

COMMUNITY OF KINGSTON
INTERIM PLANNING POLICY

1. BACKGROUND

As of August 2011 all development, change of use of land or subdivision of land within the Community of Kingston was regulated by the Provincial Government via the Planning Act Regulations. The eastern half of the community was also impacted by the Special Planning Area Regulations which were imposed at the time of municipal restructuring in the Greater Charlottetown Area in 1994.

While the Planning Act Regulations impose minimum standards for lot sizes, setbacks, entranceway permits, etc., there is essentially no protection afforded from problematic land uses such as: C&D sites; asphalt plants; compost sites; auto salvage yards, etc. There is also little control over large scale unserviced residential subdivisions.

While the Special Planning Area Regulations impose severe restrictions on residential subdivisions, there is still no restriction on most problematic land uses.

In the Spring of 2011 Kingston Community Council decided it was time for the community to develop its own Official Plan and implementing bylaw so that the community could take direct control of development and land use in the area and ensure that local residents would have a say in how their community develops in the future.

2. INTERIM PLANNING POLICY

The preparation of an Official Plan and Development Bylaw is a complex task which can take from 6 months to a year to complete. One of the most demanding and time consuming tasks is public consultation in order to ensure that the Plan reflects the views of local residents. In order to make sure that no developments occur during this period which could have long lasting negative effects on the community, the Planning Act enables Council to put an Interim Planning Policy in place.

The intent of the Interim Planning Policy is to allow normal development activities to proceed during the preparation of the Plan but to restrict problematic, contentious or potentially harmful developments until such time as a set of comprehensive long term development policies and regulations can be agreed to and implemented.

If approved by Council, the Interim Planning Policy will be implemented by a temporary bylaw which will remain in place until the proposed Official Plan and Development Bylaw are considered by the Community. If the community residents were to convince Council to not adopt the Interim Planning Policy, then the Interim Planning Bylaw would not be adopted and development would return to being controlled by the Province under the Planning Act Regulations.

If the proposed new Official Plan and Development Bylaw are acceptable to the Community then Council would assume long term control over local development pursuant to the provisions of these documents. Appeals of Council decisions would be heard by the Island Regulatory and Appeals Commission.

The proposed Interim Planning Bylaw would generally apply similar development regulations to the ones that are currently imposed by the Provincial Government with several key exceptions:

- the area currently covered by the Special Planning Area would be designated as the “Rural East Zone”. In this area the maximum number of lots permitted to be subdivided from an”existing parcel” would be increased from one (1) to five (5), but the family lot allocations would be rescinded.
- the remainder of the community would be in the “Rural West Zone” and there would be no limits of the number of residential lots (the same rules that now apply under the Planning Act Regulations would essentially remain).
- both zones would temporarily restrict commercial, industrial and certain other designated land uses which could conflict with the interests of current residents and land owners.
- a somewhat larger minimum lot size (1 acre) will be imposed in order to enhance the long term sustainability of on-site servicing systems.
- the frequency of access driveways (other than farm accesses) will be restricted in order to minimize “ribbon” development.

Details of the Interim Planning Bylaw will be submitted to a public meeting for comment prior to adoption by Council.

COMMUNITY OF KINGSTON

INTERIM PLANNING BYLAW

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

BE IT ENACTED by the Community of Kingston as follows:

SECTION #1 – SCOPE

1.1 TITLE

This Bylaw shall be known and may be cited as the Community of Kingston Interim Planning Bylaw.

1.2 AREA DEFINED

This Bylaw applies to the geographical area within which the Community of Kingston has jurisdiction.

1.3 SCOPE

No dwelling, business, trade or industry shall be located, nor shall any building or structure be erected, altered, used or have its use changed, nor shall any land be divided, consolidated or used in the Community of Kingston, except in conformity with this Bylaw and subject to the provisions contained herein.

1.4 TIMING

This Bylaw shall remain in effect for a period of six (6) months from the date of approval and may be extended by Council for a further six (6) month term or until the new Development Bylaw is adopted by Council.

1.5 AUTHORITY OF DEVELOPMENT OFFICER

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

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

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

DRAFT

SECTION #2 – DEVELOPMENT ZONES

2.1 DEVELOPMENT ZONES

For the purpose of this Bylaw the Community shall be divided into the following development zones, the boundaries of which are subject to Section 2.2 as shown in Appendix “A” on the Official Zoning Map. Such zones may be referred to by the appropriate symbols.

<u>ZONE</u>	<u>SYMBOL</u>
Rural West	RW
Rural East	RE

(as described in Section #5)

2.2 INTERPRETATION OF ZONE BOUNDARIES

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

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

2.3 OFFICIAL ZONING MAP

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

2.4 CERTAIN WORDS

In this Bylaw, words used in the present tense include future; words in the singular number include the plural; the word “shall” is mandatory and not permissive; and the word “he” includes “she”. For the purposes of this Bylaw all words shall carry their customary meaning except for those defined in Appendix “B” which forms part of this Bylaw.

2.5 UNITS OF MEASURE

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

DRAFT

SECTION #3 – GENERAL PROVISIONS FOR ALL ZONES

3.1 DEVELOPMENT APPROVAL

1. No person shall:
 - a) change the use of a parcel of land or a structure;
 - b) commence any “development”;
 - c) construct or replace any structure ;
 - d) make structural alterations to any structure;
 - e) make any underground installation such as a septic tank, a fuel tank, a foundation wall or the like;
 - f) move or demolish any structure;
 - g) establish or operate an excavation pit;
 - h) construct a highway;
 - i) place, dump any fill or other material;
 - j) subdivide or consolidate a parcel or parcels of land; or
 - k) construct a fence over six (6) feet high except for agricultural purposes; or
 - l) establish an entranceway

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

2. For the purpose of this Bylaw:
 - a) laying paving materials for patios or sidewalks;
 - b) constructing fences six (6) feet or less in height;
 - c) installing clotheslines, poles, and radio or television antennae, except satellite dishes over 36 inch in diameter;
 - d) making a garden;
 - e) growing a crop or preparing land for a crop;
 - f) making landscaping improvements or constructing ornamental structures of less than 64 sq. ft.; and
 - g) conducting routine maintenance which has the effect of maintaining or restoring a structure or any of its elements to its original state or condition.

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

3.2 PERMIT APPLICATION

- (1) Any person applying for a permit shall do so on a form prescribed by Council, and shall submit the application to the Administrator.
- (2) Every application form shall be signed by the property owner or the property owner's authorized agent, and shall be accompanied by an application fee in accordance with a fee schedule which the Council shall establish.

3.3 PAYMENT OF FEES

Notwithstanding any Section of this Bylaw, development permits are not valid and will not be recognized until the application fee and any other required fees are paid in full and the said permit is acquired by the developer.

A schedule of fees will be established by resolution of Council and may from time to time be amended to reflect the costs related to processing the applications.

3.4 DEVELOPMENT PERMIT

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

3.5 SITE PLAN

Council may require an applicant to submit a site plan drawn to a convenient scale certifying the agreement of the applicant to develop the site in accordance with the plan. Such plan(s) to be submitted in duplicate, drawn to an appropriate scale and showing:

- a) the true shape and dimensions of the lot to be used, and upon which it is proposed to erect any building or structure;
- b) the location, height and dimensions of the building, structure, or work proposed to be erected;
- c) the location of every building or structure already erected on the lot and the general location of buildings on abutting lots;
- d) the proposed location and dimensions of any parking spaces, loading spaces, driveways and landscaped areas;

- e) the proposed use of the lot and each building or structure to be developed; and
- f) any other information which the development officer deems necessary to determine whether or not the proposed development conforms with the requirements of this Bylaw.

3.6 CONDITIONS ON PERMITS

Council or its agent shall have the authority to impose conditions on a permit subject to such conditions being directly related to or consistent with the Interim Planning Policy.

3.7 DEVELOPMENT AGREEMENT

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

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

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

3.8 EXISTING NON-CONFORMING LOTS

(1) Notwithstanding anything else in this Bylaw, the use of a building on a lot on the effective date of this Bylaw may be changed to a use permitted on the lot where the lot area or frontage or both is less than that required by this Bylaw, provided that all other applicable provisions of this Bylaw are satisfied.

- (2) Notwithstanding any other provisions of this Bylaw, a vacant lot held in separate ownership from adjoining parcels on the effective date of this Bylaw, having less than the minimum width or area required, may be used for a purpose permitted in the zone in which the lot is located and a building may be erected on the lot provided that all other applicable provisions in this Bylaw are satisfied.
- (3) Where the lot is intended to be serviced by an on-site sewage disposal system Council may require that the system be designed by a PEI licensed engineer and the installation also certified by the engineer prior to occupancy of the structure.
- (4) An existing undersized lot may be increased in area or frontage, or both, and still remain an existing undersized lot if after the increase, the lot still remains undersized.

3.9 LOT FRONTAGE

1. If a parcel of land in any zone is of such configuration that it cannot reasonably be subdivided in such a way to provide the required minimum frontage on a street, the Council may approve a reduced frontage, provided that:
 - (a) the lot width at the building line measures at least as much as the minimum lot frontage for the zone;
 - (b) the lot has access to a public road or privately owned subdivision road by way of either a driveway that is part of the lot, or right-of-way;
 - (c) the access driveway or right-of-way has a minimum width of 24 feet (7.3 metres);
 - (d) no more than two panhandle lots shall be subdivided from the existing parcel of land; and
 - (e) the lot size in all other respects meets the requirements of these regulations.
2. In any zone, lots designed with a reduced frontage along a bend in a street or facing a cul-de-sac, may be approved by Council if in the opinion of Council adequate and safe access is provided and if the lot

width at the building line measures at least as much as the minimum lot frontage for the zone.

3.10 EXISTING NON-CONFORMING BUILDINGS

Where a building has been erected on or before the effective date of this Bylaw on a lot having less than the minimum frontage or area, or having less than the minimum setback or side yard or rear yard required by this Bylaw, the building may be enlarged, reconstructed, repaired or renovated provided that:

- (1) the enlargement, reconstruction, repair or renovation does not further reduce the front yard or side yard or rear yard which does not conform to this Bylaw; and
- (2) all other applicable provisions of this Bylaw are satisfied.

3.11 OTHER INFORMATION

Council may require an applicant to submit any additional information related to the development, which it deems pertinent, including but not limited to the following:

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

3.12 ACCESS

- (1) No development permit shall be issued unless the lot or parcel of land intended to be used or upon which the building or structure is to be erected abuts and fronts upon a street.

(2) Notwithstanding Section 3.12, (1) above, Council may approve a development permit for a residential or commercial structure which fronts on a private right-of-way, provided that the following criteria are met:

- (i) no reasonable provision can be made to provide access to a public street;
- (ii) safe ingress and egress from the lot can be provided;
- (iii) an agreement is registered in the PEI Registry Office, binding on all land owners abutting or fronting on the private right-of-way providing for the long term ownership and maintenance of the right-of-way, such agreement shall be binding on all heirs, successors and assigns of the current property owners.

3.13 ENTRANCEWAY PERMIT

Where an entranceway permit is required under the *Roads Act* Highway Access Regulations, its issuance shall be a precondition of the approval of a subdivision or development permit.

3.14 SIGHT DISTANCE

No person shall construct or use any access driveway except where that access driveway meets the minimum sight distance standards as established under the *Planning Act* or the *Roads Act*.

3.15 DEVELOPMENT RESTRICTIONS

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

- (1) the proposed development does not conform to this Bylaw;
- (2) the method of water supply is not appropriate;
- (3) the method of sanitary waste disposal is not appropriate;
- (4) there is not a safe and efficient access to the public highway, street, or road;
- (5) the impact of the proposed development would be detrimental to the environment;
- (6) the proposed development would create unsafe traffic conditions;

- (7) the proposed development would significantly or permanently injure neighbouring properties by reason of architectural disharmony;
- (8) the proposed development would be detrimental to the convenience, health, or safety of residents in the vicinity or the general public;
- (9) the proposed development could injure or damage neighbouring property or other property in the Community due to water, drainage or other water run-off damage.
- (10) the proposed development could, in the opinion of Council, represent an Obnoxious Use.

3.16 MAIN BUILDING

No person shall erect more than one main building on a lot except on a farm for residential or farming use.

3.17 ACCESSIBILITY/BARRIER FREE DESIGN

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

3.18 MIXED USE

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

3.19 YARDS

Except for accessory buildings, every part of any yard required by this Bylaw shall be open and unobstructed by any structure from the ground to the sky.

3.20 CONSTRUCTION PLANS

Council may require the applicant to submit a Construction Plan for the development addressing such details as construction phasing, stockpiling of soil, temporary screening or fencing, erosion or run-off control measures,

heavy truck access and any other item which could in the opinion of Council present a nuisance or hazard during construction.

3.21 OTHER REQUIREMENTS

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

3.22 SITE WORK

No person shall carry out any site work in any zone which may create a nuisance, hardship or other inconvenience to persons in the vicinity.

3.23 AUTHORIZATION FOR INSPECTION

An application for a development permit shall constitute authorization for inspection of the building or land in question by an officer or agent of the Community for the purpose of ensuring compliance with the provisions of this Bylaw.

3.24 ACCESSORY USES

Accessory uses, buildings and structures shall be permitted on any lot but shall not:

- (1) be used for human habitation except where a dwelling is a permitted accessory use;
- (2) be built closer than fifteen (15.0') feet (4.57m) to the side property line and be built closer than fifty (50.0') feet (15.24m) to the front property line when located within the front yard or side yard of a lot;
- (3) be built closer than fifty (50.0') feet (15.24m) to the street or rights of ways limits when located within the flanking yard of a corner lot;
- (4) be built closer than three (3.0') feet (0.9 m) to any lot line when located within the rear yard except for:
 - (i) common garages for semi-detached dwelling units which may be centered on the mutual side lot line;
 - (ii) boat houses and boat docks which may be built to the lot line when the lot line corresponds to the water's edge.

- (5) be built within ten feet (10') of the main building on the lot;
- (6) exceed 22 feet in height or the height of the main building, whichever is less. Greater heights for accessory buildings will only be considered if an applicant can demonstrate a need for such consideration. Accessory buildings higher than 22 feet shall only be considered for lots over three (3) acres in area where the structure is to be located a minimum of 50 feet from the main building;
- (7) be permitted if an accessory building already exists, except:
 - (i) where it is an accessory use on a farm property, in which case there is no limit to the number of accessory buildings permitted, or
 - (ii) where it is located on a lot greater than three (3) acres, in which case a maximum of two accessory buildings are permitted.
- (8) be constructed larger than the sizes outlined in the following table:

Lot Size	Accessory Building Max. Size
up to ¾ acre	625 square feet
over ¾ acre to 1 acre	700 square feet
over 1 acre to 3 acres	928 square feet
3+ to 5 ac (1 acc. building present)	1200 square feet
3+ to 5 ac (2 acc, buildings present)	1200 sq. ft. (total of both buildings)

Notwithstanding the above provisions, Council may:

- (i) issue a special development permit for an accessory building exceeding 1200 square feet for a lot exceeding 5 acres in area, where Council is satisfied the need for the increased size is warranted and no permanent injury would be caused to adjoining properties. Issue of such an approval would be subject to such conditions as Council may impose.
- (ii) issue a special development permit for an accessory structure located within the front yard or flankage side yard of a lot where Council is satisfied the structure will be architecturally compatible with adjacent structures and no permanent injury

would be caused to adjoining properties, subject to such conditions as Council may impose.

Notwithstanding anything else in this Bylaw, Council may issue a permit for construction of one (1) accessory building per lot in all zones in the Community. Such approvals may be granted regardless of the previous existence of an accessory building on a lot; but the total number of accessory buildings per lot in such instances shall not exceed two (2). Maximum allowable size for such structures is 120 square feet in floor area.

All accessory buildings shall be included in the calculation of maximum lot coverage as described in the Lot Requirements for the applicable zone.

For the purposes of this Bylaw, a satellite dish antenna shall be considered to be a structure even if it is mounted upon a trailer or other movable platform, Satellite dishes greater than 3 feet in diameter shall not be erected in any zone in the Community unless a special permit has been issued by Council.

3.25 ACCESSORY APARTMENTS

One (1) accessory apartment unit may be constructed within or as an addition to an existing single family dwelling under the following conditions:

- (a) the developer shall submit a site plan indicating the proposed location of at least one (1) additional parking space in addition to the parking spaces required in the zone;
- (b) Council shall submit the building plans to the Provincial Fire Marshall in order to ensure the provision of safe ingress and egress to the accessory apartment and conformance with Provincial Fire Codes;
- (c) the exterior of the residence shall retain a single family appearance;
- (d) where the residence is serviced by an on-site sewage treatment system the developer shall provide a certificate from a licensed PEI engineer indicating that the existing or upgraded sewage treatment system is adequate to sustain long term servicing capacity for the additional residential unit.

3.26 PERMITS POSTED

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

3.27 MOVING OF BUILDINGS

No building of greater than 120 square feet in area shall be moved within or into the area covered by this Bylaw without a development permit and such other permits as may be required by law.

3.28 HEIGHT REGULATIONS

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

3.29 INTERSECTION TRIANGLE

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

3.30 PERMITTED USES IN ALL ZONES

The following uses are permitted in all zones:

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

3.31 CONSTRUCT IN ACCORDANCE WITH APPLICATION

Any person who has been granted a development permit shall agree to develop in accordance with the information given on the prescribed application form and the conditions laid down by the development permit or development agreement and shall comply therewith.

3.32 DENYING PERMITS

- (i) No development permit shall be issued if the proposed development could create a hazard to the general public or any resident of the municipality or could injure or damage neighbouring property or other property in the municipality, such as injury or damage to include but not be limited to water, drainage or other water run-off damage.
- (ii) No development permit shall be issued if the proposed development could create a health, fire or accident hazard or increase the likelihood of the existence of rodents, vermin or other pests.

3.33 UNDERGROUND PETROLEUM STORAGE TANKS

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

3.34 OUTDOOR SWIMMING POOLS

The installation of a swimming pool shall be permitted in any zone in accordance with the following provisions:

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

- (v) the pool is not to be located within a required yard that abuts a street right-of-way.

3.35 SURVEYS REQUIRED

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

3.36 CERTIFICATE OF COMPLIANCE

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

3.37 GRADE OF SITE

No building shall be erected or placed except in conformance with the finished grade for its site or the road, after its construction.

3.38 LANDSCAPING

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

3.39 WATERCOURSES

No person shall, without a permit obtained from the Provincial Department having authority to enforce the *Environmental Protection Act Watercourse*

and Wetland Protection Regulations, alter a watercourse, or wetland, or any part thereof, or water flow therein or the lands adjacent in any manner.

3.40 NON-CONFORMING USES

- (1) Subject to the provisions of this Bylaw, a building or structure, or use of land, buildings or structures lawfully in existence on the effective date of approval of this Bylaw may continue to exist;
- (2) A building or structure shall be deemed to exist on the effective date of approval of this Bylaw if:
 - (a) it was lawfully under construction, or
 - (b) the permit for its construction was in force and effect, but this clause shall not apply unless the construction is commenced within six (6) months after the date of the issue of the permit and is completed in conformity with the permit within a reasonable time;
- (3) No structural alterations that would increase the exterior dimensions, except as required by statute or bylaw, shall be made to a building or structure while a non-conforming use thereof is continued;
- (4) If a building which does not conform to provisions of this Bylaw is destroyed by a fire or otherwise to an extent of fifty percent (50%) or more of the assessed value of the building above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of this Bylaw, except if the building or repair work would not be detrimental, in the opinion of Council, to the convenience, health or safety of residents in the vicinity or the general public;
- (5) Any change of tenants or occupants of any premises or building shall not of itself be deemed to affect the use of the premises or building for the purposes of this Bylaw;
- (6) A non-conforming use of land, buildings or structures shall not be permitted if it has been discontinued for a period of twelve (12) months consecutively, and in such event, the land, building or structure shall not thereafter be used except in conformity with this Bylaw, except if the use would not be detrimental, in the opinion of Council, to the convenience, health or safety of residents in the vicinity or the general public.

3.41 BUSINESSES IN RURAL EAST OR RURAL WEST ZONES –IN HOME OCCUPATIONS

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

- (i) the dwelling shall be occupied as a residence by the principal operator and the external appearance of the dwelling shall not be changed by the business use.
- (ii) there shall be no more than two non-resident assistants employed in the business or profession or the domestic and household arts carried on.
- (iii) not more than 25% of the total floor area of the dwelling shall be occupied by the business or profession or domestic and household arts use.
- (iv) adequate off-street parking, in accordance with this Bylaw, separate from that required for the dwelling, shall be provided.
- (v) there shall be no open storage or display area.
- (vi) premise signs shall be restricted to a maximum of 400 square inches in total.
- (vii) domestic and household arts shall include:
 - (a) Dressmaking and tailoring
 - (b) Hairdressing
 - (c) Instruction in the arts (music, dance, etc.)
 - (d) Arts and crafts, woodworking, weaving, painting, sculpture, and repair of garden or household ornaments, personal effects or toys
 - (e) A Business Office
 - (f) A Catering Establishment
 - (g) A Photographic Studio
 - (h) or be at the Council's discretion

3.42 RECREATIONAL TRAILERS OR VEHICLES

- (1) No person shall use or occupy a Recreational Trailer or Vehicle for any more than two consecutive weeks other than in an approved

Campground, unless Council has issued a temporary permit for such use.

- (2) A permit issued in accordance with subsection (1) shall be valid for a period of not more than 120 days, and shall not be renewed.

3.43 MOBILE HOMES

No person shall place a mobile home on any lot.

3.44 BED AND BREAKFAST

Bed and breakfast establishments shall be permitted to operate in any single family residence subject to the following:

- (1) the dwelling shall be occupied as a residence by the principal operator and the external appearance of the dwelling shall not be changed by the bed and breakfast operation;
- (2) not more than three (3) rooms shall be offered for overnight accommodation;
- (3) adequate off-street parking, in accordance with this Bylaw, separate from that required for the dwelling, shall be provided. This requirement may be waived where Council deems there is adequate on-street or off-street parking capacity in the area;
- (4) premise signs shall be restricted to a maximum of 900 square inches;
- (5) there shall be no other signage, open storage or visible display area.

Notwithstanding 3.44 (2), Council may allow a larger number of rooms, where it is deemed that such a development is appropriate and there would be no significant inconvenience or nuisance to adjoining properties.

3.45 ANIMAL KENNEL

Animal kennels will not be permitted within 1000 feet (304.8m) from any neighbouring dwellings.

3.46 SIGNAGE

Any person erecting or displaying a sign in the Community shall comply with the provisions of the Highway Signage Act.

SECTION #4 – PARKING REQUIREMENTS

4.1 PREAMBLE

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

4.2 PARKING REQUIREMENTS

	Primary Type of Building	# of Parking Spaces
i)	Residential	1.5 per dwelling unit (minimum of 2)
ii)	Auditoriums, churches, halls, theatres	1 per 4 seats
iii)	Hotel, Motel or other Tourist Establishment	1 parking space per guest/room or rental unit and 1 parking space for each 23 sq. m. (250 sq. ft.) of floor area devoted for public use (e.g. banquet rooms, lounge)
iv)	Restaurant or Lounge	1 per 100 sq. ft. (9.3 sq. m) and a minimum of 10
v)	Business and Professional Offices, Service and Personal Service Shops	1 parking space per 28.0 sq. metres (300 sq. ft.) of floor area.
vi)	Warehouse and storage facilities and other industrial uses	1 per employee and 1 per loading bay
vii)	Other Commercial uses	1 per 300 sq. ft. (28 sq. m) of floor area
viii)	Other Institutional or Recreation Uses	1 per 400 sq. ft. (37.2 sq. m) of floor area
ix)	Other Industrial uses	1 per employee and 1 per loading space

4.3 ADDITIONAL PARKING SPACES

Additional parking spaces may be required, if in the opinion of Council the spaces required under Section 4.2 will not meet anticipated parking requirements.

4.4 OTHER REQUIREMENTS

Where parking facilities are required or permitted:

- (1) The parking area shall be maintained with a stable surface;
- (2) The lights used for illumination of the parking lot or parking station shall be so arranged as to divert the light away from the streets, adjacent lots and buildings;
- (3) The parking area shall be within three hundred ft. (300') (91.4 m) of the location which it is intended to serve and shall be situated in the same zone;
- (4) When the parking area is of a permanent hard surfacing, each parking space shall be clearly demarcated with painted lines and maintained on the parking lot;
- (5) A parking space shall consist of an area of not less than one hundred and fifty-five sq. ft. measuring nine ft. (9') by eighteen ft. (18') exclusive of driveways and aisles, unless otherwise authorized by Council;
- (6) Entrances and exits to parking areas shall not exceed a width of thirty ft. (30') (9 m) at the street line and edge of pavement; and
- (7) The width of a driveway leading to a parking or loading area, or of a driveway or aisle in a parking area, shall be a minimum width of ten ft. (10') (3 m) for one-way traffic, and a minimum width of twenty ft. (20') (6 m) for two-way traffic.

4.5 LOADING ZONES

- (1) In any commercial or industrial zone, no person shall erect or use any building or structure for manufacturing, storage, warehouse, department store, retail store, wholesale store, market, freight or passenger terminal, hotel, hospital, mortuary or other uses involving

the frequent shipping, loading or unloading of persons, animals, or goods, unless there is maintained on the same premises with every such building, structure or use one (1) off-street space for standing, loading and unloading for every thirty thousand (30,000) sq. ft. (2,790 sq. m.) or fraction thereof of building floor area used for any such purpose;

- (2) Each loading space shall be at least twelve feet (12') (3.6 m) wide with a minimum of fourteen ft. (14') (4.25 m) height clearance.
- (3) The provision of a loading space for any building with less than fifteen hundred (1,500) sq. ft. (139.5 sq. m.) shall be optional.
- (4) No such loading spaces shall be located within any required front yard or be located within any yard which abuts a residential or open space zone, unless in the opinion of Council adequate screening is provided.

SECTION #5 – RURAL EAST (RE) & RURAL WEST (RW) ZONES

5.1 GENERAL

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

5.2 PERMITTED USES

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

- (1) Single Family Dwellings
- (2) Duplex Dwellings
- (3) Mini-Homes
- (4) Resource Uses
 - Agricultural Uses including barns and stables
- (5) Forestry Uses
- (6) Accessory Buildings
- (7) Public and Private Parks
- (8) Open Space and Conservation Activities
- (9) Recreational Uses
- (10) Civic Centres

5.3 SPECIAL PERMIT USES

Notwithstanding Section 5.2 above, Council may issue a special development permit for the following uses where it deems the development is appropriate, all other relevant provisions of this Bylaw are met, and subject to such conditions as Council may impose:

- (1) Resource based Industrial Developments
- (2) Resource based Commercial Developments
- (3) Group Homes
- (4) Child Care Facilities
- (5) Inns and Bed and Breakfasts with over 3 bedrooms
- (6) Animal Kennels
- (7) Institutional Uses
- (8) Convenience Stores
- (9) Other Uses as deemed appropriate by Council

5.4 **LOT REQUIREMENTS**

The following requirements shall apply to all uses in the Rural East (RE) and Rural West (RW) Zone:

(i)	Minimum Lot Area	43,560 sq. ft.
(ii)	Minimum Frontage	See Appendix "B"
(iii)	Minimum Front Yard	50 feet
(iv)	Minimum Rear Yard	50 feet
(v)	Minimum Side Yard	15 feet
(vi)	Maximum Height of any Building	2.5 Stories or 35 feet
(vii)	Minimum Floor Area	500 sq. ft.
(viii)	Maximum Lot Coverage	10%

All lots shall also conform to the Provincial Minimum Lot Standards as noted in Appendix "C", (see attached) and adhere to the most stringent standard.

Notwithstanding the above, for any use Council may require that the developer submit a site plan demonstrating that the lot is of sufficient size to accommodate the installation of a second tile field, should one be required at some point in the future. For duplex uses or accessory apartments Council may require that the on-site sewage treatment system be designed, inspected and certified by an engineer licensed to practice in Prince Edward Island.

5.5 **INTENSIVE LIVESTOCK OPERATIONS**

(1) For the purpose of this Section "Intensive Livestock Operations" means a place where livestock are found in a density greater than seven animal units per acre of living space, with the calculation of animal units to be determined by reference to Column 2 of Schedule D of the Watercourse and Wetland Protection Regulations made pursuant to the *Environmental Protection Act*.

(2) The following separation distances shall apply to all new Intensive Livestock Operations or extensions and to new residential development in the vicinity of an Intensive Livestock Operation:

Distance of new or expanded Intensive Livestock Operations from any dwelling on an adjacent Property	1000 feet (304.8 m)
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Distance of new dwelling from an existing Intensive Livestock Operations	500 feet (152.4 m)
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Distance from public road 150 feet (45.7 m)

Distance from any domestic well 500 feet (152.4 m)

Distance from any lot line 50 feet (15.2 m)

- (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) Council may consult the Department of Agriculture for manure storage capacities and design standards and shall require the livestock operator to follow these capacity and design requirements.
- (5) The developer shall also be required to undertake an Environmental Impact Assessment in conjunction with the Department of Environment and provide details of the assessment to Council as part of the application process.
- (6) Where a new Intensive Livestock Operation is proposed within 1,000 feet (304.8 m) of an existing residence or residential subdivision Council shall notify the Property owners and invite their comments.

SECTION #6 – WIND ENERGY SYSTEMS

6.1 DEFINITIONS

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

Wind Energy System (WTS)

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

6.2 PERMITTED USE

For the term of this Bylaw no person shall erect, enlarge or expand a Wind Energy System (WTS).

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SECTION # 7 –VARIANCES

7.1 MINOR VARIANCE

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

7.2 VARIANCES GREATER THAN 10%

- (1) Notwithstanding any other section of this Bylaw, Council may, authorize variances in excess of ten percent (10%) variance from the provisions of this Bylaw if:
 - (a) the variance meets the provisions of subsection (7.1);
 - (b) there is, in the opinion of Council, no reasonable alternative;
 - (c) the owners of adjoining properties have been notified of the proposed variance, and given the opportunity to comment on the matter.
- (1) Where Council deems that a variance application could have a significant affect on adjacent properties or properties in the general vicinity, Council may require that a public meeting be held pursuant to the provisions of Section 8.6.

SECTION #8 – AMENDMENTS

8.1 APPLICATION FOR AMENDMENT

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

8.2 APPLICATION FOR RE-ZONING

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

8.3 AMENDMENT FEE

- (a) Any application for an amendment shall be made, in writing, along with a non-refundable application fee of three hundred dollars (\$300), to the Development Officer.
- (b) If the amount paid by the applicant as set out in clause (a) is not sufficient to cover the costs of notifying affected property owners and other expenses related to the cost of the amendment, the applicant shall pay to the Development Officer the additional amount required, before Council gives final approval to the amendment; or if the amount paid is more than sufficient, the Development Officer shall refund the excess amount.

8.4 NOTICE TO PROPERTY OWNERS

- (a) Subject to Section 8.5 when an application for a re-zoning is being considered by Council, all affected property owners within a five hundred foot (500') (152.4 m) radius of the subject property shall be notified of the application by the administrator.
- (b) This notification of affected property owners set out in clause (a) shall be in addition to the advertisements for the public hearing, and shall be delivered to all affected property owners by mail at least seven (7) clear days prior to the date fixed for the public meeting.

8.5 COUNCIL'S REVIEW

- (a) Council shall determine whether or not to pursue such an amendment, and before making any decision shall examine the Interim Planning Policy and the Special Planning Area Regulations to ensure that the proposed amendment will not be contrary to these policies and regulations.

8.6 PUBLIC MEETING

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

SECTION # 9 – GENERAL PROVISIONS FOR SUBDIVIDING LAND

9.1 SUBDIVISION APPROVAL

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

9.2 CONVEYING INTEREST IN A LOT

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

9.3 GENERAL PERMISSION TO SUBDIVIDE

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

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

- (x) the parcel of land in respect of which the permit is requested has frontage on a public road or a private right-of-way established pursuant to Section 3.12 of this Bylaw;
- (xi) will reasonably conform with existing land use in the immediate vicinity;
- (xii) would not be detrimental to the convenience, health or safety of residents in the vicinity or the general public;
- (xiii) would not precipitate premature development, necessitate unnecessary public expenditure, or would place undue pressure on the Community or Province to provide services; or
- (xiv) would not result in undue damage to the natural environment.

9.4 NUMBER OF ACCESSES

No person shall establish more than one access per each 660 feet (201.2 m) or less of road frontage for the following purposes:

- (a) a driveway;
- (b) a shared driveway with a minimum width of 24 feet (7.3 m) and a minimum depth of 200 feet (61.0 m) for up to two lots, one being a panhandle lot;
- (c) a 66 foot (20.1 m) wide road built to Department of Transportation and Public Works Standards serving up to five (5) onsite serviced lots in an A1 Zone or a greater number of lots in an A2 Zone.

9.5 PANHANDLE LOT

A panhandle lot may be created pursuant to Section 9.4(b) above, provided the panhandle lot is a minimum of 200 feet (61.0 m) from an existing Government road and has a shared driveway with a minimum width of 24 feet (7.3 m) No more than two panhandle lots may be created per existing parcel of land (as of July 9, 1994).

9.6 CHANGES TO EXISTING LOTS

- (1) No person shall reduce the dimensions or change the use of any lot in an approved subdivision where Council deems these would be a detrimental effect on neighbouring property owners.
- (2) Where an application to subdivide land would change the dimensions or the use of a lot in an existing approved subdivision, Council shall notify all property owners within 500 feet (152.4 m) of the boundaries of the lot in writing, informing them of the details of the application and soliciting their comments.

9.7 SPECIAL REQUIREMENTS – RE & RW ZONES

- (1) Within a Rural East Zone, no Person shall be permitted to subdivide from any existing Parcel of land more than five (5) Lots.
- (2) For the purposes of this Section “existing Parcel” shall mean a Parcel of land which was held in separate ownership as of July 9, 1994.
- (3) Any Lots subdivided pursuant to this Section shall conform to the Lot requirements for an RE Zone and all other relevant provisions of this Bylaw.
- (4) Within an RE or RW Zone:
 - (i) a residential Subdivision shall not be permitted within 500 feet (152.4 m) of an existing intensive livestock operation.
 - (ii) where a residential Subdivision is proposed, Council shall notify operators of intensive livestock operations within 1,000 feet (304.8 m) and invite their comments.
- (6) Notwithstanding the above, Council may authorize the Subdivision and consolidation of farmland for farm purposes, provided that any residual parcels which are created comply with the provisions of this Bylaw.

9.8 APPLICATION FOR PRELIMINARY APPROVAL

Any person seeking Council’s approval of a subdivision shall first make application for preliminary approval, and shall be required to submit, along with the application, four (4) copies of a preliminary subdivision plan drawn to an appropriate scale showing:

- (i) the true shape and dimensions of every lot;
- (ii) the location of every existing building or structure on the parcel;
- (iii) the location of significant natural or man-made features;
- (iv) all streets and services, both existing and proposed.

Council may also require the applicant to provide additional information required to assist it in evaluating a proposed subdivision, including, but not limited to:

- (1) a topographic survey;
- (2) a professional engineer's report on the effect on water run-off concerns and conditions for as much of the year as is considered necessary;
- (3) a traffic survey.

Council may refuse to approve a subdivision which is unsuitable under the provisions of this Bylaw. In formulating its decision, Council may consult with Government Officials and private consultants and may conduct a public hearing to consider public opinion.

Council shall evaluate any proposed subdivision to determine whether appropriate street design standards and development of safe, convenient and pleasant neighbourhoods.

Preliminary approval shall expire 24 months from the date of issue if the applicant fails to meet the conditions of the preliminary approval.

9.9 PARK LAND DEDICATION AND/OR PARK DEDICATION FEE

Except for the severing of a single lot for residential purposes, any person who severs six (6) or more lots with the Community shall, at the time of subdivision, dedicate and deed to the Community, free of all encumbrances, 10 percent (10%) of the land included in the subdivision, to the Community for recreation and public open space purposes; as per the following:

- (a) Council shall have the power to choose what land within the subdivision shall be deeded;

- (b) Where no dedication of land is deemed appropriate with respect to the severing of six (6) or more lots, Council shall require a cash payment equivalent to ten percent (10%) of the value of the un-subdivided land. Any monies so collected shall be designated for the purpose or maintenance of recreational and public open space lands within the Community.

9.10 SUBDIVISION AGREEMENT

Council may require an applicant to enter into a subdivision agreement as a condition of subdivision approval. The subdivision agreement may cover any matters as required by Council and may include:

- (i) design and construction costs of water supply, sanitary and storm sewers, roads, and street lighting;
- (ii) dedication of land for recreation and public open space purposes, or payment of a fee in lieu of land;
- (iii) deeding of roads to the Province;
- (iv) posting of a financial guarantee satisfactory to Council;
- (v) assignment of costs associated with the drafting and execution of this agreement; and
- (vi) any other matter(s) that Council deems necessary to conform with this Bylaw or to ensure the health, safety and convenience of community residents and the travelling public.

All subdivision agreements require registration with the Registry of Deeds.

9.11 APPLICATION AND APPROVAL PROCESS

- (1) Applications to Subdivide land in the Community of Kingston shall be submitted on a form as prescribed by Council.
- (2) All Subdivision applications may be required to be accompanied by the following:
 - (i) an orthophoto showing the location of the land and all adjoining properties;

- (ii) a description of land uses on the surrounding properties;
 - (iii) a contour map showing the topography of the site with at least 2 metre (6.5 ft.) contour lines;
 - (iv) a conceptual design showing the location and dimensions of all proposed lots, roads, walkways and trails, Parks and Open Space, streams, wetlands and other site features such as woodlands.
- (3) The Development Officer may require such other information as may reasonably be required to assess the impact of any Subdivision, including but not limited to the following:
- (i) a written assessment by the Provincial Government on any potential Environmental impacts, including any requirements imposed by provincial legislation or regulations;
 - (ii) soil and water testing;
 - (iii) a written assessment by the Provincial Government on any access, transportation or pedestrian issues related to the design;
 - (iv) a storm water management plan prepared by a qualified engineer;
 - (v) a conceptual servicing plan prepared by a qualified engineer;
 - (vi) any other studies or documentation required by the Development Officer in order to adequately assess the impact of the proposed subdivision.
- (4) After reviewing all information required by the Development Officer, Planning Board may make a recommendation to Council for approval or rejection of the subdivision application.
- (5) Council may either accept or reject the recommendations of Planning Board. Where Council generally accepts the details of a Subdivision Application, Council may issue a preliminary approval, which shall include all conditions which shall be imposed on the Development.
- (6) The Development Officer shall then negotiate and execute a Subdivision Agreement which addresses all the above noted conditions and all other matters noted in Section 9.10.

9.12 FINAL APPROVAL

1. Final subdivision approval shall be granted by Council only after the applicant has complied fully with all applicable requirements of this Section and has submitted six (6) copies of a final subdivision plan showing all lots pinned and certified by a an accredited member of the Association of Prince Edward Island Land Surveyors.
2. The Development Officer, on behalf of Council, shall give notice of final approval of a subdivision in writing to the applicant, and that a subdivision permit may be had from the Community's Administrative office upon payment of a subdivision fee, which shall be set by resolution of Council. Council shall place its seal on the five copies of the survey plan and shall return one copy to the applicant.
3. Final approval of a subdivision plan shall not be given by Council until:
 - (a) the survey plan has been submitted for recommendations to any appropriate provincial or federal government departments;
 - (b) all agreements and other pertinent documents have been prepared and concluded to the satisfaction of Council;
 - (c) all transactions involving the transfer of money or land in conjunction with the subdivision of land have been secured to the satisfaction of Council,
 - (d) a digital file containing the (real earth) geographic co-ordinates of said plan of subdivision has been submitted.

9.13 SEVERANCES/CONSOLIDATION

Notwithstanding the above provisions, Council may approve applications for single lot subdivisions, partial lots or easements and lot consolidations at its discretion, having regard for only those provisions which it deems applicable to each individual application, provided the application conforms with all other Sections of this Bylaw.

9.14 BUILDING PERMITS

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

SECTION # 10 – APPEAL AND ENFORCEMENT

10.1 APPEAL

1. Any person who is dissatisfied with a decision of Council in the administration of this Bylaw may appeal Council's decision to the Island Regulatory and Appeals Commission.
2. The appellant will register a notice of Appeal to the Commission, stating the grounds for the appeal and the relief sought. Appeals must be made within twenty-one (21) days of Council's decision.
3. The appellant will, within seven (7) days of filing an appeal with the Commission, serve a copy of the notice of Appeal on the Council.
4. No Appeal lies from a decision of Council respecting the final approval of a subdivision where the grounds for the Appeal are matters that could have been heard and determined at the stage of preliminary approval of the subdivision.

10.2 ENFORCEMENT

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

- (i) In the case of a first or subsequent offence, to a fine not exceeding two thousand (\$2,000.00) dollars in each case together with the cost of prosecution and in default of payment of the fine and costs, to imprisonment for a term not exceeding three (3) months, unless the fine and costs of enforcing the same, are sooner paid.
- (ii) Where the offence is a continuing offence, to a fine not exceeding four hundred (\$400.00) dollars for every day the said offence continues, together with the cost of prosecution, and in default of payment of the fine or costs, to imprisonment not exceeding three (3) months, unless the fine and costs of prosecution are paid within the time provided by the court.
- (iii) The Judge presiding on any prosecution under this Bylaw may fix the costs of prosecution to be paid by the person found guilty hereunder.

SECTION #11 - EFFECTIVE DATE

This Bylaw shall come into force effective _____.

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APPENDIX "A"

OFFICIAL ZONING MAP

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APPENDIX “B”

DEFINITIONS

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APPENDIX “B” – DEFINITIONS

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

In this Bylaw:

1. **“Accessory Apartment”** – means a separate and complete dwelling unit that is contained within the structure of a single family dwelling unit.
2. **“Accessory Building”** – means a building whose use is incidental and subordinate to, and consistent with, the main or approved use of the lot which the building is located.
3. **“Accessory Use”** – means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.
4. **“Administrator”** – means the Administrator of the Community of Kingston.
5. **“Agricultural Use”** – means a use of land and buildings for farming, dairying, pasturage, agriculture, apiculture, floriculture, horticulture, and animal and poultry husbandry and the necessary accessory uses for packing, storing or treating the produce.
6. **“Alter”** – means to make a change in the site, shape, bulk or structure, whether interior or exterior, of a building or any part thereof, but does not include repairs carried out for the purposes of maintenance or non-structural renovation or improvement.
7. **“Animal Kennel”** – any part of a lot, building structure or establishment where domestic animals excluding livestock are kept, bred, boarded or trained for profit or gain for the purposes of breeding, boarding, grooming, commercial, or animal welfare purposes.
8. **“Animal Kennel Run”** – shall mean a fenced area provided for the use of domestic animals housed in an animal kennel.
9. **“Attached”** – means a building or structure which has a common wall and/or common roof line and the building or structure may be considered common as long as a minimum of twenty (20) percent of the length of the wall or roof line is common with the main building or structure wall or roof.
10. **“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.
11. **“Automobile Service Station or Service Station”** – means a building or part of a building or a clearly defined space on a lot used for the sale of lubricating oils and/or gasolines and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.

12. **“Automobile Washing Establishment”** – means a building or part thereof used for the operation of automobile washing equipment which is manual, automatic or semi-automatic.
13. **“Bed and Breakfast”** – means a dwelling occupied by a family and used incidentally to provide accommodation of up to three (3) separate rooms and limited meals to transient travelers and includes a tourist home but does not include a boarding house, rooming house, domiciliary hostel, group home, hotel, motel, restaurant or lounge.
14. **“Block”** – means any unit of land consisting of a grouping of lots bounded on all sides by watercourses, streets or large parcel boundaries or as otherwise defined by the municipality.
15. **“Building”** – includes any structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal or chattel, and includes a mini home or mobile home.
16. **“Building Height”** – means the vertical distance measured from the averaged finished grade to the highest point of roof surface.
17. **“Building Line”** – means any line regulating the position of a building or structure on a lot.
18. **“Building Setback”** – means the distance between the street line and the nearest main wall of any building or structure, except fences, and extending the full width of the lot.
19. **“Business or Professional Office”** – means premises where services are offered for a fee but do not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.
20. **“Campground or RV Park”** – means a tract or parcel of land used or permitted to be used by the travelling public that provides sites for tents, trailers, or motor homes and may also be called a RV park but shall not include industrial, work or construction camps or permanent mobile home parks.
21. **“Change of Use”** – means the change of use of a parcel of land or a building from one class of use to another or an increase in the intensity of use, including an increase in the number of dwelling units.
22. **“Child”** – includes a person to whom a parent has demonstrated a settled intention to treat as a child of his or her family.
23. **“Child Care Facility”** – means any institution, agency, or place, whether known as a day nursery, nursery school, kindergarten or play school, which receives for temporary care apart from the parents on a daily or hourly basis, with or without stated educational purposes and during or all of the day, more than three children under seven years of age.

24. **“Church”** – means a building dedicated to religious worship and includes a church hall, church auditorium, Sunday School, parish hall, rectory, manse and day nursery operated by the church.
25. **“Club”** – means an association of persons, whether incorporated or not, united by some common interest, meeting periodically for co-operation or conviviality. Club shall also mean, where the context requires, premises owned or occupied by members of such association within which the activities of the club are conducted.
26. **“Community”** – means the Community of Kingston.
27. **“Community Care Facility”** – means an establishment that provides care services for compensation to five or more residents who are not members of the operator’s immediate family but does not, unless otherwise ordered by the Lieutenant Governor in Council, include:
- (i) a group home recognized as such by the Minister;
 - (ii) a residential school;
 - (iii) an establishment providing accommodation only;
 - (iv) a hospital;
 - (v) a correctional institution;
 - (vi) a facility in which treatment services are provided under the *Addiction Services Act* R.S.P.E.I. 1988, Cap. A-3;
 - (vii) a nursing home; or
 - (viii) a residential institution as defined in Part II of the regulations made under the *Welfare Assistance Act* R.S.P.E.I. 1988, Cap. W-3 which is operated or funded by the Minister.
28. **“Condominium”** – means a building in which each individual unit is held in separate private ownership and all floor space, facilities and outdoor areas used in common by all tenants are owned, administered and maintained by a corporation created pursuant to the provisions of the *Condominium Act* 29.
- “Contractors Yard”** – means a yard of any general contractor or builder where equipment and materials are stored and where shop or assembly work is performed.
30. **“Convenience Store”** – means a retail commercial establishment, not exceeding 3,000 sq. ft. (279 sq. m.) of gross floor area, supplying daily household necessities for the immediate surrounding area in which articles for sale are restricted to a limited range of primarily food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy, meat, and to compliment such items which may include the limited sale of magazines, books, housewares, toiletries, stationary, patent medicines and tobacco products.
31. **“Council”** – means the Council for the Community of Kingston.

32. **“Councillor”** – means any resident who has been duly elected and sworn to office in order that such resident may execute those duties as prescribed by the law.
33. **“Deck”** – means a structure intended as outdoor living space, either attached or adjacent to a building.
34. **“Demolition”** – means to remove, pull down or destroy a structure.
35. **“Detrimental Impact”** – means any loss or harm suffered in person or property in matters related to public health, public safety, protection of the natural environment and surrounding land uses, but does not include potential effects of new subdivisions, buildings or developments with regard to
- (i) real property value;
 - (ii) competition with existing businesses;
 - (iii) view scapes; or
 - (iv) development approved pursuant to subsection 9 (1) of the *Environmental Protection Act*.
36. **“Development”** – means the carrying out of any construction operation, including excavation, in preparation for building, on, over or under land, or the making of any material change in the use, or the intensity of use of any land, buildings, or premises and includes the placing of structures on, over or under land.
37. **“Development Officer”** – means the person charged by the Council with the duty of administering the provisions of this Bylaw.
38. **“Development Permit”** – means the formal and written authorization for a person to carry out any development.
39. **“Display”** – includes any item, group of items, sign, or billboard visible to the general public, indicating that items or services are offered for sale or trade, but does not include Premise Signs or 400 square inches or less.
40. **“Dog House”** - shall mean any building or structure where dogs are kept by residents as pets and not for breeding, boarding, commercial, or animal
41. **“Dog Run”** - means a fenced area provided for the use of dogs which are kept by residents as pets and not for breeding, boarding, commercial or animal welfare purposes.
42. **“Domestic Animals”** –includes dogs, cats, budgies, parrots, parakeets, hamsters, gerbils and guinea pigs.
43. **“Dwelling”** – means a building or portion thereof designed, arranged or intended for residential occupancy, and

- (i) *“Dwelling Unit”* – means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided.
 - (ii) *“Single Family Dwelling”* – means a building containing one dwelling unit and does not include mobile homes, but does include mini homes.
 - (iii) *“Duplex Dwelling”* – means a building that is divided into two dwelling units.
 - (iv) *“Multiple Family Dwelling”* – means a building containing three or more dwelling units.
 - (v) *“Semi-Detached Dwelling”* – means a building divided vertically into two (2) separate units, each of which has at least two independent entrances.
 - (vi) *“Townhouse Dwelling or Row House Dwelling”* – means a building that is divided vertically into three or more dwelling units, each of which has independent entrances to a front and rear yard immediately abutting the front and rear walls of each dwelling unit.
44. **“Entrance Way”** – means a driveway providing access to and from a parcel of land to a road.
45. **“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.
46. **“Existing”** – means a parcel of land that existed on July 9, 1994.
47. **“Family”** – means an individual residing in one (1) dwelling unit, or a group of persons related by marriage, cohabitation, blood or adoption residing together in one dwelling unit and includes:
- (i) domestic servants, non-paying guests and foster children; and
 - (ii) not more than two (2) roomers or boarders living in the dwelling unit.
- “Immediate Family”** – means the following persons:
- (i) parents of the owner and their spouse;
 - (ii) the sons and/or daughters of the owner and their spouse;
 - (iii) the grandparents of the owner and their spouse;

- (iv) the brothers and/or sisters of the owner and their spouse; and
 - (v) the aunts and/or uncles of the owner and their spouse.
48. **“Farming”** – means the cultivation of agricultural products, and the raising of farm livestock.
49. **“Farm” or “Farm Property”** – means arable land, dwelling and complementary buildings operated as a farm enterprise and includes land leased from the Crown, but does not include land leased or rented from owners who are not bona fide farmers.
50. **“Farm Market”** – means a building in which farm produce comprises the major portion of goods offered or kept for sale directly to the public at retail value.
51. **“Fence”** – means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
52. **“Floor Area”** – means:
- (i) *With reference to “Dwelling”* – the area contained within the outside walls excluding any private garage, porch, veranda, sunroom, greenhouse, unfinished attic, unfinished basement, and other rooms not habitable at all seasons of the year.
 - (ii) *With reference to “Commercial Building”* – the total usable floor area within a building used for commercial purposes excluding washrooms, furnace rooms and common halls between stores.
 - (iii) *With reference to “Accessory Building”* – the area contained within the outside walls.
53. **“Forestry Use”** – means commercial silviculture and the production of timber or pulp and any uses associated with a forestry use, including sawmills, shingle mills, vehicle and equipment storage and maintenance buildings and yards and retail and wholesale outlets for wood and wood products.
54. **“Frontage”** – means all land abutting on one side of a highway measured along the common or actual property line.
55. **“Garden Suite”** – means a temporary development consisting of a detached dwelling unit which
- i) has a width no greater than 24 feet (7.31 metres),
 - ii) is no greater than one storey in height,

- iii) is constructed and erected in such a manner as to be capable of being readily removed from the site,
 - iv) does not exceed 800 square feet (74.3 square metres) in area, or is a mini home, and
 - v) is for the sole and exclusive use as an accessory dwelling to a single unit dwelling on the same lot or parcel of land by
 - (A) the parents or grandparents of the owner or spouse of the owner of the single unit dwelling on the same lot or parcel of land,
 - (B) any person who is physically or intellectually challenged or experiences a chronic disability or who, due to illness frailty or age, requires home care, and is under the care of the owner or spouse of the owner of a single unit dwelling on the same lot or parcel of land, or
 - (C) a caregiver for a family member of the owner or spouse of the owner of the single unit dwelling on the same lot or parcel of land who qualifies under paragraph (A) or (B) and who also resides in the garden suite.
56. **“Grade”** – (as it applied to the determination of building height) means the lowest of the average levels of finished ground adjoining each exterior wall of a building, except that localized depressions such as for vehicle or pedestrian entrances need not be considered in the determination of average levels of finished ground.
57. **“Highway, Road or Street”** – means all the area within the boundary lines of every road, street or right-of-way which is vested in the Province of Prince Edward Island or the municipality and used or intended for use by the general public for the passage of vehicles and includes any bridge over which any such road, street or right-of-way passes.
58. **“Highway Access Regulations”** – means the Highway Access Regulations (EC580/95) made under the *Roads Act* R.S.P.E.I. 1988, Cap. 5-15 or as amended from time to time.
59. **“Hotel”** – means a building other than a motel occupied or intended to be occupied as the temporary lodging place for any individual for a fee.
60. **“Industrial Use”** – means use of land or buildings in or from which goods or materials are manufactured, processed, assembled or extracted or premises from which wholesale trade is carried on including warehousing.

61. **“Institutional Use”** –means the use of land or buildings for non-profit or public purposes including but not limited to, hospitals, government buildings, religious institutions, churches, public schools, colleges, cultural centres, libraries and public recreational and park buildings.
62. **“Landscaping”** – means any combination of trees, shrubs, flowers, grass, other horticultural elements, paving, or other architectural elements, all of which are designed to enhance the visual amenity of a property.
63. **“Livestock”** – means horses, cattle, buffalos, sheep, swine, goats, poultry, fox, mink, chinchilla, rabbits, camelids, llamas, alpacas, donkeys, emus and ostrich.
64. **“Loading Space”** – means an unencumbered area of land provided and maintained upon the same lot or lots upon which the principal use is located and which area is provided for the temporary parking of one (1) commercial motor vehicle while merchandise or materials are being loaded or unloaded, and such parking space shall not be for the purpose of sale or display.
65. **“Lot or Property”** – means any parcel of land which is held in separate ownership from the adjoining land and
- (i) **“Lot Area”** – means the total area included within the lot lines.
 - (ii) **“Corner Lot”** – means a lot situated at an intersection of and abutting on two or more streets.
 - (iii) **“Flankage Lot Line”** – means the side lot line which abuts the street on a corner lot.
 - (iv) **“Front Lot Line”** – means the lot line abutting the street upon which the building or structure erected or to be erected has its principal entrance.
 - (v) **“Interior Lot”** – means a lot other than a corner lot.
 - (vi) **“Lot Depth”** – means the depth from the front lot line to the rear lot line.
 - (vii) **“Lot Line”** – means any boundary of a lot.
 - (viii) **“Rear Lot Line”** – means the lot line further from and opposite to the front lot line.
 - (ix) **“Side Lot Line”** – means a lot line other than a front, rear or flankage lot line.

- (x) “Through Lot” – means a lot bounded on two opposite sides by streets.
66. “**Lot Consolidation**” – means the legal incorporation of two or more existing parcels of land to form a single, larger parcel.
67. “**Lounge**” – means a commercial facility or structure licensed to sell alcoholic beverages to the public.
68. “**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.
69. “**Mini-Home**” – means a pre-manufactured dwelling unit having an average width of less than 20 feet, not including appurtenances such as porches, entries, etc. and certified under the Z240 provisions of the Canadian Standards Association (CSA).
70. “**Mobile Home**” – means a transportable dwelling unit suitable for permanent occupancy, designed to be transported with or without its own wheeled chassis.
71. “**Motel**” – means a building occupied in whole or in part as a temporary lodging place for an individual and for which there is an exit for any room or suite of rooms directly to the outdoors with access to grade level.
72. “**Municipality**” – means the Community of Kingston.
73. “**Nursing Home**” – means a building, part of building, or group of buildings in which, for a fee, charge or reward, direct or indirect, there are housed patients requiring or receiving active treatment for, or convalescing from, or being rehabilitated after illness or injury, but does not include a public hospital, mental hospital, tuberculosis hospital or sanatorium.
74. “**Obnoxious Use**” – means a use which, from its nature or operation, creates a nuisance or is offensive by the creation of noise or vibration or by reason of the emission of gases, fumes, dust, and any objectionable odor, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material.
75. “**Open Space**” – means that portion of a lot which may be used for landscaping, recreational space or leisure activities normally carried on outdoors; but does not include space used for service drive-ways or off-street parking.

76. **“Outdoor Display”** – means an area of land where goods are displayed and which are available for sale to the general public from a retail outlet located on the same lot.
77. **“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.
78. **“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 of 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.
79. **“Parcel”** – means a lot, block or other division of land or property which is recognized as a separate unit of land for the purposes of this bylaw.
80. **“Parking Lot”** – means an open area of land other than a street or an area within a structure for the parking of vehicles.
81. **“Panhandle Lot”**- means a lot that does not have the minimum frontage on a road required by these regulations, but has a driveway or right-of-way connection providing access to a public road or privately owned subdivision road.
82. **“Parking Space”** – means an area of land which is suitable for the parking of a vehicle, not less than nine feet wide and eighteen feet long, accessible to vehicles without the need to move other vehicles on adjacent areas.
83. **“Phase”** – means to develop a parcel of land over time in a series of prescribed stages; or one of such stages.
84. **“Plant Nursery(and Greenhouse)”** – means a premise or any land used primarily to raise and store trees, shrubs, flowers, and other plants for sale or for transplanting.
85. **“Private Garage”** – means a building or part thereof which is used for the sheltering of private motor vehicles and storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.
86. **“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.

87. **“Private Road”** – means a road, street or right-of-way which is not a public road.
88. **“Public Park or Parkland”** – means land owned by the Municipality or some other level of government used or intended for use by members of the public.
89. **“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.
90. **“Recreational Use”** – means the use of land for parks, playgrounds, tennis courts, lawn bowling greens, athletic fields, golf courses, picnic areas, swimming pools, day camps, and similar uses but does not include a tract for the racing of animals or any form of motorized vehicles.
91. **“Recycling Depot”** – means premises on which recoverable materials such as newspaper, glassware, and metal cans are separated prior to shipment but does not include any processing of the material or a salvage yard.
92. **“Recycling Plant”** – means a building in which recoverable resources, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production but it does not include a salvage yard.
93. **“Residential Care Facility”** – means a building or premises licensed by the Province of Prince Edward Island, where accommodation and supervisory and/or personal care is provided or made available for more than three persons and includes a group home.
94. **“Resource Use”** – means the use of land or buildings for production and harvesting or extraction of any agricultural, forestry, or fisheries product.
95. **“Resource Commercial Use”** – means the use of a building or lot for the storage, display or sale of goods directly and primarily related to resource uses.
96. **“Resource Industrial Use”** – means the use of land or buildings for any industrial development directly associated with agriculture, fisheries or forestry industries.

97. **“Restaurant”** –means buildings or structures or part thereof where food and drink is prepared and offered for sale to the public.
98. **“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.
99. **“Salvage Yard”** – means an area of land used for the storage, handling or processing of and sale of scrap material, and without limiting the generality of the foregoing, may include waste paper, rags, bones, used bicycles, vehicles, tires, metals or other scrap material or salvage, but shall not include a hazardous waste material storage or disposal site or recycling depot.
100. **“Senior Citizen”** – means a person deemed to be eligible for accommodation in a Senior Citizen Home under the terms of the *PEI Housing Corporation Act* or comparable Provincial statute.
101. **“Senior Citizen Home”** – means any home for Senior Citizens either privately sponsored or administered by any public agency or any service club either of which obtains its financing from federal, provincial or municipal governments or agencies or by public subscription or donations, or by a combination thereof, and shall include auxiliary uses such as lounges and recreation facilities usually associated with senior citizens’ developments, and solely for the use of its residents.
102. **“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.
103. **“Sewerage Disposal System”** – means any system or part thereof for disposing of sewage or waste by means of one or more settling or septic tanks and one or more disposal fields, and any other system or part thereof for sewage or waste disposal not directly connected to a municipal or approved central waste treatment system.
104. **“Sign”**- means a structure, device, light or natural object including the ground itself, or any part, or any device attached, or painted or represented on which shall be used to advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry or business, or which display or include any letter, work, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction, or advertisement, and which is intended to be seen from off the premises or from a parking lot.

105. **“Storey”** – means that portion of a building between any floor and ceiling or roof next above, provided that any portion of a building partly below grade level shall not be deemed a storey unless its ceiling is at least 1.8 m (approximately 6 feet) above grade and provided also that any portion of a building between any floor and ceiling or roof next above exceeding 4.2 m (approximately 14 feet) in height shall be deemed an additional storey.
106. **“Street or Road”** - see Highway, Section 2.57.
107. **“Street Line”** – means the boundary of a street.
108. **“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.
109. **“Subdivision”** – means a division of a parcel of land by means of a plan of subdivision, plan or survey, agreement, deed or any instrument, including a caveat transferring or creating an estate or interest in part of the parcel.
110. **“Survey Plan”** – means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island Land Surveyor.
111. **“Swimming Pool”**- means any outdoor structure, basin, chamber, or tank used or which may be used for swimming, diving, or recreational bathing and having a depth of 60 cm (approximately 24 inches) or more at any point or with a surface area exceeding 10 square metres (108 square feet).
112. **“Tourist Establishment”** – means a dwelling in which is operated the business of providing or offering overnight accommodation for transient guests for compensation.
113. **“Use”** – means any purpose for which a building or other structure or parcel of land may be designed, arranged, intended, maintained or occupied, and includes any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a parcel.
114. **“Utility Building”** – means an accessory building used for storage purposes which does not exceed 250 square feet in floor area.
115. **“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.

- 116. “Watercourse”** – shall have the same meaning as defined under the *Environmental Protection Act Watercourse and Wetland Protection Regulations* and in the case of any dispute the final determination shall be made by the Provincial Department having authority to enforce these Regulations.
- 117. “Wetland”** – shall be defined as noted above under “Watercourse”.
- 118. “Yard”** – means an open space on a lot appurtenant to a building and unoccupied by buildings or structures except as specifically permitted in this Bylaw and
- i) “*Front Yard*” – means a yard extending across the width of a lot between the front lot line and nearest wall of any building or structure on the lot and “minimum front yard” means the minimum depth of a front yard on a lot between the front lot line and the nearest main wall of any building or structure on the lot.
 - (ii) “*Rear Yard*” – means a yard extending across the width of a lot between the rear lot line and the nearest wall of any main building or structure on the lot and “minimum rear yard” means the minimum depth of a rear yard on a lot between the rear lot line and the nearest main wall of any main building or structure on the lot.
 - (iii) “*Side Yard*” – means a yard extending from the front yard to the rear yard of a lot between a side lot line and nearest wall of any building or structure on the lot, and “minimum side yard” means the minimum width of a side yard on a lot between a side lot line and the nearest main wall of any main building or structure on the lot.
 - (iv) “*Flankage Yard*” – means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flankage lot line and the nearest main wall of any building or structure on the lot.
- 119. “Zone”** – means a designated area of land shown on the Official Zoning Map of the Bylaw within which land uses are restricted to those specified by this Bylaw.

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