off-Street parking, in accordance with this Bylaw, separate from that required for the Dwelling, shall be provided;
 - d. A Bed and Breakfast shall be occupied by the principal operator; and
 - e. Premise Signs shall be restricted to a maximum of 0.6 m² (6.5 ft²).
- (2) Council may allow a Bed and Breakfast or a Short-Term Rental in a Duplex, Semi-Detached, or multi-unit Residential Building, where the applicant has provided documentation that such a Use is permitted under the terms of their rental and/or party-wall agreement with the other occupants in the Building.

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- (3) Tourism Establishments shall be licensed in accordance with the *Tourism Industry Act* and upon receiving approval of the license from the province:
- a. the license number shall be included in all public and online advertisements of the Tourism Establishment; and
 - b. a copy of the license shall be provided to the Municipality upon receipt and renewal as required by the province.

3.11. INTENSIVE LIVESTOCK OPERATIONS

- (1) The following minimum 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:
- a. Distance from any Dwelling on an adjacent Lot 150 m (492.1 ft)
 - b. Distance from Highway 45 m (147.7 ft)
 - c. Distance from any domestic well 150 m (492.1 ft)
 - d. Distance from any Watercourse or Wetland 90 m (295.3 ft)
 - e. Distance from any Lot Line 15 m (49.2 ft)
- (2) Where a new Intensive Livestock Operation is proposed within 305 m (1000 ft) of an existing Residential Subdivision notification shall be sent to the Lot Owners within 305 m (1000 ft) of the proposed operation and invite their comments.
- (3) All intensive livestock Buildings shall have a manure storage facility with a capacity for retention of manure for a period of time for which conditions do not permit spreading.
- (4) The provincial department responsible for agriculture may be consulted regarding manure storage capacities and design standards and shall require the livestock operator to follow these capacity and design requirements.
- (5) The developer shall also be required to undertake an Environmental Impact Assessment in conjunction with the provincial department responsible for the environment and provide details of the assessment to the Municipality as part of the application process.

3.12. INTERSECTION TRIANGLE

- (1) Notwithstanding any other provisions of this bylaw, no Building or Structure shall be Erected on a Corner Lot within 6 m (19.7 ft) of the triangular space included between Street Lot Lines.

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- (2) No Structures or vegetation shall be placed, Erected, planted or maintained at a Height over 0.6 m (2.0 ft) on a Corner Lot where it may obstruct the view from a vehicle within 6 m (19.7 ft) of the point of intersection of the Street Lot Lines.

3.13. LAND USE BUFFER BETWEEN DIFFERENT LAND USES

- (1) A Land Use Buffer shall consist of:
 - a. An existing vegetated area of land not less than 4.5 m (14.8 ft) in width and of a height that forms a visual barrier (e.g., a hedge); or
 - b. A Fence that forms a visual barrier
- (2) The provision and Maintenance of a land Use buffer on the rear and Side Lot Lines, is required between Residential uses and any of the following new developments:
 - a. Commercial,
 - b. Industrial
 - c. Agricultural uses, where Buildings and/or Structures used for Agricultural purposes have a Setback of less than 22.8 m (75 ft) from the shared Lot Lines.
 - d. Other land uses characterized by significant traffic generation, heavy Use of trucks, noise, Outdoor Storage, congregations of people, or other factors that may adversely affect the adjacent Residential amenity.
- (3) The provision and Maintenance of a land Use buffer on the rear and Side Lot Lines, is required between a Commercial or Industrial land Use and any of the following new developments:
 - a. Residential Use;
 - b. Tourism Establishment;
 - c. a Public Service and Institutional Use; or
 - d. a park and/or recreation land Use.
- (4) Where a Commercial, Industrial or Agricultural Development directly abuts on any Residential Use the following conditions shall also apply:
 - a. any exterior lighting or illuminated sign shall be so arranged as to deflect light away from the adjacent Residential Use; and
 - b. Outdoor Storage shall be prohibited adjacent to a Residential Use unless it is hidden from view by means of a wall, Fence or other appropriate Structure.

3.14. MIXED USE RESIDENTIAL-COMMERCIAL USES:

- (1) No Dwelling Unit, or any part thereof, shall be located below a Commercial Use.
- (2) A Dwelling Unit may be permitted on the same floor as Commercial Use provided that they are completely segregated from the Commercial Use and have a separate entrance which serves the Dwelling Units.
- (3) The number of Dwelling Units permitted in a Mixed Use Residential-Commercial Use shall be determined by the Lot Size and Development Standards of the R3 Zone, and each Commercial Unit within the Building will be considered one (1) Dwelling Unit.

3.15. MULTIPLE BUILDINGS ON A LOT

- (1) Except in the R1, R2 or O2 Zone, more than one (1) Main Building may be placed on a Lot in any Zone, provided all other provisions of this Bylaw are met.
- (2) In the Agricultural Zone, no more than one Single Detached Dwelling may be permitted on a Lot, and any other Main Buildings on the Lot shall be related to the Agricultural Use including additional dwelling units as approved by Council for farm workers.

3.16. MULTIPLE USES

- (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. Where there is a conflict, the stricter of the regulations shall apply.
- (2) Regulations pertaining to parking requirements shall be cumulative for each Use, unless a shared parking arrangement has been submitted as an Alternative and has been approved by Council.

3.17. NONCONFORMING BUILDINGS

- (1) A Building or Structure lawfully in existence on the effective date of approval of the Bylaw may continue to exist and may be referred to as nonconforming.
- (2) A Building or a 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.

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- (3) Where a nonconforming Building or Structure has less than the minimum Setbacks or which exceeds the maximum height required by this Bylaw, the Building may be enlarged, reconstructed, repaired or renovated provided that the Development does not further reduce the Setbacks or increase the height which does not conform to this bylaw; and, all other applicable provisions of this Bylaw are satisfied.
- (4) If a nonconforming Building is destroyed by a fire or otherwise to an extent of fifty percent (50%) or more of the assessed value of the Building above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of this Bylaw, except if the Building or repair work would not be Detrimental to the convenience, health or safety of residents in the vicinity or the general public.

3.18. NONCONFORMING LOTS

- (1) No Person who owns a Lot, or a Lot containing a Structure, held in separate Ownership from adjoining Lots on the effective date of the Bylaw, having less than the minimum Lot Frontage or Lot Area required by the Bylaw, shall be deprived of the ability to make reasonable Use of the Lot in accordance with the Zone in which it is located and where such a Person makes application for a Development Permit, the Development Officer or Council may:
 - a. waive Rear Yard, Front Yard or Side Yard Setback requirements to an extent that is reasonable and feasible and does not compromise safety, convenience or the aesthetic character of the neighbourhood and may issue a permit; or
 - b. apply procedures set out in this Bylaw for the handling of variances if the variance from the required Rear Yard, Front Yard or Side Yard Setback is substantial.
- (2) Notwithstanding any other requirements of the Bylaw, a nonconforming Lot held in separate Ownership from adjoining Lots on the effective date of this Bylaw, may be used for any purpose permitted in the Zone in which the Lot is located provided that all other applicable provisions in this Bylaw are satisfied.
- (3) A nonconforming Lot may be increased in Lot Area or Lot Frontage or both and still remain undersized provided that this increase does not further reduce an adjacent Lot which may be below the standard set out in this Bylaw.
- (4) Council may approve the rezoning of a nonconforming Lot through a Bylaw amendment application process set out in this Bylaw, provided that:
 - a. the Use is found to be compatible with the policies outlined in the *Official Plan* and adjacent land uses, and that no permanent injury or nuisance will be caused to the existing or permitted Use of the adjoining Lot(s); and
 - b. the Lot satisfies the Lot Frontage and/or Lot Area requirements of the proposed Zone or it is the same or more similar to that of the proposed Zone, than that of the current Zone.

3.19. NONCONFORMING USES

- (1) The Use of land, Building or Structure lawfully in existence on the effective date of approval of this Bylaw may continue to be used.
- (2) No Intensification of Use shall be made while a nonconforming Use of land, Building or Structure is being continued.
- (3) No increase in the area occupied by the nonconforming Use shall occur while a nonconforming Use is being continued.
- (4) 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 nonconforming Use is being continued.
- (5) Nothing in this Bylaw shall apply to prevent the Alteration and/or extension of a Single Detached Dwelling in any non-Residential Zone provided that the number of Dwelling Units is not increased and that such Alteration does not contravene any of the provisions of this Bylaw for such Use in a Residential Zone.
- (6) Any change of Ownership, tenants or occupants of a premises or Building shall not of itself be deemed to affect the Use of the premises or Building for the purposes of the Bylaw.
- (7) A non-conforming Use of land, Building or Structure 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.

3.20. PERMITTED USES IN ALL ZONES

- (1) The following uses are permitted in all Zones:
 - a. Accessory Building, subject to regulations for Accessory Buildings
 - b. Conservation
 - c. Passive Recreational uses, such as trails for hiking or snowshoeing
 - d. Public and private utility Buildings and Structures, subject to the setbacks of an Accessory Structure.
- (2) Temporary construction facilities such sheds, scaffolds and equipment incidental to construction with a valid Development Permit 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.

3.21. PETROLEUM STORAGE – QUESTION STILL WITH PROVINCE

- (1) The Development Officer shall refer applications for underground petroleum storage tank to the government authority having jurisdiction for these facilities.
- (2) Underground petroleum or gasoline storage facilities shall not be permitted in any Residential Zone.
- (3) All home heat tanks shall be installed according to the regulations listed in the *Environmental Protection Act Home Heat Tanks Regulations*.
- (4) Council shall consider the potential impacts of a proposed underground petroleum storage tank on the ground water supply for the Municipality before rendering a decision on the development permit application.

3.22. PROHIBITED USES

- (1) Land uses that are not specified as permitted uses in the Zone shall not be permitted in the Zone.
- (2) No Person shall Use or occupy a Recreational Trailer or Vehicle other than in an approved Campground, for a period for more than two weeks (14 days), unless they have received a development permit for such a Temporary Use.

3.23. SERVICE STATIONS

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

a.	Minimum Lot Frontage	45 m (147.7 ft)
b.	Minimum pump Setback	6 m (19.7 ft)
c.	Minimum pump distance from access or egress	9 m (29.5 ft)
d.	Minimum width of driveway	7.5 m (24.6 ft)

- (2) Where the service station includes an Automobile Washing Facility, all washing operations shall be located within a Building.

3.24. SWIMMING POOLS

- (1) The installation of a Swimming Pool shall be permitted in accordance with the following provisions:
 - a. The pool shall be located in the side or Rear Yard;
 - b. The minimum Setback between the pool and the nearest Lot Line shall be 1.8 m (6 ft).
 - c. The pool shall be located within an enclosed area (e.g., building, fence, hedge, etc.), the perimeter of which is not less than 1.8 m (6 ft) in height, and the enclosure shall be constructed in such a manner to impede unauthorized Persons from entering.
 - d. Gated access shall be capable of being locked;
 - e. Disposal of water shall be either through the sewer system with coordination of Public Works Department, or carried off by truck; and
 - f. The applicant shall agree that other reasonable initiatives regarding Maintenance and safety which are reasonable and prudent shall be carried out at the initiative of the applicant.

3.25. TEMPORARY STRUCTURES

- (1) No one may Erect or place a Temporary Structure without first obtaining a Development Permit, unless the Temporary Structure is incidental to a Development that has an approved Development Permit.
- (2) Temporary Structures with a Footprint of 37.2 m² (400 ft²) or less, may be permitted on any Lot with a Main Building for up to 6 months.
- (3) Temporary Structures with a Footprint larger than 37.2 m² (400 ft²) may be permitted on a Lot for up to 6 months, subject to the following:
 - a. If the Lot is a Residential Use, the Temporary Structure shall be incidental to an approved Development; or
 - b. If the Lot is a non-Residential Use, the Temporary Structure is incidental to that Use or to an approved Development; and
- (4) Only one Temporary Structure shall be permitted on a Residential Lot in a single annual cycle, unless the Temporary Structure is incidental to an approved Development.
- (5) A maximum of two (2) consecutive Temporary Structure permits may be approved for the same Structure.

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- (6) Temporary Structures must conform to the Setback regulations for an Accessory Building or Accessory Structure in the Zone.
- (7) The placement or Erection of a Temporary Structure shall not involve an Alteration to the existing Grade of the Lot and shall not result in an Alteration to the natural surface drainage pattern on the Lot.
- (8) Following the expiration of two (2) consecutive Temporary Structure permits, Council may approve an extension following the process for a variance application, if Council is satisfied that the Temporary Structure is compatible with adjacent land uses and that no permanent injury or nuisance will result from an extension to the maximum time period permitted.
- (9) A Temporary Structure permit shall not be extended beyond two (2) years.

3.26. TINY HOMES, MINI-HOMES AND MODULAR UNITS

- (1) A Tiny Home shall not be permitted to be used as Single Detached Dwellings other than:
 - a. in a designated Cluster Housing Development; or
 - b. as permitted by Council, on a legally existing, non-conforming (undersized) lot, within any residential zone, when a regular sized single detached Dwelling cannot reasonably or feasibly be constructed on the property in accordance with the Bylaw.
- (2) Mini-homes shall not be permitted to be used as Single Detached Dwellings other than in a designated Cluster Housing Development.
- (3) A Modular unit may be used as Single Detached Dwelling on a Residential Lot.
- (4) A Modular unit may be used as an Accessory Building on a non-Residential Lot where the Use of the unit is accessory to a Main Building or main outdoor Use on the Lot.

3.27. WATER AND SEWERAGE SERVICES

- (1) All new Development that fronts on a public road with Municipal water and/or sewerage services shall be connected to the Municipal water and/or sewerage services.
- (2) A maximum of one (1) Single Detached Dwelling and one (1) Accessory Apartment is permitted on a Residential Lot with on-site utility (water and/or sewerage) services.
- (3) Notwithstanding the minimum Lot size standards of this Bylaw, all applications involving an on-site sewerage disposal system or on-site water supply must meet the requirements of the *Planning Act Province-Wide Minimum Development Standards Regulations* for on-site servicing based on soil category, as included in Schedule B of the Bylaw and the *Environmental Protection Act Sewage Disposal Systems Regulations and Water Well Regulations*.

3.28. WETLANDS AND WATERCOURSES

- (1) No Person shall, without a license or a Wetland, Watercourse and Buffer Zone Activity Permit issued by the province, Alter or disturb the ground or soil within the Buffer Zone as defined in the *Environmental Protection Act, Watercourse and Wetland Protection Regulations*.
- (2) The minimum Setback of any Building or Structure from a Wetland or Watercourse shall be 23 m (75.5 ft)
- (3) An erosion management plan may be required to address siltation and overland erosion during construction adjacent to a Wetland or Watercourse.

3.29. YARDS

- (1) Except for Accessory Buildings and Accessory Structures, every part of any Yard required by this Bylaw shall be open and unobstructed by any Structure from the ground to the sky.

4. PARKING REQUIREMENTS

4.1. PARKING SPACE REQUIREMENTS

- (1) A Parking Space shall have dimensions of not less than 2.6 m (8.5 ft) by 5.5 m (18.0 ft) exclusive of driveways and aisles and shall have adequate space to permit access and egress of a motor vehicle to and from a Street by means of a driveway, aisle, or a manoeuvring area.
- (2) Parking Spaces necessary for trailer trucks, buses, motor homes or other large vehicles shall be designed with dimensions of 3.7 m (12.1 ft) by 18.3 m (60 ft) or larger, as necessary to accommodate longer vehicles.
- (3) Designated Loading Zones shall be at least 3.6 m (11.8 ft) wide with a minimum of 4.25 m (13.9 ft) height clearance.
- (4) Parking Spaces reserved for individuals with mobility impairments shall have dimensions of not less than 3.6 m (11.8 ft) by 6.1 m (20.0 ft); and, there shall be at least one (1) reserved Parking Space for a multi-unit Residential Buildings with over 3 units, and at least two (2) reserved spots for a non-Residential Parking Lot that requires more than 25 Parking Spaces.
- (5) For every Building to be Erected, placed or used, or changed in Use for any of the purposes listed in the following table, there shall be provided and maintained off-Street parking on the same Lot to the minimum extent prescribed by the following table:

Primary Type of Building		Minimum Requirement
Residential Dwelling Unit (Single Detached, Duplex, Semi-detached or Accessory Apartment)		2 spaces/unit (Only 1 space is required if the Dwelling has a garage)
Multi-Unit Dwelling (with 3 or more units)		1.5 spaces/unit
Tourism Establishment		1 space/ room or rental unit
Recreation and Institutional Use	Fixed Seating	1 space for every four (4) seats
	No Fixed Seating	Based on the Fire Marshall’s seating capacity rating.
Child Care Facility		1 space/employee, and a designated drop-off area
Hospital and Nursing Home		0.75 space/bed
Community Care Facility		1 space/unit
School		1.5 space per classroom and 1 space for each six (6) seats of seating capacity in the auditorium.

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Business and Professional Office, Service Shop and Personal Service Shop	1 space per 27.9 m ² (300 ft ²) of Floor Area
Automobile Sales and Service Establishment	1 space per 4.6 m ² (50 ft ²) of Floor Area
Shopping Centre (Indoor Mall)	1 space per 18.6 m ² (200 ft ²) of gross Floor Area
Restaurant or Lounge	1 space per four (4) seats of seating capacity
Other Commercial/Retail Store	1 space per 14 m ² (150 ft ²) of Floor Area
Industrial	1 space per 27.9 m ² (300 ft ²) of Floor Area, or 1 Parking Space per employee, whichever is greater
All other uses	1 space/ 20 m ² (215 ft ²) of Floor Area, or As decided by Council

- (6) Parking requirement calculation that is derived from the table and that specifies at least 0.5 of a space but less than 1.0 shall be deemed to be a requirement for one (1) additional space.
- (7) Renovations and Alterations, which do not result in an increase in the gross Floor Area of a Building, shall not require any additional parking, but the number of spaces which existed prior to the renovations, Alterations, shall not be diminished.
- (8) Where a Building or Lot Use is used for more than one Use:
 - a. The Development Officer May apply the closest Parking requirement deemed to fit the proposed Use(s) for the purposes of determining the Parking requirements; or
 - b. The Parking requirements for the site shall be the sum of the parking required for each Use.

4.2. PARKING LOTS

- (1) Where four (4) or more Parking Spaces are required, a scaled drawing shall be submitted showing the Parking Spaces, aisles, easements, access to the Lot, drainage, Buildings, lighting, signs and other pertinent information.
- (2) Where ten (10) or more Parking Spaces are required, scale drawings drawn to parking design standards and certified (stamped) by a qualified engineer, architect, or public land surveyor shall be submitted showing the Parking Spaces, aisles, easements, access to the Lot, drainage, Buildings, lighting, signs and other pertinent information.

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- (3) Where four (4) or more Parking Spaces are required for the land Use on a Lot, the following minimum requirements shall apply:
 - a. The access to the Parking Lot shall be 3 m (9.8 ft) for one-way traffic and 6.1 m (20.0 ft) for two-way traffic with a maximum width of access to a public Street to be 7.6 m (24.9 ft), and individual Parking Spaces shall not have direct access to the Street but shall be designed for access by way of the common access to the Parking Lot;
 - b. the parking area shall be on a stable surface (pavement, gravel) to prevent the raising of dust and to prevent tracking materials on to a Street; and 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.
 - c. the Parking Spaces shall be accessed from an aisle with a width of 6.7 m (22.0 ft) for right angle parking; 5.5 m (18.0 ft) for 60° angle parking; and 3.4 m (11.0 ft) for 45° angle or less.
- (4) 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.
- (5) A Structure not more than 3 m (9.8 ft) in height and not more than fifty 4.6 m² (49.5 ft²) in area may be Erected in the parking area for the Use of attendants.
- (6) The parking area shall be within 91.4 m (300 ft) of the location which it is intended to serve.

4.3. LOCATION OF PARKING FACILITIES

- (1) Parking Spaces for a Residential Lot shall not be located within 1.5 m (4.9 ft) of any door or window in the Building serving as a bedroom.
- (2) Parking may be permitted in the Front Yard of a Townhouse Dwelling provided the Front Yard does not front on a Collector or Arterial Highway.
- (3) No driveway or access to a Parking Lot for a Residential Lot shall:
 - a. Occupy more than 40% of the Front Yard;
 - b. Occupy more than 40% of the Flankage Yard on a Corner Lot; and
 - c. Occupy more than 40% of the Lot Frontage up to a maximum of 9.1 m (30 ft).
- (4) For multi-unit Residential and a non-Residential Lot, where parking is provided in the Front Yard of a Building, a 1.5 m (4.9 ft) wide yard shall be provided between the parking area and the Street boundary, and the parking area will be accessed via a defined Entrance way.

4.4. EXCEPTIONS TO THE PARKING REQUIREMENTS

- (1) Notwithstanding the parking provisions of this Bylaw, Council may waive or reduce the parking requirements in a non-Residential Zone in return for a Fee as set out in the Fee Schedule where Alternative arrangements are proposed for shared parking or bicycle parking.
- (2) Notwithstanding the parking provisions of this Bylaw, Council may authorize reduced Parking requirements where:
 - a. the applicant agrees to provide underground parking;
 - b. the Loading Space requirement for a Building under 1,858 m² (20,000 ft²)
- (3) In rendering its decision, Council shall consider the following:
 - a. availability of parking in the proximity of the proposed Development
 - b. the extent to which the proposed Development contributes toward the objectives and policies of the Official Plan
 - c. estimated traffic generation of the proposed Development.

5. DEVELOPMENT ZONES, PERMITTED LAND USES AND REGULATIONS

5.1. ZONE SYMBOL

- (1) All Lots within the Municipality are designated with a land Use Zone. Such Zones may be referred to by the appropriate symbols.

Zone Name	Zone Symbol
Residential – Low Density	R1
Residential – Neighbourhood	R2
Residential – Multi-Unit	R3
Residential – Cluster Housing	RCH
Commercial	C1
Industrial	M1
Agricultural	A1
Public Service and Institutional	PS1
Recreation and Open Space	O1
Environmental Reserve	O2

5.2. ZONING MAP

- (1) A visual representation showing the boundaries of each Zone, known as the *Zoning Map*, shall be Attached hereto as Schedule A and forms a part of the Bylaw.
- (2) Revisions and amendments to the *Zoning Map* shall be recorded by the Municipality, and the *Zoning Map* shall be updated periodically.

5.3. INTERPRETATION OF ZONE BOUNDARIES

- (1) Boundaries between Zones shall be determined as follows:
- a. Where a Zone boundary is indicated as following a Street or Highway, the boundary shall be the centre line of such Street or Highway;
 - b. Where a Zone boundary is indicated as following Lot Lines, the boundary shall be such Lot Lines;
 - c. Where a Zone boundary is indicated as following the limits of the Municipality, the limits shall be the boundary; and

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- d. Where none of the above provisions apply, the Zone boundary shall be scaled from the high-resolution version of the Zoning Map lodged with the Municipality.

5.4. PERMITTED USES FOR RESIDENTIAL ZONES

- (1) A Building or Lot, or parts thereof, in any Residential Zone shall be used for no other purpose than the Land Uses identified in the following table, whereas a checkmark indicates a permitted use, and “DU” indicates a discretionary use that may be permitted subject to such terms and conditions imposed by Council.

	R1	R2	R3	RCH
RESIDENTIAL LAND USES				
Cluster Housing Development			DU	✓
Tiny Home				✓
Mini-home				✓
Single Detached Dwelling	✓	✓		✓
Duplex or Semi-detached Dwellings	✓	✓	✓	✓
Townhouse Dwellings (up to 8 units)		✓*	✓	✓
Apartment Dwellings (up to 12 units)			✓	
Apartment Dwellings with over 12 units			DU	
ACCESSORY TO RESIDENTIAL LAND USES				
Accessory Apartment	✓	✓		
Accessory Building	✓	✓	✓	✓
Home Occupations	✓	✓	DU	
Tourist Establishment (B&B and STR) in Dwellings	✓	DU	DU	
RESIDENTIAL PUBLIC SERVICE/INSTITIONAL USES				
Community Care Facility			DU	
Group Home		✓	✓	
Nursing Home			DU	
NEIGHBOURHOOD COMMERCIAL LAND USES				
Child Care Facility		DU	DU	
Convenience Stores of no greater than 139 m ² (1,500 ft ²)		DU	DU	
Business and Professional Office		DU	DU	
Service Shop		DU	DU	
Personal Service Shops		DU	DU	
RECREATIONAL LAND USES				
Park or playground	✓	✓	✓	✓

* Townhouse Dwellings shall only be permitted in the R2-Zone when each dwelling unit fronts on a Public Street and is designed such that it can be subdivided.

LOT SIZE AND DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONES

(2) All Development shall conform to the following Lot size and Development standards for the applicable zone as identified in the following table:

		R1	R2	R3	RCH
Minimum Lot Area	Single detached	585 m ² (6,297 ft ²)	418 m ² (4,499 ft ²)		
	Duplex or semi-detached	1,170 m ² (12,594 ft ²)	360 m ² /unit (3,875 ft ²)/unit	720 m ² (7,750 ft ²)	
	Townhouse Dwellings		360 m ² /unit (3,875 ft ²)/unit	315 m ² /unit (3,391 ft ²)/unit	
	Apartments and all other uses			115 m ² /unit (1,238 ft ²)/unit	2,023 m ² (0.5 acre)
Minimum Lot Frontage	Single detached	18 m (59.1 ft)	15.2 m (49.9 ft)		
	Duplex or semi-detached	18 m (59.1 ft)	12 m /unit (37.5 ft/unit)	12 m /unit (37.5 ft/unit)	
	Townhouse Dwellings		12 m /unit (37.5 ft/unit)	12 m /unit (37.5 ft/unit)	
	Apartments and all other uses			22.5 m (73.8 ft)	22.5 m (73.8 ft)
Minimum Front and/or Flankage Yard		4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)
Minimum Side Yard		2.3 m (7.5 ft)	2.3 m (7.5 ft)	3 m (9.8 ft)	4.5 m (14.8 ft)
Minimum Rear Yard		4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)
Maximum Building Height		12 m (39.4 ft)	12 m (39.4 ft)	12 m (39.4 ft)	12 m (39.4 ft)
Minimum Floor Area		46.5 m ² /unit (500 ft ² /unit)	46.5 m ² /unit (500 ft ² /unit)	46.5 m ² /unit (500 ft ² /unit)	

(3) All Lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Schedule B.

(4) Townhouse Dwellings shall only be permitted in the R2-Zone when each dwelling unit fronts on a Public Street and is designed such that it can be subdivided.

(5) Notwithstanding the noted Lot requirements for each zone, a Park or playground may be exempt from the minimum Lot size standards in the Zones in which it is a permitted use.

5.5. PERMITTED USES FOR NON-RESIDENTIAL ZONES

- (1) A Building or Lot, or parts thereof, in any Non-Residential Zone shall be used for no other purpose than the Land Uses identified in the following table, whereas a checkmark indicates a permitted use, and “DU” indicates a discretionary use that may be permitted subject to such terms and conditions imposed by Council.

	PSI	C1	M1	A1	O1	O2
RESIDENTIAL LAND USES						
Single Detached Dwelling				✓		
Apartment Dwellings (up to 12 units)		✓				
Apartment Dwellings with over 12 units		DU				
Mixed-Use Residential-Commercial		✓				
ACCESSORY TO RESIDENTIAL USES						
Accessory Apartment				✓		
RESIDENTIAL PUBLIC SERVICE/INSTITUTIONAL USES						
Community Care Facility	✓					
Nursing Home	✓					
PUBLIC SERVICE/INSTITUTIONAL						
Child Care Facility	✓	✓				
Club	✓	✓	✓			
Funeral Home	✓	✓	✓			
Government Building (federal, provincial or municipal)	✓	✓	✓			
Institutional Use	✓	✓	✓			
Medical, Health and Dental Office	✓	✓	✓			
COMMERCIAL						
Convenience Stores of no greater than 139 m ² (1,500 ft ²)		✓	✓			
Business and Professional Office		✓	✓			
Service Shop		✓	✓			
Personal Service Shops		✓	✓			
Banking and financial institution		✓	✓			
Entertainment Establishment		✓	✓			
Restaurant and Lounge		✓	✓			
Retail Store		✓	✓			
Automobile Service Station		✓	✓			
Tourist Establishment		✓	✓			
Temporary Commercial Use		✓	✓			
Public Parking Lot or Structure		✓	✓			
Other		DU	DU			

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	PSI	C1	M1	A1	O1	O2
INDUSTRIAL						
Automobile Service Shop, Automobile Sales and Service Establishment and other activities connected with the automobile trade other than a scrap Yard			✓			
Farm machinery and heavy equipment dealership and repair shop			✓			
Food processing			✓			
Manufacturing and assembly			✓			
Marine or shipping related activity			✓			
Transport operation			✓			
Warehousing			✓			
Wholesale operation			✓			
Commercial uses accessory to a main Use permitted in an M1 Zone			✓			
Storage of sand and aggregate			DU			
Concrete plant			DU			
Building supply dealership			DU			
Other			DU			
AGRICULTURAL						
Agricultural Uses				✓		
Forestry				✓		
Resource Commercial Use		✓	✓	✓		
Resource Industrial Use			✓	✓		
RECREATIONAL						
Active Recreational Uses	✓				✓	
Passive Recreational Uses	✓				✓	✓
Open Space and Conservation					✓	
Pavilions and Band Shells					✓	
Administrative Offices accessory to the Recreational Use					✓	
OTHER ACCESSORY BUILDINGS and USES						
Accessory Building	✓	✓	✓	✓	✓	✓
Park or playground	✓	✓	✓	✓	✓	
USES PERMITTED IN ALL ZONES						
Public/Private Utility Building	✓	✓	✓	✓	✓	✓
Conservation	✓	✓	✓	✓	✓	✓

5.6. LOT SIZE AND DEVELOPMENT STANDARDS FOR NON-RESIDENTIAL ZONES

- (1) All Development shall conform to the following Lot size and Development standards for the applicable zone as identified in the following table:

	PSI	C1	M1	A1	O1
Minimum Lot Area	585 m ² (6,297 ft ²)	585 m ² (6,297 ft ²)	1,350 m ² (14,531 ft ²)	4,047 m ² (1 acre, 43,560 ft ²)	585 m ² (6,297 ft ²)
Minimum Lot Frontage	18 m (59.1 ft)	18 m (59.1 ft)	30 m (98.4 ft)	45 m (147.7 ft)	18 m (59.1 ft)
Minimum Front and/or Flankage Yard	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)	7.5 m (24.6 ft)	4.5 m (14.8 ft)
Minimum Side Yard	2.3 m (7.5 ft)	2.3 m (7.5 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)
Minimum Rear Yard	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)	4.5 m (14.8 ft)
Maximum Building Height	12 m (39.4 ft)	12 m (39.4 ft)	12 m (39.4 ft)	12 m (39.4 ft)	12 m (39.4 ft)

- (2) All Lots shall also conform to the Provincial Minimum Lot Standards as amended from time to time, as noted in Schedule B.
- (3) In the C1 Zone, the minimum lot size and development standards for an Apartment Building shall be the same as those required for all other uses in the C1 Zone and the maximum size of an Apartment Building will be 24 Dwelling Units.
- (4) Notwithstanding the noted Lot requirements for each zone, a Park or playground may be exempt from the minimum Lot size standards in the Zones in which it is a permitted use.

5.7. ENVIRONMENTAL RESERVE ZONE (O2) AND O2 OVERLAY ZONE

- (1) When only a portion of a Lot is located within the O2 Zone, no Building or Structures, or Grade Alterations shall be permitted on that portion of the Lot that falls within the O2 Zone unless the Structure is designed to have the least impact necessary to provide safe egress/ingress across that portion of the Lot, and applicable permits have been issued by the provincial government department responsible for *Environmental Protection Act*.
- (2) Where an entire Lot is located with the O2 Zone, the only Building or Structure that may be Erected on the Lot is an Accessory Building and the Accessory Building shall have no other Use than to provide shelter or storage as necessary to support the Maintenance of the Lot.
- (3) Accessory Buildings in the O2 Zone are subject to the development standards of the O1 Zone.
- (4) The O2 Overlay Zone is intended to enhance the protection of ground water within the Town's wellfield. All land uses permitted within the zone underlying the O2 Overlay Zone, are permitted uses, however prior to issuance of a development permit within the O2 Overlay Zone and in the vicinity of the Town of Kensington Well Field, the Development Officer may consult with provincial government officials and/or private consultants to ensure that necessary measures are taken to protect the Well Field from potential direct, indirect and long term impacts of the proposed development and land use.

6. SUBDIVISION APPLICATIONS

6.1. SUBDIVISION APPROVAL

- (1) No Person shall subdivide one or more Lots or any portion of a Lot and no Person shall consolidate two or more Lots of land until the conditions of this Bylaw have been complied with and the applicant has received final approval from the Development Officer or Council.
- (2) No Person shall sell or convey any interest in a Lot in a Subdivision before the Development Officer or Council has approved the Subdivision in which the Lot is situated.
- (3) A Development Permit shall not be issued in a Subdivision until all the requirements of the Subdivision approval have been fulfilled.
- (4) Notwithstanding subsection (1), where a Lot is naturally subdivided into two or more units by a Street or Private Road each of the units shall be treated as a separate Lot.

6.2. PERMISSION TO SUBDIVIDE

- (1) Where an entrance way permit is required under the *Roads Act Highway Access Regulations*, its issuance shall be a precondition of the approval of the Subdivision application.
- (2) No Person shall subdivide land within the Municipality unless the Subdivision:
 - a. conforms with the requirements of this Bylaw;
 - b. is suitable to the topography, physical conditions, soil characteristics, and natural and surface drainage of the land;
 - c. will not cause undue flooding or erosion;
 - d. has Street access;
 - e. has adequate utilities and services available or can be conveniently provided with such utilities and services;
 - f. will provide for safe and efficient traffic flow;
 - g. is designed so that Lots will have suitable dimensions, shapes, orientation and accessibility; and
 - h. is suitable to the Use for which it is intended, and the future Use of adjacent lands.

6.3. PARKLAND DEDICATION AND/OR PARK DEDICATION FEE

- (1) A Person seeking Subdivision of a Lot into five (5) or more new Lots, exclusive of the parent parcel as it existed on the effective date of this bylaw, shall be required to dedicate and convey to the Municipality 10% of the lands being subdivided for public purposes.
- (2) Council shall determine the physical condition and location of parkland and priority will be made on selecting lands:
 - a. containing environmentally vulnerable features and natural assets; or
 - b. suitable for Park or playground Use that are connected to the active transportation network within the Municipality or otherwise have suitable accessibility for the existing and proposed Lot(s).
- (3) When a dedication of land is not deemed to be appropriate by Council, or the exercising of the full ten percent (10%) conveyance is not appropriate, Council may impose a Park dedication fee in lieu of land conveyance based on the assessed market value of all newly created Lots. The value of the Park dedication fee shall be calculated on the appraised value of the subdivided land and shall not include the value of Structures on such lands.
- (4) Council retains the right to Use the services of qualified appraiser(s) or to consult with other levels of government to determine the appraised value of land.
- (5) The parkland dedication may be in the form of land, cash, or a combination of land and cash of an equivalent value.

6.4. SUBDIVISION OF AN ATTACHED DWELLING

- (1) Semi-detached and Townhouse Dwellings may be subdivided independently for individual sale and Ownership provided that:
 - a. a Subdivision of the Lot has been approved by the Municipality and such Subdivision will provide for appropriate easements or common area to allow entry of any portion of the Building to the back Yard area;
 - b. the units must be separated from the basement floor to the underside of the roof in accordance with the National Building Code and Fire Code regulations;
 - c. a separate water and sewer service is provided for each unit in accordance with policies governing water supply and sewerage services for the Municipality;
 - d. a separate electrical service is provided for each unit;
 - e. a separate heating device is provided for each unit; and
 - f. separate parking is provided unless Council approved otherwise.

6.5. SUBDIVISION IN THE 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) No Person shall establish more than one access driveway for each 201 m (659.5 ft) of Lot Frontage on a Highway.
- (3) Within an Agricultural (A1) Zone:
 - a. A Residential Lot shall not be permitted within 150 m (492 ft) of an existing Intensive Livestock Operation, as per Provincial regulations.
 - b. Where a Residential Subdivision is proposed, the Municipality shall notify operators of Intensive Livestock Operations within 300 m (984.3 ft) and invite their comments.
 - c. Where a new Intensive Livestock Operation is proposed within 300 m (984.3 ft) of existing Residential Lots, the Municipality shall notify residents and Lot Owners and invite their comments.

6.6. REDUCED LOT FRONTAGE

- (1) If a Lot 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 Development Officer or Council may approve a reduced Frontage, provided that:
 - a. the Lot width at the Building Line measures at least as much as the minimum Lot Frontage for the Zone;
 - b. adequate and safe access is provided; and
 - c. the proposed Lot has a minimum Frontage of 7.3 m (24 ft).
- (2) The Development Officer or Council may approve a Flag Lot, where:
 - a. the proposed Lot has a minimum Frontage of 7.3 m (24 ft) and main body of the Lot (flag portion) meets the Lot Area and Frontage requirements; and
 - b. where a Lot or portion of a Lot is landlocked and there are no foreseeable options for the extension of a future Street network to provide the required Street Frontage from the rear of the Lot.
- (3) The Development Officer may approve an undersized Lot if an existing nonconforming Lot is consolidated with another Lot to bring the new Lot closer to the minimum requirements of this bylaw, provided that the remaining Lot(s) meet the Lot requirements of this bylaw or were lawfully existing at the effective date of this bylaw.
- (4) Where a Lot contains more than one Main Building lawfully existing at the effective date of this bylaw the Development Officer may approve a Subdivision for the Lot showing a Lot

designed for each of the Buildings provided that each Lot has a Frontage of not less than 7.3 m (24 ft) and each Lot is served by Municipal Services.

- (5) Notwithstanding the Lot Area and Frontage requirements of this bylaw, where a Building or Structure of a permanent nature is encroaching in or upon an adjacent Lot, the Development Officer may approve a Subdivision to the extent necessary and practical to remove the encroachment.

6.7. WATER AND SEWERAGE SERVICES

- (1) Where municipal water and/or sewerage services are available no Subdivision approval shall be issued except where the Subdivision is provided with such services.
- (2) In the review of the proposed municipal water and/or sewerage services, a Subdivision approval may be withheld until such time as adequate servicing has been designed for the Subdivision.
- (3) Where municipal water and/or sewerage services are not available no Subdivision approval shall be issued for a proposal for more than one (1) Lot from an original Lot.
- (4) When a Lot is subdivided and permitted to Use on-site services, the applicant shall enter into an agreement to confirm that at such time as the Municipality provides water and/or sewerage services to the Subdivision, the on-site system shall be decommissioned, and the Lot shall be connected to the municipal services.
- (5) A proposed Subdivision involving the installation of municipal water and/or sewerage services for the area of land proposed to be subdivided shall submit Municipal Services Plans to the Municipality for approval.
- (6) The municipal water and/or sewerage services shall include water mains and laterals to the boundaries of the proposed Lots, and/or sanitary sewer system collectors and any laterals to the boundaries of the proposed Lots, and the system(s) shall be designed by a Professional Engineer and shall comply with the Municipality's specifications.

6.8. APPLICATIONS FOR SUBDIVISION

- (1) Any Person seeking approval of a Subdivision shall first make application for preliminary approval, and shall be required to submit the following information:
 - a. A completed preliminary Subdivision application form;
 - b. A description of the Use or proposed Use of the land subject to the Subdivision;
 - c. An electronic (pdf) preliminary Subdivision plan drawn to scale showing:
 - i. the true shape and dimensions of the proposed Lot(s);

- ii. the location of existing Building(s) or Structure(s) on the Lot;
 - iii. existing and proposed services and utilities;
 - iv. proposed widths and locations of all Streets;
 - v. location of land proposed for the public land dedication, if applicable; and
 - vi. Any other applicable existing or proposed features, including but not limited to Buildings, watercourses, wetlands, buffer Zone, wooded areas and areas subject to flooding.
- (2) The applicant may also be required to provide additional information to assist in evaluating a proposed Subdivision, including, but not limited to:
- a. The results of a soil and/or water test;
 - b. A traffic survey or assessment of the proposed connections to the existing vehicular and active transportation network;
 - c. An assessment of potential environmental impacts, including any requirements imposed by provincial statutes, regulations, or other enactments.
- (3) The Development Officer may consult with government officials and private consultants.
- (4) Preliminary approval of a Subdivision may be withheld, where it is found to be unsuitable under the provisions of this Bylaw.
- (5) Preliminary approval of a Subdivision shall not be construed as final approval of such Subdivision for legal conveyance or for land registration purposes, and preliminary approval shall be effective for a period of twelve (12) months, or such additional time as may be authorized by Council.
- (6) If preliminary Subdivision approval has been granted, a Subdivision agreement may be executed outlining the conditions to be satisfied for the Subdivision to proceed to final approval.
- (7) Where a Subdivision application is submitted concurrently with a rezoning application, the preliminary Subdivision approval shall not be granted until the rezoning application has been processed and has received approval.

6.9. SUBDIVISION AGREEMENT

- (1) An applicant may be required to enter into a Subdivision agreement as a condition of Subdivision approval. The Subdivision agreement may cover, but shall not be limited to, the following:
 - a. design and construction costs of Highways, sidewalks, water supply, sewerage and stormwater systems, and Street lighting;
 - b. dedication of land for public purposes, or payment of a fee in lieu of land;
 - c. Building of Highways to provincial standards and deeding of Highway to the provincial government;
 - d. posting of a financial guarantee;
 - e. provision of a storm water management plan to facilitate the drainage of water and to guard against flooding of Lots within the Subdivision and adjacent Lots;
 - f. preservation and enhancement of surface water drainage systems;
 - g. provision of such services, facilities or actions as are necessary to ensure the satisfactory Development of the Subdivision;
 - h. provision for the phasing of the Subdivision;
 - i. assignment of costs associated with the drafting, signing and enforcing of the agreement; and
 - j. Any other matters that are deemed necessary to conform to the Bylaw or to ensure the health, safety and convenience of the public.
- (2) All Subdivision agreements shall be registered in accordance with the provisions of the *Registry Act*.

6.10. FINAL APPROVAL

- (1) Any Person seeking final Subdivision approval shall be required to submit to the Development Officer:
 - a. A completed final Subdivision application form with six (6) copies of the final Survey Plan showing all Lots pinned and certified by a licensed surveyor; and
 - b. A stormwater management plan prepared by a licensed engineer for any Subdivision of a Lot into two (2) or more new Lots. The stormwater management plan shall include an overall surface water management strategy for the proposed Subdivision, details for stormwater infrastructure if applicable, and shall include the proposed general location and top of foundation elevation for the Main Buildings to be Erected on each Lot.

- (2) Where a parent parcel of a Subdivision exceeds 4 ha (10 acres) in Lot Area, a pinned Survey Plan for the parent parcel of the Subdivision may be waived.
- (3) Final Subdivision approval shall be granted by the Development Officer or Council only after the applicant has:
 - a. complied fully with all applicable requirements of this Section and the conditions of the Subdivision agreement;
 - b. all transactions involving the transfer of land, money or security in conjunction with the Subdivision have been concluded to the satisfaction of the Development Officer; and
 - c. the applicant has completed any necessary conditions of agreements with the provincial department responsible for transportation respecting Highway construction and the Highway has been accepted as public.
- (4) Final approval may be granted to part of a Subdivision which is proposed to be developed in Phases.
- (5) Final approval of a Subdivision shall be provided in writing, and the Development Officer shall place the Municipality's seal on the six (6) copies of the Survey Plan and shall return one (1) copy to the applicant
- (6) The Municipality shall file a copy of the final Survey Plan with the:
 - a. Registrar of Deeds;
 - b. Provincial department responsible for transportation;
 - c. Municipal records; and
 - d. local utilities, as required.
- (7) The applicant is responsible to prepare and file the deed(s) following final approval of the Subdivision.

6.11. CHANGES TO AN APPROVED SUBDIVISION

- (1) An application to subdivide land in an existing approved Subdivision will be denied where the change may have a Detrimental effect on neighbouring Lots.

6.12. SEVERANCES/CONSOLIDATION

- (1) Notwithstanding the above provisions, the Development Officer may approve applications for Subdivisions with up to four (4) lots, 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.

7. DEFINITIONS

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

- (1) **“Accessory Apartment”** see Dwelling definition.
- (2) **“Accessory Building or Structure”** means a Building or Structure whose Use is incidental and subordinate to, and consistent with, the main and approved Use of the Lot on which the Building is Located.
- (3) **“Accessory Use”** means a Use subordinate and incidental to the main Use of land or Buildings and on the same Lot.
- (4) **“Agricultural”** means a Use of a Lot or 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.
- (5) **“Alter or Alteration”** - means any change in the structural component or physical appearance of a Building or any part thereof, or any increase in the volume of a Building or Structure but does not include repairs carried out for the purpose of Maintenance or non-structural renovations.
- (6) **“Arterial Highway”** – means any highway that has been designated as an Arterial Highway under the provisions of the *Roads Act* Highway Access Regulations.
- (7) **“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 20% of the length of the wall or roof line is common with the Main Building or Structure wall or roof.
- (8) **“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.
- (9) **“Automobile 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 gasoline and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.
- (10) **“Automobile Washing Facility”** - means a Building or part thereof used for the operation of automobile washing equipment, which is manual, automatic or semi-automatic.
- (11) **“Bed and Breakfast”** – means a type of Tourism Establishment within a Dwelling used incidentally to provide accommodation and limited meals to transient travellers and includes a tourist home but does not include a boarding house, rooming house, Group Home, Restaurant or Lounge.

- (12) "**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.
- (13) "**Building Height**" - means the vertical distance measured from the averaged finished Grade to the highest point of roof surface.
- (14) "**Building Line**" - means any line regulating the position of a Building or Structure on a Lot.
- (15) "**Business and Professional Office**" - means premises where services are offered for a fee but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.
- (16) "**Campground**" - means a Lot Used by the travelling public that provides sites for tents, tent trailers, travel trailers, motor homes, and Recreational vehicles and campers, and may also be called a RV Park but shall not include industrial, work or construction camps or permanent Cluster Housing Development.
- (17) "**Change of Use**" - means the Change of Use of a Lot or a Building from one type of permitted Use to another type of permitted Use or an increase in the Intensification of Use, including an increase in the number of Dwelling Units.
- (18) "**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 part or all of the day.
- (19) "**Club**" - means an association of Persons, whether incorporated or not, united by some common interest, meeting periodically for cooperation 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.
- (20) "**Collector Highway**" - means any highway that has been designated as a Collector Highway under the provisions of the *Roads Act* Highway Access Regulations.
- (21) "**Commercial**" - means the Use of a Building or Lot for the purpose of buying and selling goods and supplying services.
- (22) "**Common Wall**" means a vertical wall separating two Units between the top of the footings to the underside of the roof Deck and shall be mutually common to both Units.
- (23) "**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.
- (24) "**Conservation**" means an activity in which people make efforts to protect, preserve or restore the environment and its biological diversity.

- (25) "**Convenience Store**" - means a retail Commercial establishment supplying daily household necessities for the immediate surrounding area in which articles for sale are restricted to a limited range of primarily food and household products and other complimentary items.
- (26) "**Council**" - means the Council for the Town of Kensington.
- (27) "**Craft Studio**" means a space occupied by a craftsperson and used solely for the production and sale of craft items such as pottery, weaving, sewing, jewelry, painting and print making, sculpture and fine woodworking, and such other similar handcrafted items.
- (28) "**Deck**" - means a Structure intended as outdoor living space, either Attached or adjacent to a Building.
- (29) "**Demolition**" - means to remove, pull down or destroy a Structure.
- (30) "**Detrimental**" means an impact suffered in person or property pursuant to the *Subdivision and Development Regulations* prescribed under the *Planning Act R.S.P.E.I. 1988, c. P-8*.
- (31) "**Development**" - means
- a. Site Alteration, including but not limited to
 - i. Altering the Grade of the land;
 - ii. removing vegetation from the land;
 - iii. excavating the land;
 - iv. depositing or stockpiling soil or other material on the land, and
 - v. establishing a Parking Lot,
 - b. Locating, placing, Erecting, constructing, Altering, repairing, removing, relocating, replacing, adding to or demolishing Structures or Buildings in, under, on or over the land;
 - c. Placing temporary or permanent mobile Use or Structures in, under, on or over the land; or
 - d. Changing the Use or intensity of Use of a Lot or the Use, intensity of Use or size of a Structure or Building.
- (32) "**Development Officer**" - means the Person charged by the Council with the duty of administering the provisions of this Bylaw.
- (33) "**Development Permit**" - means the formal and written authorization for a Person to carry out any Development.
- (34) "**Display**" - includes any item, group of items, sign, or billboard visible to the public, indicating that items or services are offered for sale or trade.

- (35) **“Driveway”** means a relatively short, paved area leading from a Street, a Private Road, or an Internal Drive to a Dwelling Unit or to a Parking Lot. A Driveway may also serve as a Parking Space(s) for a dwelling unit.
- (36) **"Dwelling"** - means a Building or portion thereof designated or used for Residential occupancy,
- a. **“Accessory Apartment”** means a Dwelling Unit within a Single Detached Dwelling, or in an Accessory Building to a Single Detached Dwelling that is incidental and subordinate to the principal Use of the main Dwelling. Also called a Secondary Suite.
 - b. **“Apartment Building”** means a Building comprising of three (3) or more Dwelling Units which generally share outside access; or Dwellings attached to or located above a Building which contains a Commercial Use.
 - c. **"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.
 - d. **"Duplex"** - means a Building containing two (2) Dwelling Units each of which has at least two independent entrances.
 - e. **“Mini-home”** - means a Building containing one (1) Dwelling Unit having an average width of less than 6 m (19.7 ft), not including appurtenances such as porches, entries, etc.
 - f. **“Multi-Unit Dwelling”** - means a Building containing three or more Dwelling Units, including Townhouse dwellings and Apartments, where the Dwelling Units may share common spaces within the Building and may share a common entrance.
 - g. **"Semi-detached Dwelling"** - means a Building divided vertically into two (2) separate units, each of which has at least two independent entrances.
 - h. **“Single Detached Dwelling”** - means a Building designed or used for occupancy as one Dwelling Unit; a tiny home or mini-home have separate definitions.
 - i. **“Tiny Home”** means a Building containing one (1) Dwelling Unit constructed on a permanent foundation having a finished floor area (including a second story, if applicable) less than 46.5 m² (500 ft²) but not smaller than 17.5 m² (188 ft²).
 - j. **“Townhouse 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
- (37) **“Entrance way”** means that portion of the public right-of-way where a driveway or private road connects with an arterial highway, collector, local, or seasonal highway, and as regulated by the *Roads Act, Highway Access Regulations*.
- (38) **“Entertainment Establishment”** means an establishment providing musical, dramatic, dancing, or cabaret entertainment and/or facilities for alcoholic beverage consumption and supplementary food service. This term refers to uses such as a theatre, cinema, auditoria,

beverage room, cocktail lounge, cabaret, casino, nightclub, theatre restaurant and other establishments that are used to host special events.

- (39) "**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.
- (40) "**Existing Parcel**" shall mean a Lot of land which was held in separate Ownership as of February 3, 1979.
- (41) "**Farm**" - means arable land, Dwelling and complementary Buildings containing at least 10 acres, operated as a Farm enterprise and may comprise a lesser area when operated as a Farm enterprise by a *bona fide* Farmer as defined in the *Real Property Assessment Act*, R.S.P.E.I. 1988, Cap. R-4., but does not include land leased or rented from Owner(s) who are not bona fide Farmers.
- (42) "**Fence**" - means an artificially constructed barrier of any material or combination of materials Erected to enclose or screen areas of land.
- (43) "**Flag Lot**" - means a Lot that does not have the minimum Lot Frontage on a Street required by these regulations, but has an approved access on a Street, and is often referred to as a panhandle Lot.
- (44) "**Floor Area**" - means:
- a. With reference to a **Dwelling** the total horizontal areas of each floor contained within the outside walls excluding any rooms not habitable at all seasons of the year such as a garage, porch, veranda, sunroom, greenhouse, unfinished attic, or unfinished basement.
 - b. With reference to a **Commercial Building** the total usable Floor Area within a Building used for Commercial purposes excluding washrooms, furnace rooms and common halls between stores.
 - c. With reference to an **Accessory Building** the area contained within the outside walls.
- (45) "**Footprint**" means the area that falls directly beneath and shares the same perimeter as a Building or Structure.
- (46) "**Forestry**" - 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.
- (47) "**Funeral Home**" means an establishment or part thereof used for human funeral services, and may include space and facilities for autopsies, embalming and short-term storage of human remains, as well as chapels; but excludes crematoriums.

- (48) "**Grade**" - means
- a. as it applies to the determination of Building Height, the lowest of the average levels of finished ground adjoining each exterior wall of a Building, except that localized depressions such as for vehicle or pedestrian entrances need not be considered in the determination of average levels of finished ground; and
 - b. as it applies to ground level, the average of the mean elevations of all the natural levels or finished ground adjoining existing walls of Buildings, and the degree of rise or descent of the sloping surface.
- (49) "**Group Home**" means a facility licensed or funded by the Province of Prince Edward Island that provides accommodation, supervisory and/or personal care to residents with social, physical or mental issues with at least one (1) staff person.
- (50) "**Highway or Street**" - means all the area within the boundary lines of every Public Road or right-of-way which is vested in the Province of Prince Edward Island under the *Roads Act* or the Municipality and used or intended for Use by the public for the passage of vehicles and includes any bridge over which any such Public Road or right-of-way passes. All Highways and Streets are public roads.
- (51) "**Home Occupation**" - means an Accessory Use of a Dwelling for gainful employment involving the provision or sale of goods and /or services.
- (52) "**Industrial**" - 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.
- (53) "**Institutional**" - means the Use of a Lot or Buildings for non-profit or public purposes including but not limited to, hospitals, government Buildings, religious institutions, cemeteries, churches, public schools, colleges, cultural centres, libraries and public recreational and Park Buildings.
- (54) "**Intensification**" - means the Development of a Lot at a higher density than previously existed and includes reDevelopment or Development within existing communities, infill Development, or Development on vacant Lots or underdeveloped Lots within a built-up area, conversion or the Change of Use of an existing Structure or Use, and the creation of Dwellings or accommodation in Dwellings.
- (55) "**Intensive Livestock Operation**" means a feedlot, piggery, dairy, fox ranch or similar operation, or a Building used for the raising of poultry, with the calculation of animal units in accordance with the *Environmental Protection Act* Watercourse and Wetland Protection Regulations.

- (56) "**Internal Drive**" means a lane, access road or right-of-way on private property, designed, or intended for or used for the passage of vehicles and general traffic circulation within a single lot.
- (57) "**Land Use Buffer**" - means the boundary between different Zones, or the boundary between different Uses within the same Zone.
- (58) "**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 Lot
- (59) "**Loading Zone**" - 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.
- (60) "**Lot**" - means any parcel of land described in a deed or as shown in a registered Subdivision plan.
- a. "**Lot Area**" - means the total area included within the Lot Lines.
 - b. "**Corner Lot**" - means a Lot situated at an intersection of and abutting on two or more Streets.
 - c. "**Flankage Lot Line**" - means the Side Lot Line which abuts the Street on a Corner Lot.
 - d. "**Front Lot Line**" - means the Lot Line abutting the Street upon which the Building or Structure Erected or to be Erected has its principal entrance.
 - e. "**Interior Lot**" - means a Lot other than a Corner Lot.
 - f. "**Lot Depth**" - means the depth from the Front Lot Line to the Rear Lot Line.
 - g. "**Lot Line**" - means any boundary of a Lot.
 - h. "**Rear Lot Line**" - means the Lot Line further from and opposite to the Front Lot Line.
 - i. "**Side Lot Line**" - means a Lot Line other than a front, rear or Flankage Lot Line.
- (61) "**Lot Consolidation**" - means the legal incorporation of two or more Existing Parcels of land to form a single, larger Lot.
- (62) "**Lot Coverage**" is the percentage of the Lot Area covered by the Main Building, Attached or detached garage and any Accessory Buildings.
- (63) "**Lot Frontage**" - all land abutting on one side of a Highway measured along the common or actual Lot Line.

- (64) "**Lounge**" - means a Commercial facility or Structure licensed to sell alcoholic beverages to the public.
- (65) "**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.
- (66) "**Maintenance**" - means those actions undertaken to prevent the deterioration of a Building or Structure, but does not include any Alteration, design change, and/or replacement of windows or doors where such replacement involves a change in size.
- (67) "**Medical, Health and Dental Office**" means an establishment used by qualified medical practitioners and staff for the provision of medical, health and dental care on an outpatient basis. This term refers to such Uses as medical and dental offices, physiotherapy services, chiropractic services, counselling services, and ancillary clinic counselling services.
- (68) "**Modular unit**" - means a pre-manufactured unit having an average width of 6 m (19.7 ft) or more, not including appurtenances such as porches, entries, et al. and which may be designed as a Residential Dwelling Unit or Commercial Use.
- (69) "**Municipality**" - means the area incorporated and known as the Town of Kensington.
- (70) "**Nursing Home**" - means a Building, part of Building, or group of Buildings in which, that for compensation provides continual Residential accommodation with meals and housekeeping and nursing services, as required, to any five or more residents.
- (71) "**Obnoxious**" - means a Use which, when judged by reasonable community standards, 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.
- (72) "**Open Space**" - means that portion of a Lot which may be used for Landscaping, Recreational space or leisure activities normally carried on outdoors; but does not include space used for service driveways or off-Street parking.
- (73) "**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.
- (74) "**Owner**" - means a part Owner, a joint Owner, tenant in common or joint tenant of the whole or any part of any land or Building and includes a trustee, and executor, and executrix, a guardian, and agent, or mortgage in possession or other Person having the care or control of any land or Building in the event of the absence or disability of the Person having the title thereof.

- (75) **“Park”** means an area of land set aside for Recreational Use and areas designed for passive enjoyment and other similar Uses and includes the Buildings and Structures in connection therewith. A public Park means a Park owned by the Municipality or other level of government used or intended for Use by member of the public. A private Park means a Park owned by individuals or businesses and are used at the discretion of the Owner.
- (76) **“Parking Lot”** means an open area on a Lot, other than a Street, Private Road, Internal Drive, or an area within a Structure for the parking of vehicles.
- (77) **“Parking Space”** - means an area of land which is suitable for the parking of a vehicle accessible to vehicles without the need to move other vehicles on adjacent areas.
- (78) **“Personal Service Shop”** - means a Building in which in which services are administered to an individual for their personal needs and may include barber shops, hairdressing shops, beauty parlours, shoe repair and shoe shining, tailoring, and other similar services.
- (79) **“Person”** includes an individual, association, firm, partnership, corporation, trust, incorporated company, organization, trustee, or agent and the heirs, executors or other legal representatives of a Person to whom the context can apply according to law.
- (80) **“Phase”** - means to develop a Lot over time in a series of prescribed stages; or one of such stages.
- (81) **“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.
- (82) **“Private Road”** - means a right-of-way which is not vested in the Province or the Municipality, designed or intended for or used for the passage of vehicles and which provides access between a highway or street and a lot, but does not include an **Internal Drive**.
- (83) **“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.
- (84) **“Recreational”** – means the Use of a Lot for a Park for passive or active activities including but not limited to a playground, tennis court, lawn bowling green, athletic field, golf course, picnic area, Swimming Pool, day camp, and similar Uses but does not include a track for the racing of animals or any form of motorized vehicles.
- (85) **“Recycling Depot”** - means a Building, Structure, or land which is used for the deposit, collection, and handling of waste paper, rags, tires, bottles, or other materials which are to be delivered wholesale to other operations for reclamation, processing, or salvage, but shall not

include any such salvage or processing on the same Lot or within any Building used as a Recycling Depot. "Salvage or Waste Disposal Facility" is a separate Use.

- (86) "**Residential**" means the Use of a Lot, Building or Structure or parts thereof as a Dwelling.
- (87) "**Resource**" means the Use of a Lot or Building for production and harvesting or extraction of any Agricultural, forestry or fisheries product.
- (88) "**Resource Commercial or Resource Industrial**" means the Use of a Lot or Building for the storage, Display or sale of goods, or for an Industrial Use, directly and primarily related to Resource Uses.
- (89) "**Restaurant**" - means Buildings or Structures or part thereof where food and drink is prepared and offered for sale to the public.
- (90) "**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.
- (91) "**Salvage or Waste Disposal Facility**" - means an establishment for purchasing, receiving, re-sale, or transporting of spent materials or substances which may generate a detrimental impact or nuisance. This definition refers to uses such as salvage and scrap yards, garbage container services, and effluent tanker services. "Recycling Depot" is a separate Use.
- (92) "**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.
- (93) "**Setback**" - means the minimum horizontal separation distance between two objects as identified in this bylaw, such as a Building or Structure, Street Line, Watercourse, or Zone boundary, except Fences.
- (94) "**Sewerage System**" - means a system of pipes for the disposal of sewage controlled by a utility.
- (95) "**Short-term Rental**" means the rental of a Dwelling Unit or a portion of a Dwelling Unit (including an Accessory Apartment to a Dwelling Unit) for a period of less than 30 consecutive days.
- (96) "**Solar Array**" means a system of any number of solar energy Collectors and associated mounting and electrical equipment. A ground mounted Solar Array is structurally supported by the ground, rather than a Building. A roof mounted Solar Array is structurally supported by a Building, rather than the ground.
- (97) "**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 (6 ft) above Grade and provided also that any portion of a

Building between any floor and ceiling or roof next above exceeding 4.3 m (14 ft) in height shall be deemed an additional Storey.

- (98) "**Street**" - see Highway.
- (99) "**Street Line**" - means the boundary of a Street.
- (100) "**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.
- (101) "**Subdivision**" - means a division of a Lot to create two or more new Lots; the consolidation of two or more contiguous Lots to create a new Lot; or the attachment of a part of a Lot to another Lot contiguous to that part to create a new Lot, by means of a plan of Subdivision, a plan of survey, an agreement, a deed or any other instrument, including a caveat that transfers or creates an estate or interest in the new Lots created by the division, or in the new Lot created by the consolidation or the attachment, as the case may be.
- (102) "**Survey Plan**" - means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island land surveyor.
- (103) "**Swimming Pool**" - means an artificial body of water intended to be a permanent Structure which is used for swimming or wading purposes and which has a possible water depth greater than 0.6 m.
- (104) "**Temporary Structure**" means a Structure that is not affixed to the ground by foundation, footings or piles, and has a short-term or seasonal purpose, and which will be removed when the designated time period, activity or Use for which the Temporary Structure was Erected has ceased, and for greater certainty includes but is not limited to any tent, awning, bin, bunk, platform vessel, trailer truck body or container.
- (105) "**Through Lot**" - means a Lot bounded on two opposite sides by Streets.
- (106) "**Tourism Establishment**" - means an establishment that provides temporary accommodation for a guest for a continuous period of less than one month, and includes a Building, Structure or place in which accommodation or lodging, with or without food, is furnished for a price to travellers including but not limited to a cabin, cottage, housekeeping unit, hotel, lodge, motel, inn, hostel, bed and breakfast, resort, short-term rental, travel trailer, travel trailer park, recreational vehicle park, houseboat, or campground.
- (107) "**Use**" - means any purpose for which a Building or other Structure or Lot 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 Lot.

(108) "**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.

(109) "**Watercourse**" - has the same meaning as defined in the *Watercourse and Wetland Protection Regulations* prescribed under the *Environmental Protection Act*, as may be amended, and, in the case of any dispute, the final determination shall be made by the provincial government department having responsibility for enforcement of such regulations.

(110) "**Wetland**" - has the same meaning as defined in the *Watercourse and Wetland Protection Regulations* prescribed under the *Environmental Protection Act*, as may be amended, and, in the case of any dispute, the final determination shall be made by the provincial government department having responsibility for enforcement of such regulations.

(111) "**Yard**" - means an open, uncovered space on a Lot pertinent to a Building and unoccupied by Buildings or Structures except as specifically permitted in this Bylaw.

a. "**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.

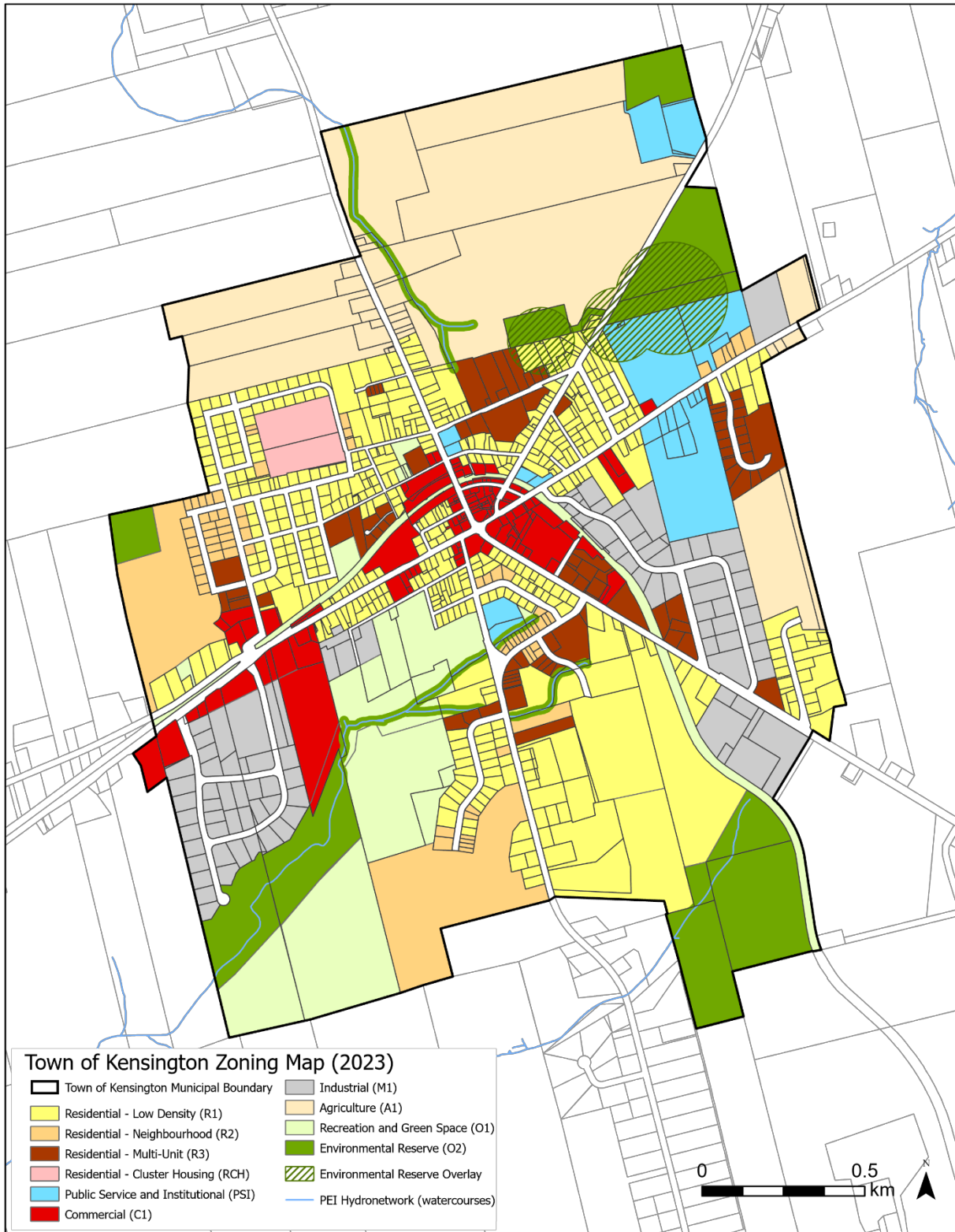
b. "**Rear Yard**" - means a Yard extending across the width of a Lot between the Rear Lot Line and the nearest wall of any Main Building or Structure on the Lot and "minimum Rear Yard" means the minimum depth of a Rear Yard on a Lot between the Rear Lot Line and the nearest main wall of any Main Building or Structure on the Lot.

c. "**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.

d. "**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.

(112) "**Zone**" - means a designated area of land shown on the *Zoning Map* of the Bylaw within which land uses are restricted to those specified by this Bylaw

SCHEDULE A – ZONING MAP



SCHEDULE B – PROVINCE-WIDE MINIMUM DEVELOPMENT STANDARDS

Notwithstanding any other provisions of this Bylaw, no Person shall subdivide a Lot intended to be serviced by an on-site Water and/or Sewerage System except in conformance with the minimum Lot size standards noted in Table 1 and Table 2 below.

CHAPTER P-8 PLANNING ACT PROVINCE-WIDE MINIMUM DEVELOPMENT STANDARDS REGULATIONS

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

<i>(a) Servicing</i>	<i>(b) Lot Category</i>	<i>(c) Minimum Lot Frontage</i>	<i>(d) Number of Dwelling Units</i>	<i>(e) Minimum Lot Area sq. ft. / sq. m.</i>	<i>(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - ft / m</i>
on-site water supply and on-site sewage disposal system	I	100 ft / 30.5 m (or 50 ft / 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. / 53.3 m.
			4	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
			more than 4	40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m.
on-site water supply and on-site sewage disposal system	II	100 ft / 30.5 m (or 50 ft / 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. / 457 sq. m. for each additional unit	250 ft. / 76.2 m.
on-site water supply and on-site sewage disposal system	III	100 ft / 30.5 m (or 50 ft / 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.

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			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 system	IV	100 ft / 30.5 m (or 50 ft / 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 system	V	N/A	N/A	not developable	N/A
central water supply and on-site sewage disposal system	I	50 ft / 15.25 m	1	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
			2	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			3	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			4	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			more than 4	35,000 sq. ft. / 3,251 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 ft / 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 ft / 15.25 m	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.

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central water supply and on-site sewage disposal system	IV	50 ft / 15.25 m	1	60,000 sq. ft. / 5,580 sq. m.	275 ft. / 83.8 m.
			2	65,000 sq. ft. / 6,450.5 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., plus 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 ft / 15.25 m	1	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
			2	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
			3	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			4	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			more than 4	30,000 sq. ft. / 2,787 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	160 ft. / 48.8 m.
on-site water supply and central waste treatment system	III	50 ft / 15.25 m	1	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
			2	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			3	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			4	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			more than 4	35,000 sq. ft. / 3,251.5 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	175 ft. / 53.3 m.
central water supply and waste treatment systems	I, II, or III	n/a	any number	as determined by the Minister	as determined by the Minister

TABLE 2 - MINIMUM LOT SIZE STANDARDS:

NON-RESIDENTIAL LOTS

<i>(a) Servicing</i>	<i>(b) Lot Category</i>	<i>(c) Minimum Lot Frontage</i>	<i>(e) Minimum Lot Area</i>	<i>(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - ft / m</i>
on-site water supply and on-site sewage disposal system	I	100 ft / 30.5 m (or 50 ft / 15.25 m, where the Frontage is on the interior curve of a Street)	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
on-site water supply and on-site sewage disposal system	II	100 ft / 30.5 m (or 50 ft / 15.25 m, where the Frontage is on the interior curve of a Street)	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and on-site sewage disposal system	III	100 ft / 30.5 m (or 50 ft / 15.25 m, 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 ft / 15.25 m	20,000 sq. ft. / 1,858 sq. m.	125 ft. / 38.1 m.
central water supply and on-site sewage disposal system	II	50 ft / 15.25 m	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 ft / 15.25 m	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 ft / 15.25 m	15,000 sq. ft. / 1,393.5 sq. m.	100 ft. / 30.5 m.
central water supply and waste treatment systems	I, II or III	n/a	as determined by the Minister	as determined by the Minister

