

Town of O'Leary
Zoning and Subdivision Control
(Development) Bylaw

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TOWN OF O'LEARY

ZONING & SUBDIVISION CONTROL (DEVELOPMENT) BYLAW

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

BE IT ENACTED by the Town of O'Leary as follows:

SECTION #1 – SCOPE

1.1 TITLE

This Bylaw shall be known and may be cited as the Town of O'Leary Zoning and Subdivision Control Bylaw or the Development Bylaw.

1.2 AREA DEFINED

This Bylaw applies to the geographical area within which the Town of O'Leary Council has jurisdiction.

1.3 SCOPE

No Dwelling, business, trade or industry shall be located, nor shall any Building or Structure be Erected, altered, Used or have its Use changed, nor shall any land be Subdivided, consolidated or used in the Town of O'Leary, except in conformity with this Bylaw and subject to the provisions contained herein.

1.4 AUTHORITY OF DEVELOPMENT OFFICER

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

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

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

SECTION #2 – DEFINITIONS

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

In this Bylaw:

- 2.1 **“Accessory Building”** – means a Building whose Use is incidental and subordinate to, and consistent with, the main or approved Use of the Lot on which the Building is located.
- 2.2 **“Accessory Use”** – means a Use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main Use of land or Building and located on the same Lot.
- 2.3 **“Administrator”** – means the Chief Administrative Officer for the Community of O’Leary.
- 2.4 **“Agricultural Use”** – means a Use of land and Buildings for farming, dairying, pasturage, agriculture, apiculture, floriculture, horticulture, and animal and poultry husbandry and the necessary accessory uses for packing, storing or treating the produce.
- 2.5 **“Alter”** – means to make a change in the size, 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.
- 2.6 **“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.
- 2.7 **“Automobile Sales and Service Establishment”** – means a Building or part of a Building or a clearly defined space on a Lot used for the sale and maintenance of used or new automobiles.
- 2.8 **“Automobile Service Station or Service Station”** – means a Building or part of a Building or a clearly defined space on a Lot used for the sale of lubricating oils and/or gasolines and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.
- 2.9 **“Automobile Washing Establishment”** – means a Building or part thereof used for the operation of automobile washing equipment which is manual, automatic or semi-automatic.
- 2.10 **“Baby Barn”** – means an Accessory Building used for storage purposes which does not exceed 96 square feet in Floor Area.

- 2.11 “Bed and Breakfast”** – means a Dwelling occupied by a family and used incidentally to provide accommodation and limited meals to transient travellers and includes a tourist home but does not include a boarding house, rooming house, domiciliary hostel, group home, hotel, motel, restaurant or lounge.
- 2.12 “Block”** – means any unit of land consisting of a grouping of Lots bounded on all sides by watercourses, Streets or large parcel boundaries or as otherwise defined by the Municipality.
- 2.13 “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.
- 2.14 “Building Height”** – means the vertical distance measured from the averaged finished grade to the highest point of roof surface.
- 2.15 “Building Line”** – means any line regulating the position of a Building or Structure on a Lot.
- 2.16 “Building Setback”** – means the distance between the Street Line and the nearest main wall of any Building or Structure, except fences, and extending the full width of the Lot.
- 2.17 “Business or Professional Office”** – means premises where services are offered for a fee but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.
- 2.18 “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.
- 2.19 “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.
- 2.20 “Child”** – includes a person to whom a parent has demonstrated a settled intention to treat as a child of his or her Family.
- 2.21 “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 five children under seven years of age.
- 2.22 “Church”** – means a Building dedicated to religious worship and includes a church hall, church auditorium, Sunday School, parish hall, rectory, manse and day nursery operated by the church.

- 2.23** “**Club**” – means an association of persons, whether incorporated or not, united by some common interest, meeting periodically for co-operation or conviviality. Club shall also mean, where the context requires, premises owned or occupied by members of such association within which the activities of the club are conducted.
- 2.24** “**Community**” – means the Town of O’Leary.
- 2.25** “**Community Care Facility**” – means an establishment that provides care services for compensation to five or more residents who are not members of the operator’s immediate Family but does not, unless otherwise ordered by the Lieutenant Governor in Council, include:
- (i) a group home recognized as such by the Minister;
 - (ii) a residential school;
 - (iii) an establishment providing accommodation only;
 - (iv) a hospital;
 - (v) a correctional institution;
 - (vi) a facility in which treatment services are provided under the *Addiction Services Act* R.S.P.E.I. 1988, Cap. A-3;
 - (vii) a nursing home; or
 - (viii) a residential institution as defined in Part II of the regulations made under the *Welfare Assistance Act* R.S.P.E.I. 1988, Cap. W-3 which is operated or funded by the Minister.
- 2.26** “**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* R.S.P.E.I. 1988, Cap. C-16.
- 2.27** “**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.
- 2.28** “**Convenience Store**” – means a retail commercial establishment, not exceeding 1,500 sq. ft. (150 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, tobacco products and video tape sales and rentals.
- 2.29** “**Council**” – means the Council for the Town of O’Leary.
- 2.30** “**Councillor**” – means any resident who has been duly elected and sworn to office in order that such resident may execute those duties as prescribed by the law.

- 2.31 “Deck”** – means a Structure intended as outdoor living space, either attached or adjacent to a Building.
- 2.32 “Demolition”** – means to remove, pull down or destroy a Structure.
- 2.33 “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*.
- 2.34 “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.
- 2.35 “Development Officer”** – means the person charged by the Council with the duty of administering the provisions of this Bylaw.
- 2.36 “Development Permit”** – means the formal and written authorization for a person to carry out any Development.
- 2.37 “Display”** – includes any item, group of items, sign, or billboard visible to the general public, indicating that items or services are offered for sale or trade, but does not include Premise Signs of 400 square inches or less.
- 2.38 “Domestic Animals”** - means dogs, cats, budgies, parrots, parakeets, hamsters, gerbils, guinea pigs and fish.
- 2.39 “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.

2.40 “**Entrance Way**” – means a driveway providing access to and from a Parcel of land to a Street.

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

2.42 “**Family**” – means an individual residing in one (1) Dwelling Unit, or a group of persons related by marriage, cohabitation, blood or adoption residing together in one Dwelling Unit and includes:

- (i) domestic servants, non-paying guests and foster children; and
- (ii) not more than two (2) roomers or boarders living in the Dwelling Unit.

“**Immediate Family**” – means the following persons:

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

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

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

- 2.45 “Farm Market”** – means a Building in which farm produce comprises the major portion of goods offered or kept for sale directly to the public at retail value.
- 2.46 “Fence”** – means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.
- 2.47 “Floor Area”** – means:
- (i) *With reference to “Dwelling”* – the area contained within the outside walls excluding any private garage, porch, veranda, sunroom, greenhouse, unfinished attic, unfinished basement, and other rooms not habitable at all seasons of the year.
 - (ii) *With reference to “Commercial Building”* – the total usable floor area within a Building used for commercial purposes excluding washrooms, furnace rooms and common halls between stores.
 - (iii) *With reference to “Accessory Building”* – the area contained within the outside walls.
- 2.48 “Forestry Use”** – means commercial silvaculture and the production of timber or pulp and any uses associated with a forestry use, including sawmills, shingle mills, vehicle and equipment storage and maintenance buildings and yards and retail and wholesale outlets for wood and wood products.
- 2.49 “Frontage”** – means all land abutting on one side of a Street measured along the common or actual Property Line.
- 2.50 “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.
- 2.51 “Group Home”** – means a residence for the accommodation of four or more persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well-being. A group home does not include a commercial day care centre, or a halfway house or a facility for the temporary use of transient and homeless persons.
- 2.52 “Heavy Equipment Depot”** – means a Lot and/or Building where heavy machinery is stored and serviced.

- 2.53 “Highway, Road or Street”** – means all the area within the boundary lines of every Road, Street or right-of-way which is vested in the Province of Prince Edward Island or the Municipality and Used or intended for Use by the general public for the passage of vehicles and includes any bridge over which any such Road, Street or right-of-way passes.
- 2.54 “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.
- 2.55 “Hotel”** – means a Building other than a motel occupied or intended to be occupied as the temporary lodging place for any individual for a fee.
- 2.56 “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.
- 2.57 “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, cemeteries, churches, public schools, colleges, cultural centres, libraries and public recreational and park buildings.
- 2.58 “Kennel”** – means a Building or Structure where more than four (4) domestic animals excluding livestock are kept, bred or raised for profit or gain.
- 2.59 “Landscaping”** – means any combination of trees, shrubs, flowers, grass, other horticultural elements, paving, or other architectural elements, all of which are designed to enhance the visual amenity of a property.
- 2.60 “Livestock”** – means horses, cattle, sheep, swine, goats, poultry, fox, mink, chinchilla and rabbits.
- 2.61 “Loading Space”** – means an unencumbered area of land provided and maintained upon the same Lot or Lots upon which the principal Use is located and which area is provided for the temporary parking of one (1) commercial motor vehicle while merchandise or materials are being loaded or unloaded, and such Parking Space shall not be for the purpose of sale or display.
- 2.62 “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.

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

2.64 “Lounge” – means a commercial facility or structure licensed to sell alcoholic beverages to the public.

2.65 “Main Building” – means that Building, the nature of the use of which determines the status of the Lot upon which it is authorized to be constructed or upon which it is constructed.

2.66 “Mini-Home” – means a premanufactured dwelling unit having an average width of less than 20 feet (6 m), not including appurtenances such as porches, entries, etc. and certified under the Z240 provisions of the Canadian Standards Association (CSA) or as subsequently amended.

2.67 “Mobile Home” – means a transportable Dwelling Unit suitable for permanent occupancy, designed to be transported with or without its own wheeled chassis.

2.68 “Mini Home Park” – means a Lot of land planned and developed for the placement of Mobile Homes and Mini-Homes.

- 2.69** “**Motel**” – means a Building occupied in whole or in part as a temporary lodging place for an individual and for which there is an exit for any room or suite of rooms directly to the outdoors with access to grade level.
- 2.70** “**Municipality**” – means the Town of O’Leary.
- 2.71** “**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.
- 2.73** “**Obnoxious Use**” – means a Use which, from its nature or operation, creates a nuisance or is offensive by the creation of noise or vibration or by reason of the emission of gases, fumes, dust, and any objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material.
- 2.74** “**Open Space**” – means that portion of a Lot which may be used for landscaping, recreational space or leisure activities normally carried on outdoors; but does not include space used for service drive-ways or off-street parking.
- 2.75** “**Ornamental Structures**” – means landscaping or architectural structures such as arbours, fixed seating, sculptures or similar improvements.
- 2.76** “**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.
- 2.77** “**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.
- 2.78** “**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 mortgagee in possession or other person having the care or control of any land or Building in the event of the absence or disability of the person having the title thereof.
- 2.79** “**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.
- 2.80** “**Parking Lot**” – means an open area of land other than a Street or an area within a structure for the parking of vehicles.

- 2.81 “Panhandle Lot”**- means a Lot that does not have the minimum Frontage on a Road required by these regulations, but has a deeded driveway connection providing access to a public Road or privately owned subdivision Road.
- 2.82 “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.
- 2.83 “Phase”** – means to develop a Parcel of land over time in a series of prescribed stages; or one of such stages.
- 2.84 “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.
- 2.85 “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.
- 2.86 “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.
- 2.87 “Private Road”** – means a Road, Street or right-of-way which is not a public Road.
- 2.88 “Public Park or Parkland”** – means land owned by the Town or some other level of government used or intended for use by members of the public.
- 2.89 “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.
- 2.90 “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.
- 2.91 “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.

- 2.92 “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.
- 2.93 “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.
- 2.94 “Resource Use”** – means the Use of land or Buildings for production and harvesting or extraction of any agricultural, forestry, or fisheries product.
- 2.95 “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.
- 2.96 “Resource Industrial Use”** – means the Use of land or Buildings for any industrial development directly associated with agriculture, fisheries or forestry industries.
- 2.97 “Restaurant”** – means Buildings or Structures or part thereof where food and drink is prepared and offered for sale to the public.
- 2.98 “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.
- 2.99 “Rural Tourism Use”** – means the Use of a Building or land for non-recreational commercial uses related to tourism, including rental accommodations and campgrounds.
- 2.100 “Salvage Yard”** – means an area of land used for the storage, handling or processing of and sale of scrap material, and without limiting the generality of the foregoing, may include waste paper, rags, bones, used bicycles, vehicles, tires, metals or other scrap material or salvage, but shall not include a hazardous waste material storage or disposal site or Recycling Depot.
- 2.101 “Senior Citizen”** – means a person deemed to be eligible for accommodation in a Senior Citizen Home under the terms of the *PEI Housing Corporation Act* or comparable Provincial statute.
- 2.102 “Senior Citizen Home”** – means any home for Senior Citizens either privately sponsored or administered by any public agency or any service club either of which obtains its financing from federal, provincial or municipal

governments or agencies or by public subscription or donations, or by a combination thereof, and shall include auxiliary uses such as lounges and recreation facilities usually associated with senior citizens' developments, and solely for the use of its residents.

- 2.103 “Service Shop”** – means a Building or part thereof used for the sale and repair of household articles and shall include radio, television, and appliance repair shops but shall not include industrial, manufacturing or motor vehicle body repair shops.
- 2.104 “Sewage Disposal System”** – means any system or part thereof for disposing of sewage or waste by means of one or more settling or septic tanks and one or more disposal fields, and any other system or part thereof for sewage or waste disposal not directly connected to a municipal or approved central waste treatment system.
- 2.105 “Sign”**- means a Structure, device, light or natural object including the ground itself, or any part, or any device attached, or painted or represented on which shall be used to advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry or business, or which display or include any letter, work, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction, or advertisement, and which is intended to be seen from off the premises or from a Parking Lot.
- 2.106 “Storey”** – means that portion of a Building between any floor and ceiling or roof next above, provided that any portion of a building partly below grade level shall not be deemed a storey unless its ceiling is at least 1.8 m (approximately 6 feet) above grade and provided also that any portion of a building between any floor and ceiling or roof next above exceeding 4.2 m (approximately 14 feet) in height shall be deemed an additional storey.
- 2.107 “Street or Road”** - see Highway, Section 2.53.
- 2.108 “Street Line”** – means the boundary of a Street.
- 2.109 “Structure”** – means any construction including a Building fixed to, supported by or sunk into land or water, but excludes concrete and asphalt paving or similar surfacing and fencing and includes a Swimming Pool.
- 2.110 “Subdivision”** – means a division of a Parcel of land by means of a plan of subdivision, plan or survey, agreement, deed or any instrument, including a caveat transferring or creating an estate or interest in part of the parcel.
- 2.111 “Survey Plan”** – means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island land surveyor.

- 2.112 “Swimming Pool”**- means any outdoor structure, basin, chamber, or tank used or which may be used for swimming, diving, or recreational bathing and having a depth of 60 cm (approximately 24 inches) or more at any point or with a surface area exceeding 10 square metres (108 square feet).
- 2.113 “Tourist Establishment”** – means a Dwelling in which is operated the business of providing or offering overnight accommodation for transient guests for compensation.
- 2.114 “Use”** – means any purpose for which a Building or other Structure or Parcel of land may be designed, arranged, intended, maintained or occupied, and includes any activity, occupation, business or operation carried on, or intended to be carried on, in a Building or other Structure or on a Parcel.
- 2.115 “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.
- 2.116 “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.
- 2.117 “Wetland”** – shall be defined as noted above under “Watercourse”.
- 2.118 “Yard”** – means an open, uncovered space on a Lot appurtenant to a Building and unoccupied by Buildings or Structures except as specifically permitted in this Bylaw and
- i) **“Front Yard”** – means a yard extending across the width of a Lot between the Front Lot Line and nearest wall of any Building or Structure on the Lot and “minimum front yard” means the minimum depth of a front yard on a Lot between the Front Lot Line and the nearest main wall of any Building or Structure on the Lot.
 - (ii) **“Rear Yard”** – means a yard extending across the width of a Lot between the Rear Lot Line and the nearest wall of any main Building or Structure on the Lot and “minimum rear yard” means the minimum depth of a Rear Yard on a Lot between the Rear Lot Line and the nearest main wall of any main Building or Structure on the Lot.
 - (iii) **“Side Yard”** – means a yard extending from the Front Yard to the Rear Yard of a Lot between a Side Lot Line and nearest wall of any Building or Structure on the Lot, and “minimum side yard” means the

minimum width of a Side Yard on a Lot between a Side Lot Line and the nearest main wall of any main Building or Structure on the Lot.

- (iv) “*Flankage Yard*” – means the Side Yard of a Corner Lot which Side Yard extends from the Front Yard to the Rear Yard between the Flankage Lot Line and the nearest main wall of any Building or Structure on the Lot.

2.119 “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.

SECTION #3 – DEVELOPMENT ZONES

3.1 DEVELOPMENT ZONES

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

<u>ZONE</u>	<u>SYMBOL</u>
Single Family Residential	R1
Two Family Residential	R2
Multi Family Residential	R3
Mini Home Residential	RM
General Commercial	C1
Industrial	M1
Public Service and Institutional	PSI
Recreation and Open Space	01
Environmental Reserve	02
Agricultural	A1

3.2 INTERPRETATION OF ZONE BOUNDARIES

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

- 1) Where a Zone boundary is indicated as following a Street or Highway, the boundary shall be the center line of such Street or Highway.
- 2) Where a Zone boundary is indicated as following Lot or property lines, the boundary shall be such Lot or property lines.

- 3) Where a Zone boundary is indicated as following the limits of the Municipality the limits shall be the boundary.
- 4) Where none of the above provisions apply, the Zone boundary shall be scaled from the Official Zoning Map lodged with the Municipality.

3.3 OFFICIAL ZONING MAP

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

3.4 CERTAIN WORDS

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

3.5 UNITS OF MEASURE

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

SECTION #4 – GENERAL PROVISIONS FOR ALL ZONES

4.1 DEVELOPMENT APPROVAL

1. No person shall:
 - a) change the Use of a parcel of land or a structure;
 - b) commence any “Development”;
 - c) construct or replace any Structure or Deck;
 - d) make structural alterations to any Structure;
 - e) make any water or sewer connection;
 - f) make any underground installation such as a fuel tank, a foundation wall or the like;
 - g) move or demolish any Structure;
 - h) establish or operate an excavation pit;
 - i) construct a Street;
 - j) place, dump or remove any fill or other material;
 - k) Subdivide or Consolidate a Parcel or Parcels of land; or

l) construct a Fence over four (4) feet (1.2 m) high
without first applying for, and receiving a permit from Council.

2. For the purpose of this Bylaw:

- a) laying paving materials for patios or sidewalks;
- b) constructing Fences of less than four (4) ft. (1.2 m) in height;
- c) installing clotheslines, poles, and radio or television antennae, except satellite dishes over 24" (0.6 m) 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. (6.4 sq. m.); and
- g) conducting routine maintenance which has the effect of maintaining or restoring a Structure or any of its elements to its original state or condition,

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

4.2 PERMIT APPLICATION

- (1) Any person applying for a permit shall do so on a form prescribed by Council, and shall submit the application to the 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.

4.3 PAYMENT OF FEES

Notwithstanding any Section of this Bylaw, Development Permits are not valid and shall 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 shall be established by resolution of Council and may from time to time be amended to reflect the costs related to processing the applications.

4.4 DEVELOPMENT PERMIT

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

4.5 SITE PLAN

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

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

4.6 CONDITIONS ON PERMITS

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

4.7 DEVELOPMENT AGREEMENT

Council may require any applicant to enter into a Development Agreement. This Agreement shall be a contract binding on both parties, containing all conditions which were attached to the Development 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:

- a) site design;
- b) the design and construction cost of sidewalks, pathways and other pedestrian access matters;
- c) landscaping and screening;
- d) vehicular accesses and exits;
- e) signage
- f) security and safety lighting;
- g) architectural harmony;
- h) methods of waste disposal;
- i) fencing; and
- j) any other matters that Council deems necessary to ensure the health, safety and convenience of Town residents and the travelling public.

4.8 EXISTING NON-CONFORMING LOTS

- (1) Notwithstanding anything else in this Bylaw, the Use of a Building on a Lot on the effective date of this Bylaw may be changed to a Use permitted on the Lot where the Lot Area or Frontage or both is less than that required by this Bylaw, provided that all other applicable provisions of this Bylaw are satisfied.
- (2) Notwithstanding any other provisions of this Bylaw, a vacant Lot held in separate ownership from adjoining Parcels on the effective date of this Bylaw, having less than the minimum width or area required, may be used for a purpose permitted in the Zone in which the Lot is located and a Building may be Erected on the Lot provided that all other applicable provisions in this Bylaw are satisfied.
- (3) An existing undersized Lot may be increased in area or Frontage, or both, and still remain an existing undersized Lot if after the increase, the Lot still remains undersized.

4.9 LOT FRONTAGE

1. If a Parcel of land in any Zone is of such configuration that it cannot reasonably be Subdivided in such a way to provide the required minimum Frontage on a Street, the Council may approve a reduced Frontage, provided that:
 - (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 a driveway that is part of the Lot;
 - (c) the access driveway noted in (b) above has a minimum width of 24 feet (7.3 metres);
 - (d) not more than one other Panhandle Lot, as described in (b) above, has been subdivided from the Existing parcel of land; and
 - (e) the Lot Area in all other respects meets the requirements of this Bylaw.

2. In any Zone, Lots designed with a reduced Frontage along a bend in a Street or facing a cul-de-sac, may be approved by Council if in the opinion of Council adequate and safe access is provided and if the Lot width at the Building Line measures at least as much as the minimum Lot Frontage for the Zone.

4.10 EXISTING NON-CONFORMING BUILDINGS

Where a Building has been Erected on or before the effective date of this Bylaw having less than the minimum Front Yard setback or Side Yard or Rear Yard required by this Bylaw, the Building may be enlarged, reconstructed, repaired or renovated provided that:

- (1) the enlargement, reconstruction, repair or renovation does not further reduce the Front Yard or Side Yard or Rear Yard which does not conform to this Bylaw; and
- (2) all other applicable provisions of this Bylaw are satisfied.

4.11 OTHER INFORMATION

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

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

4.12 ACCESS

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

4.13 ENTRANCEWAY PERMIT

Where an Entrance Way permit is required under the *Roads Act* Highway Access Regulations, its issuance shall be a precondition of the approval of a Subdivision or Development Permit.

4.14 SIGHT DISTANCE

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

4.15 DEVELOPMENT RESTRICTIONS

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

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

4.16 MAIN BUILDING

No person shall Erect more than one main Building on a Lot except:

- (a) in the General Commercial (C1) Zone;
- (b) in the Industrial (M1) Zone;
- (c) in the Agricultural (A1) Zone on a farm;
- (d) in the PSI zone; and
- (e) in the R3 Zone, except on a Duplex or Semi-Detached Lot.

4.17 ACCESSIBILITY/BARRIER FREE DESIGN

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

4.18 MIXED USE

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

4.19 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, hours of operation and any other item which could in the opinion of Council present a nuisance or hazard during construction.

4.20 OTHER REQUIREMENTS

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

4.21 SITE WORK

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

4.22 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 Town for the purpose of ensuring compliance with the provisions of this Bylaw.

4.23 ACCESSORY STRUCTURES

Accessory Uses, Buildings and Structures shall include a Private Detached Garage and shall be permitted on any Lot but shall not:

- (1) be used for human habitation except where a Dwelling is a permitted Accessory use;
- (2) be located within the Front Yard or Flanking Side Yard of a Lot;
- (3) be built closer than five (5.0') feet (1.5 m) to any Lot Line except for:
 - (a) common garages for semi-detached or townhouse dwelling units which may be centered on the mutual Side Lot Line.
- (4) be built within ten feet (10') (3 m) of the main Building on the Lot;
- (5) exceed 22 feet (6.7 m) 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;
- (6) be permitted if an Accessory Building already exists, except:
 - (a) where it is an accessory use on a bona fide farm, in which case there is no limit to the number of Accessory Buildings permitted, or
 - (b) where it is located on a Lot greater than one (1) acre, in which case a maximum of one additional accessory building shall be permitted for each additional acre of land or part thereof.
 - (c) where it is an Accessory Building to a commercial, industrial or institutional use, in which case the number of Accessory Buildings shall be at the discretion of Council.

- (7) exceed 720 sq. ft. (70 sq.m.) in total floor area, except in relation to a bona fide farm, or a commercial, industrial or institutional use.

Notwithstanding anything else in this Bylaw, Council may issue a permit for construction of one (1) Baby Barn 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. Maximum allowable size for such structures is 96 square feet (9.6 sq. m.) 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.

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

4.24 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:

- (1) 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;
- (2) 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;
- (3) the exterior of the residence shall retain a single family appearance;
- (4) 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.

4.25 PERMITS POSTED

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

4.26 MOVING OF BUILDINGS

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

4.27 HEIGHT REGULATIONS

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

4.28 INTERSECTION TRIANGLE

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

4.29 PERMITTED USES IN ALL ZONES

The following Uses are permitted in all zones:

- (1) 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.
- (2) Public and private utility Buildings and Structures which are considered by Council to be necessary and appropriate to the Municipality, subject to such Lot requirements as Council deems appropriate.

4.30 CONSTRUCT IN ACCORDANCE WITH APPLICATION

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

4.31 DENYING PERMITS

- (1) No Development Permit shall be issued if the proposed Development could create a hazard to the general public or any resident of the Municipality or could injure or damage neighbouring property or other property in the Municipality, such as injury or damage to include but not be limited to water, drainage or other water run-off damage.
- (2) No Development Permit shall be issued if the proposed Development could create a health, fire or accident hazard.

4.32 UNDERGROUND PETROLEUM STORAGE TANKS

Underground Petroleum Storage Tanks shall require a Development Permit from the Town before installation may proceed. In processing such application, the Town 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 Town shall not issue a permit to the Developer until it has received WRITTEN approval from the appropriate authority. However, the written approval of the latter shall not alone be conclusive of the right to have a permit issued hereunder.

4.33 OUTDOOR SWIMMING POOLS

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

- (1) The land owner shall first secure a Development Permit from Council;
- (2) 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;
- (3) Any gate on such fence shall be capable of being locked;
- (4) Disposal of water after de-chlorination shall be either through the sanitary sewer system or carried off by truck unless otherwise authorized by Council; and

- (5) 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
- (6) the Swimming Pool shall not be located within a required yard that abuts a Street.

4.34 SURVEYS REQUIRED

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

4.35 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 signed by an engineer or architect licensed to practice in the Province of Prince Edward Island, certifying that the Building or premises or part thereof conform to the provisions of this Bylaw and any conditions noted on the Development Permit or the Development Agreement.

4.36 SUBDIVIDING OF ATTACHED DWELLINGS

Semi-detached and Row or Townhouse Dwellings may be divided independently for individual sale and ownership provided that:

- (1) A Subdivision of the Parcel of land has been approved by Council (such Subdivision to provide for appropriate easements or common area to allow entry by an owner of any portion of the Building to his back yard area);
- (2) the units must be separated from the basement floor to the underside of the roof by a vertical fire wall built in accordance with applicable National Building Code and Fire Code regulations;
- (3) a separate sewer service is provided for each unit in accordance with policies governing sewerage services for the Town;

- (4) a separate electrical service is provided for each unit;
- (5) a separate heating device is provided for each unit;
- (6) separate parking shall be provided for each unit unless Council waives same;
- (7) a copy of the agreement made between the owners covering the following terms is approved by Council and registered on the title of each unit:
 - (a) common walls
 - (b) maintenance
 - (c) fire insurance
 - (d) easements
 - (e) parking
 - (f) snow removal and
 - (g) any other items jointly owned or used
- (8) any other terms and conditions as may be imposed by Council.

4.37 GRADE OF SITE

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

4.38 LANDSCAPING

- (1) The provision and maintenance of adequate landscape buffering and/or appropriate fencing shall be required to the satisfaction of the Council between residential 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;
- (2) The provision and maintenance of adequate landscaping shall be required for new Development to the satisfaction of the Development Officer.
- (3) Where a C1 or a M1 Zone abuts a Residential or Agricultural Zone along a side and/or rear Lot line, a strip of not less than fifteen (15') ft. (4.5 m) in width along the said side and/or rear Lot shall be

landscaped to the satisfaction of the Development Officer as part of the Development for which a Development Permit has been granted.

4.39 NON-CONFORMING USES

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

4.40 BUSINESSES IN RESIDENTIAL ZONES / IN-HOME OCCUPATIONS

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

- (1) the Dwelling shall be occupied as a residence by the principal operator and the external appearance of the Dwelling shall not be changed by the business use.
- (2) there shall be no more than two non-resident assistants employed in the business or profession or the domestic and household arts carried on in the Dwelling.
- (3) not more than 25% of the total Floor Area of the Dwelling shall be occupied by the business or profession or domestic and household arts Use.
- (4) adequate off-street parking, in accordance with this Bylaw, separate from that required for the Dwelling, shall be provided.
- (5) there shall be no open storage or display area.
- (6) Premise signs may be permitted to a maximum of 400 square inches (0.27 sq. m.) in total.
- (7) for the purposes of tis Bylaw, domestic and household arts shall include:
 - (a) Dressmaking and tailoring
 - (b) Hairdressing
 - (c) Instruction in the arts (music, dance, etc.)
 - (d) Arts and crafts, weaving, painting, sculpture, and repair of garden or household ornaments, personal effects or toys
 - (e) A Business Office
 - (f) A Catering Establishment
 - (g) A Photographic Studio

4.41 RECREATIONAL TRAILERS OR VEHICLES

- (1) No person shall use or occupy a Recreational Trailer or Vehicle other than in an approved Campground, unless Council has issued a temporary permit for such use.

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

(3) A recreational trailer occupied in accordance with these Regulations shall be vacated or removed from the Lot or parcel of land immediately following expiry of the Development Permit.

4.42 MOBILE HOMES

No person shall place or occupy a Mobile Home on any Lot in the Town.

4.43 BED AND BREAKFAST

Bed and Breakfast establishments shall be permitted to operate in any Single Family Dwelling in any residential Zone subject to the following:

(1) the Dwelling shall be occupied as a residence by the principal operator and the external appearance of the Dwelling shall not be changed by the Bed and Breakfast operation;

(2) not more than three (3) rooms shall be offered for overnight accommodation;

(3) adequate off-street parking, in accordance with this Bylaw, separate from that required for the Dwelling, shall be provided.

(4) Premise Signs shall be restricted to a maximum of 900 sq.in.(0.625 sq. m.)

(5) there shall be no other signage, open storage or visible display area.

Notwithstanding 4.43 (2), Council may allow a larger number of rooms, where it deems that such a Development is appropriate and there would be no significant inconvenience or nuisance to adjoining properties.

SECTION #5 – WIND ENERGY SYSTEMS

5.1 DEFINITIONS

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

Wind Energy System (WES)

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

On-site Wind Energy System (OWES)

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

a) Micro OWES:

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

b) Small OWES:

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

c) Medium OWES:

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

Commercial Wind Energy System (CWES):

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

Turbine:

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

Total System Height:

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

Wind Turbine Tower:

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

Wind Turbine Tower Height:

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

Off-grid:

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

Behind the meter:

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

5.2 PERMITTED USE

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

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

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

5.3 DEVELOPMENT PERMITS AND AGREEMENTS

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

1. The development does not cause any hardship to surrounding property owners due to excessive noise, safety issues, traffic congestion or any other potential disturbance;
2. The development is deemed appropriate and complements the scale of any existing development;
3. Property owners within 200 m (600 feet) of the subject OWES shall be notified in writing of details of the proposed development and asked to provide their comments;
4. All other relevant provisions of this Bylaw and provincial *Planning Act* and related national regulations shall be met.

5.4 SHARED WIND ENERGY SYSTEMS

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

5.5 WALL OR ROOF-MOUNTED SYSTEMS

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

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

5.6 WIND TURBINE TOWER HEIGHT

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

5.7 SETBACK

1. The turbine base shall be no closer to the property line than the two times the height of the wind turbine.
2. No part of the wind system structure, including guy wire anchors, may extend closer than one meter (3 ft.) to the property boundaries of the installation site.
3. The tower height of any OWES shall not exceed 24.4 metres (80 feet) in any residential zone and 48.8 metres (160 feet) in any other zone.
4. Any OWES shall be located at a distance of at least 1.5 times the total system height from any habitable buildings.

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

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

5.8 NOISE

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

5.9 SHADOW FLICKER

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

5.10 NUMBER OF TURBINES

A maximum of one OWES per property is permitted.

5.11 COMPLIANCE WITH CANADIAN BUILDING CODE

Permit applications for small wind energy systems (OWES) shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings, anchoring method and drawn to scale. An engineering analysis of the wind turbine tower showing compliance with the Canadian Building Code and certified by a licensed professional mechanical, structural, or civil engineer shall also be submitted. Documentation of this analysis supplied by the manufacturer shall be accepted.

5.12 COMPLIANCE WITH AIR TRAFFIC SAFETY REGULATIONS

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

5.13 COMPLIANCE WITH EXISTING ELECTRIC CODES

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

5.14 UTILITY NOTIFICATION

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

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

5.15 ABANDONMENT OR DECOMMISSIONING

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

5.16 APPLICATION REQUIREMENTS

Applications shall contain the following information:

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

5.17 DESIGN REQUIREMENTS

1. Height

The minimum height of the lowest position of the WES blade shall be at least 6.1 metres (20 feet) for "mini" WES and at least 9.1 metres (30 feet) for "small" and "medium" WES above the ground and/or

above the highest structure or tree within a 91.4 metres (300 foot) radius.

2. Fencing, Safety and Lighting

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

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

5.18 CERTIFICATION AND DESIGN

- 1) The WES shall be designed and installed in accordance with CSA standards;
- 2) The safety of the design and installation of all WES towers shall be certified by a professional engineer licensed to practice in the Province of Prince Edward Island;
- 3) All WES shall be equipped with manual and automatic oversppeed controls to limit rotation of blades to speeds below the designed limits

of the conversion system. The professional engineer licensed to practice in the Province of Prince Edward Island shall certify that the rotor and overspeed control design and fabrication conform to proper engineering practices;

- 4) The WES shall be designed and installed to withstand natural lighting strikes as certified by a professional engineer licensed to practice in the Province of Prince Edward Island.

5.19 APPROVALS

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

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

5.20 SEVERABILITY

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

SECTION #6 - SIGNAGE

6.1 SIGNAGE

No Person shall Erect, Alter or enlarge a Sign within the boundaries of the Town of O'Leary except in conformance with the provisions of this Section and any other relevant provisions of this Bylaw, and without first applying for and receiving a permit from Council.

6.2 GENERAL

- (1) No Off-Premise Signs shall be permitted with the following exceptions:
 - (a) directional and information Signs erected within the public Right-of-Way as part of the Highway Information Signage System (HISS);

- (b) up to two (2) commercial directional signs, as approved by Council, with a maximum size of 48 inches by 18 inches stating only the name of the business, distance and an arrow pointing left, right or straight ahead; and
 - (c) directional signs for public buildings or facilities, as approved by Council.
- (2) An indoor Sign shall not be considered a Sign for the purpose of this Bylaw unless it is placed within a window and can be viewed from outside of the Building.
 - (3) No Temporary Sign permit shall be effective for a period of more than 30 days.
 - (4) Internally lit Signs shall be permitted provided that the light source is concealed by a diffusive material.
 - (5) Signs lit by external illumination shall have the light source directed at the Sign and no illumination shall be aimed at the roadway. No stray illumination from external light sources shall be permitted to shine on the roadway or adjacent residentially or agriculturally zoned land.
 - (6) No Sign shall be erected or placed on the side or rear of a Building, or within a Side or Rear Yard where such Yard abuts a Serviced Residential or Agricultural zone.

6.3 MAINTENANCE

- (1) All Signs shall be made of durable materials and shall be maintained in good condition.
- (2) A Development Officer who identifies a Sign which may be unsafe to the public, either as an adjunct to pursuing his/her normal activities or in response to a concern from a member of the public, may order the Property Owner to have such Sign repaired to a safe condition or to be removed.
- (3) The Development Officer may order a Property Owner to immediately remove any Sign relating to a business or activity which is no longer active, or which carries no advertising or has missing parts.

- (4) Subsection (3) above shall not apply to a seasonal enterprise that normally closes during part of the year, however, a Sign advertising a seasonal enterprise shall either indicate the time of year the enterprise is in operation or the time of year it is not in operation.
- (5) Where any Property Owner does not comply with an order issued under subsection (2) or (3) above, the Town may remove the Sign cited in the order at the cost of the Property Owner and the Town may take such judicial proceedings as necessary to enforce this section.

6.4 NUMBER OF SIGNS

- (1) For the purposes of this section, a Sign with two or more faces such as a Projecting Sign or Free-Standing Sign shall count as one Sign.
- (2) Other than directional Signs containing no promotional content, only one (1) free-standing Sign shall be erected on any commercial or industrial Lot; except where a Lot is bordered by more than one Street, in which case one (1) free-standing Sign may be permitted along each Street line.

6.5 SIGNS PERMITTED IN ALL ZONES

- (1) The following Signs shall be permitted in all zones and no Development Permit shall be required, but the Signs shall be subject to all requirements of this Bylaw:
 - (a) Signs identifying the name and address of a Resident and not more than 0.3 square metres (465 square inches) in area;
 - (b) Signs for regulating the Use of Property such as “NO TRESPASSING” and of not more than 0.3 square metres (465 square inches) in area;
 - (c) real estate Signs, placed on the Lot, which advertise the sale, rental or lease of a Lot or Building on a Lot of not more than 0.93 square metres (10 square feet);
 - (d) on-premise directional or traffic control Signs not more than 0.3 square metres (465 square inches) in area;
 - (e) Signs erected by a government body or under the direction of a government body;

- (f) Memorial Signs or Tablets;
- (g) Community identification Signs;
- (h) outdoor recreational facility identification Signs of not more than 3.7 square metres (40 square feet) in area;
- (i) entrance Display identification Signs for residential neighbourhoods or business parks of not more than 3.7 square metres (40 square feet) in area;
- (j) the flag or insignia of any government, religious, charitable or fraternal organization;
- (k) temporary election Signs;
- (l) Temporary Signs advertising a construction firm in the area where the construction is taking place;
- (m) church identification Signs;
- (n) flags and buntings exhibited to temporarily commemorate national or civic holidays and temporary banners announcing charitable events, civic events, or grand openings;
- (o) signs erected pursuant to Sections 4.40 and 4.43.

6.6 SIGNS PROHIBITED IN ALL ZONES

- (1) The following Signs shall be prohibited in all zones:
 - (a) flashing Signs, Roof Signs, Signs containing moving parts and reflective elements which sparkle or twinkle when lighted or Signs containing strings of bulbs;
 - (b) Signs which Use the words “stop”, “caution”, “danger” or incorporate red, amber or green lights resembling traffic signals, or resemble traffic control Signs in shape or colour, except government traffic or regulatory Signs;
 - (c) any Signs which, in the opinion of the Development Officer, represent a safety hazard;

- (d) any Signs that obstruct or detract from the visibility or effectiveness of any traffic Sign or control device or constitutes a hazard to pedestrian or vehicular traffic due to restriction of view planes at intersections or due to the intensity or direction of illumination;
- (e) any Signs that obstruct the free egress from any fire exit door, window, or other required exit way;
- (f) Signs painted on, attached to, or supported by a tree, or other natural objects;
- (g) Off Premise Signs; and
- (h) Signs painted, embossed or applied to the roof of a building.

6.7 FASCIA SIGNS

- (1) Fascia Signs shall be permitted on Buildings in commercial, industrial, institutional, comprehensive Development area, and recreation zones and shall project no more than 46 centimetres (18 inches) from the wall of the Building and shall be no higher than the eave or top of a parapet wall;
- (2) The area of a fascia Sign shall not exceed ten (10) percent of the area of the wall on which the Sign is to be located, or 7 square metres (75 square feet), whichever is less.
- (3) The area of Fascia Signs shall be calculated as a block, including any individual letters and the total area covered by symbols and blocks of text including the spaces between them.
- (4) Notwithstanding the above, Fascia Signs may be permitted in Residential or Agricultural Zones pursuant to Section 4.40 and 4.43.

6.8 PROJECTING SIGNS

- (1) A Projecting Sign shall:
 - (a) not have a Sign face larger than 0.5 square metres (5.4 square feet);

- (b) not project further than 1.1 metres (3.6 feet) from the Building wall and be at least 2.2 metres (7.2 feet) from the ground;
- (c) not project above the wall to which it is affixed;
- (d) be limited to one (1) per business;
- (e) not extend beyond the Property line of the Property on which it is erected;
- (f) not swing freely on its support; and
- (g) not obstruct pedestrian or vehicular traffic on the Lot or impede visibility for pedestrians or traffic accessing the Lot.

6.9 FREE-STANDING SIGNS

- (1) Free-standing Signs shall be permitted in commercial, industrial, institutional zones and shall:
 - (a) be permitted if compatible with the Building in scale and colour;
 - (b) not have a Sign face greater than 6 square metres (64 square feet) and a width not exceeding four times the height;
 - (c) be set back at least 2.5 metres (8.5 feet) from the Property line; and
 - (d) not exceeding 8 metres (26 feet) in height above the average finished Grade of the Lot.
- (2) Where there are more than one (1) commercial businesses on a single Lot:
 - (a) all businesses on the same Lot shall share one (1) Free-Standing Sign;
 - (b) the total size of any shared Sign shall be no greater than 6 square metres (64 square feet) for each Use or a total of 14 square metres (150 square feet) and the width shall not exceed four times the height; and

- (c) where a Sign for a Building is shared by more than one (1) commercial business the Sign elements for all businesses must be of similar material and lettering design to produce a uniformity of a signage for the common facility. Logos may be incorporated into the common Sign.

6.10 CANOPIES OR AWNINGS

- (1) Signs incorporated into a canopy or awning are permitted on the Building and shall be considered as Fascia Signs.

6.11 SANDWICH SIGNS

- (1) Temporary Sandwich Signs shall not be permitted to be placed within the boundaries of the Town unless a temporary permit has been issued by Council.
- (2) Council may grant temporary permits for commercial Sandwich Signs for a period not to exceed six (6) months, where Council deems there will be no nuisance or hazard caused to the general public and where the Sign does not detract from the appearance of the property or the area.
- (3) Council may revoke a temporary permit issued pursuant to this Section at any time where Council deems that the applicant or Property Owner has not conformed to the provisions of this Section.
- (4) Where a temporary permit has been revoked, the Development Officer shall have the authority to enter upon the property and remove the Sandwich Sign.

6.12 SIGNS FOR SPORTS FIELDS AND OUTDOOR STADIUMS

- (1) Notwithstanding anything else in this Bylaw, Council may issue a permit for sponsorship Signs for a Sports Field or Outdoor Stadium where the Signs are attached to an approved Structure that is required for the sport or arena, and where the Signs face into the field or arena. A Development Agreement shall be executed between the Property Owner and the Town, at the Property Owner's expense, to specify the number, size, shape, location, promotional content and maintenance program for the Signs.

SECTION #7 – PARKING REQUIREMENTS

7.1 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.

7.2 PARKING REQUIREMENTS

	Primary Type of Building	# of Parking Spaces
a)	Residential	1.5 per dwelling unit (minimum of 2)
b)	Auditoriums, churches, halls, theatres	1 per 4 seats
c)	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)
d)	Restaurant or Lounge	1 per 4 seats and a minimum of 10
e)	Business and Professional Offices, Service and Personal Service Shops	1 parking space per 28.0 sq. metres (300 sq. ft.) of floor area.
f)	Warehouse and storage facilities and other industrial uses	1 per employee and 1 per loading bay
g)	Other Commercial uses	1 per 300 sq. ft. (28 sq. m) of floor area
h)	Other Institutional or Recreation Uses	1 per 400 sq. ft. (37.2 sq. m) of floor area
i)	Other Industrial uses	1 per employee and 1 per loading space

7.3 ADDITIONAL PARKING SPACES

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

7.4 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 sixty 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.

7.5 LOADING ZONES

- (1) In any commercial, industrial or institutional Zone, no person shall Erect or Use any Building or Structure for manufacturing, storage, warehouse, department store, retail store, wholesale store, market, freight or passenger terminal, hotel, hospital, mortuary or other uses involving the frequent shipping, loading or unloading of persons, animals, or goods, unless there is maintained on the same premises with every such Building, Structure or Use one (1) off-street space for standing, loading and unloading for every thirty thousand (30,000) sq. ft. (2,790 sq. m.) or fraction thereof of building Floor Area used for any such purpose;

- (2) Each Loading Space shall be at least twelve feet (12') (3.6 m) wide with a minimum of fourteen ft. (14') (4.25 m) height clearance.
- (3) The provision of a Loading Space for any Building with less than fifteen hundred (1,500) sq. ft. (139.5 sq. m.) shall be optional.
- (4) No such Loading Spaces shall be located within any required Front Yard or be located within any Yard which abuts a Serviced Residential, Agricultural or Open Space Zone, unless in the opinion of Council adequate screening is provided.

SECTION #8 – SINGLE FAMILY RESIDENTIAL ZONE (R1)

8.1 GENERAL

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

8.2 PERMITTED USES

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

- (1) Single Family Dwellings
- (2) Accessory Buildings
- (3) Private Garages
- (4) Bed and Breakfasts containing up to three (3) rental bedrooms
- (5) Accessory Apartments

8.3 SPECIAL PERMIT USES

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

- (1) Group Homes
- (2) Child Care Facilities
- (3) Mini-Homes
- (4) Bed and Breakfasts containing more than three (3) bedrooms

8.4 LOT REQUIREMENTS

The following regulations shall apply to centrally serviced development in an R1 Zone:

- | | | |
|-----|--------------------------------|---------------------------------|
| (1) | Minimum Lot Area | (SEE Appendix “B”) |
| (2) | Minimum Lot Frontage | 100 feet (30 m) |
| (3) | Minimum Front Yard | 20 feet (6 m) |
| (4) | Minimum Rear Yard | 15 feet (4.5 m) |
| (5) | Minimum Side Yard | 10 feet (3 m) |
| (6) | Minimum Flankage Yard | 20 feet (6 m) |
| (7) | Maximum Height of any Building | 2.5 Stories or 35 feet (10.5 m) |
| (8) | Maximum Lot Coverage | 25% |

All Lots shall be connected to central municipal sanitary sewer services.

SECTION#9 – TWO FAMILY RESIDENTIAL ZONE (R2)

9.1 GENERAL

Except as provided in this Bylaw, all Buildings and parts thereof erected, placed or altered or any land used in an R2 Zone shall conform with the provisions of this Section.

9.2 PERMITTED USES

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

- (1) Single Family Dwellings
- (2) Duplex or Semi-Detached Dwellings
- (3) Accessory Buildings
- (4) Private Garages
- (5) Accessory Apartments in Single Family Dwellings
- (6) Bed and Breakfasts with up to three (3) bedrooms in a Single Family Dwelling

9.3 SPECIAL PERMIT USES

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

- (1) Group Homes

- (2) Child Care Facilities
- (3) Bed and Breakfasts containing more than three (3) bedrooms in a Single Family Dwelling

9.4 LOT REQUIREMENTS

The following regulations shall apply to centrally serviced development in an R2 Zone:

- (1) Minimum Lot Area (see Appendix “B”)
- (2) Minimum Frontage 100 feet (30m)
- (3) Minimum Front Yard 20 feet (6m)
- (4) Minimum Rear Yard 15 feet (4.5 m)
- (5) Minimum Side Yard 10 feet (3 m)
- (6) Minimum Flankage Yard 20 feet (6m)
- (7) Maximum Height of any Building 2.5 stories or 35 feet (10.5m)
- (8) Maximum Lot Coverage 35%

All lots shall be connected to central municipal sanitary sewer services.

SECTION#10 – MULTI FAMILY RESIDENTIAL ZONE (R3)

10.1 GENERAL

Except as provided in this Bylaw, all Buildings and parts thereof erected, placed or altered or any land used in an R3 Zone shall conform with the provisions of this Section.

10.2 PERMITTED USES

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

- (1) Single Family Dwellings
- (2) Duplex or Semi-Detached Dwellings
- (3) Multi Family Dwellings up to twelve (12) units
- (4) Townhouse and Row House Dwellings
- (5) Accessory Buildings
- (6) Private Garages

10.3 SPECIAL PERMIT USES

Notwithstanding Section 10.2 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) Group Homes
- (2) Child Care Facilities
- (3) Multi Family Dwellings greater than twelve (12) units

10.4 LOT REQUIREMENTS

The following regulations shall apply to centrally serviced development in an R3 Zone:

- | | | |
|-----|--------------------------------|--------------------------------|
| (1) | Minimum Lot Area | (see Appendix "B") |
| (2) | Minimum Frontage | 100 feet (30m) |
| (3) | Minimum Front Yard | 20 feet (6m) |
| (4) | Minimum Rear Yard | 15 feet (4.5 m) |
| (5) | Minimum Side Yard | 10 feet (3 m) |
| (6) | Minimum Flankage Yard | 20 feet (6m) |
| (7) | Maximum Height of any Building | 2.5 stories or 35 feet (10.5m) |

All lots shall be connected to central municipal sanitary sewer services

SECTION#11 – MINI HOME RESIDENTIAL ZONE (RM)

11.1 GENERAL

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

11.2 PERMITTED USES

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

- (1) Mini Homes
- (2) Mini Homes in a Mini Home Park
- (3) Single Family Dwellings
- (4) Accessory Buildings
- (5) Private Garages

11.3 LOT REQUIREMENTS

The following regulations shall apply to centrally serviced development in an RM Zone:

- | | | |
|-----|--------------------------------|--------------------------------|
| (1) | Minimum Lot Area | (see Appendix “B”) |
| (2) | Minimum Frontage | 100 feet (30m) |
| (3) | Minimum Front Yard | 20 feet (6m) |
| (4) | Minimum Rear Yard | 15 feet (4.5 m) |
| (5) | Minimum Side Yard | 10 feet (3 m) |
| (6) | Minimum Flankage Yard | 20 feet (6m) |
| (7) | Maximum Height of any Building | 2.5 stories or 35 feet (10.5m) |

All lots shall be connected to central municipal sanitary sewer services. Mini Home Parks shall be approved at the discretion of Council and pursuant to such conditions as Council may impose and shall also conform to the lot Standards in Appendix B

SECTION #12 – AGRICULTURAL ZONE (A1)

12.1 GENERAL

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

12.2 PERMITTED USES

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

- (1) Single Family Dwellings
- (2) Mini-Homes
- (3) Resource Uses
 - Agricultural Uses including barns, stables, other Accessory Buildings and residential uses directly related to the Farm operation
- (4) Forestry Uses
- (5) Bed and Breakfasts

12.3 SPECIAL PERMIT USES

Notwithstanding Section 12.2 above, Council may issue a Special Development Permit for the following uses where it deems the Development

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

- (1) Group Homes
- (2) Duplex Dwellings
- (3) Child Care Facilities
- (3) Inns and Bed and Breakfasts with over 3 bedrooms
- (4) Resource Based Commercial Uses
- (5) Resource Based Industrial Uses

12.4 LOT REQUIREMENTS

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

- (1) Minimum Lot Area 1 Acre
- (2) Minimum Frontage 150 feet (45 m)
- (3) Minimum Front Yard 50 feet (15 m)
- (4) Minimum Rear Yard 50 feet (15 m)
- (5) Minimum Side Yard 15 feet (4.5 m)
- (6) Maximum Height of Any Building 2.5 Stories or 35 feet (10.5 m)
- (7) Minimum Floor Area 500 sq. ft.
- (8) Maximum Lot Coverage 10%

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

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 Dwellings 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.

12.5 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	500 feet (150 m)
Distance of new Dwellings from an existing Intensive Livestock Operations	500 feet (150 m)
Distance from public Road	150 feet (45 m)
Distance from any domestic well	500 feet (150 m)
Distance from any Lot Line	50 feet (15 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 may also be required to undertake an Environmental Impact Assessment in conjunction with the Department of Environment and provide details of the assessment to Council as part of the application process.

SECTION #13 – GENERAL COMMERCIAL ZONE (C1)

13.1 GENERAL

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

13.2 PERMITTED USES

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

- (1) Retail Stores
- (2) Business and Professional Offices
- (3) Service and Personal Service Shops
- (4) Banking and Financial Institutions
- (5) Restaurants and Lounges
- (6) Hotels, Motels or other Tourist Establishments
- (7) Entertainment Facilities
- (8) Accessory Buildings
- (9) Transient or Temporary Commercial
- (10) Funeral Homes
- (11) Public Parking Lots
- (12) Single Family Dwellings
- (13) Multi Family Dwellings
- (14) Other uses deemed by Council to be compatible with the surrounding uses in the zone.

13.3 SPECIAL PERMIT USES

Notwithstanding Section 13.2 above, Council may issue a special development permit for the following uses where it deems the development is appropriate, all other relevant provisions of this Bylaw are met and subject to such conditions as Council may impose:

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

13.4 SERVICING

Where central sanitary sewer and/or water services are available, all development shall be connected to these services.

13.5 LOT REQUIREMENTS

The same Lot requirements as noted under Section 8.4 shall apply to all C1 developments with the exception of Lot Coverage.

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

Notwithstanding the above, Council may also grant approval for a development in a C1 Zone with less than the Minimum Required Front Yard Setback, in order to conform to the established Building setback on a commercial streetscape.

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

Where a Commercial Development located on lands zoned General Commercial (C1) directly abuts on any Residential or Agriculture Zone, the following conditions shall be complied with:

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

13.7 DWELLINGS IN COMMERCIAL BUILDINGS

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

- (1) the Dwelling unit shall not be above a restaurant, lounge, automobile service station, dry cleaning establishment or repair shop storing explosive materials;
- (2) separate entrances serve the Dwelling unit;
- (3) for each Dwelling unit, 400 sq. ft. (47 sq. m.) of landscaped open area and 1.0 Parking Spaces are provided;
- (4) each Dwelling unit meets the requirements of the Provincial Fire Marshall;
- (5) the Floor Area in residential use is a minimum of four hundred (400) sq. ft. and does not exceed the commercial Floor Area.

13.8 TRANSIENT OR TEMPORARY COMMERCIAL PERMITS

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

- (1) the Development shall not result in any traffic hazard;
- (2) the Development shall not interfere with the parking requirements of permanent users of the Lot in which the Development will be located;
- (3) the Development shall not create a public nuisance;
- (4) the temporary permit shall not exceed a four (4) week period;
- (5) the applicant shall provide a letter of approval from the owner of the Lot on which the temporary Development will be situated;
- (6) where required, the applicant shall satisfy Council that such Development complies with all health regulations.

13.9 AUTOMOBILE SERVICE STATION

- (i) Notwithstanding any other provisions of this Bylaw, the following special provisions shall apply to an Automobile Service Station:
 - (a) Minimum Lot Frontage 150 ft. (45 m)
 - (b) Minimum Pump Setback 20 ft. (6 m)
 - (c) Minimum Pump Distance from access or egress 30 ft. (9 m)
 - (d) Minimum Width of Driveway 25 ft. (7.5 m)
- (ii) Where the service station includes an automobile washing facility, all washing operations shall be carried out inside the Building.

13.10 PARKING IN FRONT OF BUILDING

Where parking is provided in front of any Building in a C1 Zone a minimum five foot (5') (1.5 m) landscaped buffer shall be provided between the parking area and the Street boundary.

SECTION #14 – INDUSTRIAL ZONE (M1)

14.1 GENERAL

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

14.2 PERMITTED USES

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

- (1) Manufacturing and Assembly
- (2) Warehousing
- (3) Transport Operations
- (4) Activities connected with the Automobile Trade other than a scrap yard
- (5) Wholesale Operations
- (6) Business and Professional Offices
- (7) Service Shops
- (8) Commercial uses accessory to a main use permitted in a M1 Zone
- (9) Restaurants and Cafeterias
- (10) Farm Machinery and Heavy Equipment Dealerships and Repair Shops
- (11) Heavy Equipment Depots
- (12) Contractors Yard
- (13) Accessory Buildings

Notwithstanding the foregoing, any Use which is deemed by Council to be obnoxious by reason of sound, odor, dust, fumes, smoke or as noted in Section 2.73 shall be denied approval.

14.3 SPECIAL PERMIT USES

Notwithstanding Section 14.2 above, Council may issue a Special Development Permit for the following Uses where it deems the Development is appropriate, all other relevant provisions of this Bylaw are met and subject to such conditions as Council may impose:

- (1) Storage of Sand and Aggregate
- (2) Asphalt Plants
- (3) Concrete Plants

- (4) Food Processing
- (5) Auto Salvage Facility

14.4 LOT REQUIREMENTS

The same Lot requirements as noted under Section 13.5 shall apply to all Development in a M1 Zone.

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

14.5 EXCEPTIONS TO MAXIMUM BUILDING HEIGHT

Notwithstanding Section 14.4 and 4.28, Council may approve an application for a structure exceeding the Maximum Building Height of 2.5 Stories in the Industrial (M1) Zone provided:

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

14.6 SPECIAL REQUIREMENTS: INDUSTRIAL ZONE ADJACENT TO RESIDENTIAL ZONES OR AGRICULTURAL ZONES

The special requirements as delineated in Section 13.6 of this Bylaw also apply in a M1 Zone.

14.7 ENVIRONMENTAL IMPACT ASSESSMENT

Where a proposed industry may occasionally have heavy usage of Public Roads, sewerage or water systems or have a significant environmental impact on the surrounding area, Council may prepare terms of reference for, and require the Developer to undertake an Environment Impact Assessment, in

conjunction with the Provincial Department of the Environment, prior to consideration of a Development Permit application by Council.

SECTION #15– RECREATION AND OPEN SPACE ZONE (01)

15.1 GENERAL

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

15.2 PERMITTED USES

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

- (1) Public and Private Parks
- (2) Open Space and Conservation Activities
- (3) Golf Courses
- (4) Recreational Uses
- (5) Pavillions and Band Shells
- (6) Recreation Administrative Offices
- (7) Parking lots related to the above
- (8) Accessory Buildings

15.3 LOT REQUIREMENTS

- | | | |
|-----|----------------------------|---------------------------------|
| (1) | Minimum Lot Area | 1 Acre (.40 hectares) |
| (2) | Minimum Lot Frontage | 150 feet (45m) |
| (3) | Minimum Front Yard | 50 feet (15 m) |
| (4) | Minimum Rear Yard | 50 feet (15 m) |
| (5) | Minimum Side Yard | 25feet (7.5 m) |
| (6) | Maximum Height of Building | 2.5 stories or 35 feet (10.5 m) |

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

Notwithstanding the above, Council may waive Minimum Lot Requirements where the Recreation or Open Space Use will not have any Buildings or washrooms associated with the use.

SECTION #16 – PUBLIC SERVICE AND INSTITUTIONAL ZONE (PSI)

16.1 GENERAL

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

16.2 PERMITTED USES

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

- (1) Institutional Buildings and uses
- (2) Group Homes
- (3) Civic Centres
- (4) Accessory Buildings
- (5) Public and Private Parks
- (6) Recreational Uses
- (7) Clubs
- (8) Government Buildings (Federal, Provincial & Municipal)

16.3 LOT REQUIREMENTS

The following regulations shall apply to development in a PSI Zone:

- | | | |
|-----|---|--------------------------------------|
| (1) | Minimum Lot Area | .5 Acre |
| (2) | Minimum Frontage | 150 ft. (45 m) |
| (3) | Minimum Front Yard | 50 ft. (15 m) |
| | | (if no parking in front of building) |
| (4) | Minimum Flankage Yard (same as front yard requirements above) | |
| (5) | Minimum Side Yard | 20 ft. (6 m) |
| (6) | Minimum Rear Yard | 25 ft. (7.5 m) |
| (7) | Maximum Height | 2.5 stories or 35 ft. (10.5 m) |

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

16.4 PARKING IN FRONT YARD

Where parking is provided in front of any Building in a PSI Zone a minimum ten foot (10’) (3 m) landscaped buffer shall be provided between the parking area and the Street boundary.

SECTION #17– ENVIRONMENTAL RESERVE ZONE (02)

17.1 GENERAL

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

17.2 PERMITTED USES

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

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

17.3 ZONE BOUNDARIES

The Zone Boundaries shall be interpreted to include all the area defined as either a “Wetland” or “Watercourse” in Section 2.116 plus a fifty foot (50’) buffer zone.

17.4 ZONE REQUIREMENTS

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

SECTION #18 –VARIANCES

18.1 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.

18.2 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 18.1;
 - (b) the owners of adjoining properties have been notified of the proposed variance, and given the opportunity to comment on the matter.
- (2) Where Council deems that a variance application could have a significant effect on adjacent properties or properties in the general vicinity, Council may require that a public meeting be held pursuant to the provisions of Section 19.6.

SECTION #19– AMENDMENTS

19.1 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).

19.2 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.

19.3 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 Subsection 19.3 (a) above 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.

19.4 NOTICE TO PROPERTY OWNERS

- (a) Subject to Section 19.5 when an application for a re-zoning is being considered by Council, all affected property owners within a five hundred foot (500') (15.2 m) radius of the subject property shall be notified of the application by the administrator.
- (b) This notification of affected property owners set out in clause (a) shall be in addition to the advertisements for the public hearing, and shall be delivered to all affected property owners by mail at least seven (7) clear days prior to the date fixed for the public meeting.

19.5 COUNCIL'S REVIEW

- (a) Council shall determine whether or not to pursue such an amendment, and before making any decision shall examine the Official Plan to ensure that the proposed amendment will not be contrary to any policy within the Official Plan.

- (b) No amendment shall be made in these Bylaws which would be contrary to any policy of the Official Plan without a review and amendment of the Official Plan in accordance with the requirements of Section 18 (2) of the *Planning Act* (1988).

19.6 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 #20 – GENERAL PROVISIONS FOR SUBDIVIDING LAND

20.1 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.

20.2 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.

20.3 PERMISSION TO SUBDIVIDE

No person shall Subdivide land within the Town unless the Subdivision:

- (1) conforms with the requirements of this Bylaw;
- (2) is suitable to the topography, physical conditions, soil characteristics, and natural and surface drainage of the land;
- (3) will not cause undue flooding or erosion;
- (4) has convenient street access;
- (5) has adequate utilities and services available or can be conveniently provided with such utilities and services;
- (6) will reasonably conform with existing land use in the immediate vicinity;
- (7) will provide for safe and convenient traffic flow;
- (8) is designed so that Lots will have suitable dimensions, shapes, orientation and accessibility;
- (9) is suitable to the use for which it is intended, and the future Use of adjacent lands;
- (10) the Parcel of land in respect of which the permit is requested has frontage on a public Road or a private right-of-way established pursuant to Section 4.12 of this Bylaw;
- (11) would not be detrimental to the convenience, health or safety of residents in the vicinity or the general public;
- (12) would not precipitate premature Development, necessitate unnecessary public expenditure, or would place undue pressure on the Town or Province to provide services; or
- (13) would not result in undue damage to the natural environment.

20.4 CHANGES TO EXISTING LOTS

- (1) No person shall reduce the dimensions or change the Use of any Lot in an approved Subdivision where Council deems these would be a detrimental effect on neighbouring property owners.
- (2) Where an application to Subdivide land would change the dimensions or the use of a Lot in an existing approved Subdivision, Council shall notify all property owners within 500 feet (152 metres) of the boundaries of the Lot in writing, informing them of the details of the application and soliciting their comments.

20.5 SPECIAL REQUIREMENTS – AGRICULTURAL (A1) ZONE

- (1) Within an Agricultural (A1) Zone:
 - (a) a residential Subdivision shall not be permitted within 150 metres (500 feet) of an existing intensive livestock operation.
 - (b) where a residential Subdivision is proposed, Council shall notify operators of intensive livestock operations within 300 metres (1,000 feet) and invite their comments.
- (2) Notwithstanding the above, Council may authorize the Subdivision and consolidation of farmland for farm purposes, provided that any residual parcels which are created comply with the provisions of this Bylaw
 - (a) where a new intensive livestock operation is proposed within 300 metres (1,000 feet) of an existing residential Subdivision Council shall notify the Property owners and invite their comments.

20.6 SPECIAL REQUIREMENTS – COASTAL SUBDIVISIONS

- (1) Where a Subdivision is located along a Coastal Area or Watercourse, the Subdivision shall include the following:
 - (a) public access to the beach or Watercourse if the Property being subdivided includes frontage on a beach or Watercourse, with at least one access to be located approximately every 200 metres (656 ft.) of Watercourse Frontage;

- (b) where appropriate, the area to be set aside as Parkland dedication shall be located at least in part along the Watercourse; and
- (c) beach and Watercourse accesses shall measure at least 20 ft. (6.1 metres) in width.

20.7 PARKLAND DEDICATION AND/OR PARK DEDICATION FEE

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

- (1) Council shall have the power to determine which land within the subdivision shall be deeded; and
- (2) Where no dedication of land is deemed appropriate with respect to the severing of two (2) or more Lots, Council shall require a cash payment equivalent to ten percent (10%) of the value of the land after subdivision approval. Any monies so collected shall be designated for the purpose of purchase or maintenance of recreational and public open space lands within the Town.

20.8 SUBDIVISION AGREEMENT

Council may require an applicant to enter into a Subdivision agreement as a condition of Subdivision approval. The Subdivision agreement may cover any matters as required by Council and may include, but be limited to the following:

- (1) design and construction costs of water supply, sanitary and storm sewers, Roads, and Street lighting;
- (2) dedication of land for recreation and public open space purposes, or payment of a fee in lieu of land;
- (3) deeding of Roads to the Province;
- (4) deeding of utility systems to the Town;
- (5) posting of a financial guarantee satisfactory to Council;

- (6) assignment of costs associated with the drafting and execution of this agreement; and
- (7) any other matter(s) that Council deems necessary to conform with this Bylaw or to ensure the health, safety and convenience of Town residents and the travelling public.

All subdivision agreements shall be registered in the Registry of Deeds at the cost of the Developer.

20.9 APPLICATION AND APPROVAL PROCESS

- (1) Applications to Subdivide land in the Town of O’Leary shall be submitted on a form as prescribed by Council.
- (2) All Subdivision applications may be required to be accompanied by the following:
 - (a) an orthophoto showing the location of the land and all adjoining Properties;
 - (b) a description of land uses on the surrounding properties;
 - (c) a contour map showing the topography of the site with at least 2 metre (6.5 ft.) contour lines;
 - (d) a conceptual design showing the location and dimensions of all proposed Lots, Roads, sidewalks, walkways and trails, Parks and Open Space, streams, Wetlands and other site features such as woodlands.
- (3) The Development Officer may require such other information as may reasonably be required to assess the impact of any Subdivision, including but not limited to the following:
 - (a) a written assessment by the Provincial Government on any potential Environmental impacts, including any requirements imposed by provincial legislation or regulations;
 - (b) soil and water testing;
 - (c) a written assessment by the Provincial Government on any access, transportation or pedestrian issues related to the design;
 - (d) a storm water management plan prepared by a qualified engineer;

- (e) a conceptual servicing plan prepared by a qualified engineer;
 - (f) 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 20 .8.

20.10 FINAL APPROVAL

- 1. Final subdivision approval shall be granted by Council only after the applicant has complied fully with all applicable requirements of this Section and has submitted seven (7) copies of a final Subdivision plan showing all Lots pinned and certified by a an accredited member of the Association of Prince Edward Island Land Surveyors.
- 2. The Development Officer, on behalf of Council, shall give notice of final approval of a Subdivision in writing to the applicant. Council shall place its approval stamp on the seven (7) copies of the survey plan and shall return one copy to the applicant.
- 3. Final approval of a Subdivision plan shall not be given by Council until:
 - (a) the survey plan has been submitted for recommendations to any appropriate Provincial or Federal government departments;
 - (b) all agreements and other pertinent documents have been prepared and concluded to the satisfaction of Council;
 - (c) all transactions involving the transfer of money or land in conjunction with the Subdivision of land have been secured to the satisfaction of Council,

- (d) a digital file containing the (real earth) geographic co-ordinates of said plan of Subdivision has been submitted.

20.11 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.

20.12 BUILDING PERMITS

A Development Permit shall not be issued in a Subdivision until all the requirements of the Subdivision approval have been fulfilled.

SECTION #21– APPEAL AND ENFORCEMENT

21.1 APPEAL

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

21.2 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 (\$,2000.00) dollars in each case together with the cost of prosecution and in default of payment of the fine and costs, to imprisonment for a term not exceeding three (3) months, unless the fine and costs of enforcing the same, are sooner paid.
- (ii) Where the offence is a continuing offence, to a fine not exceeding four hundred (\$400.00) dollars for every day the said offence continues, together with the cost of prosecution, and in default of payment of the fine or costs, to imprisonment not exceeding three (3) months, unless the fine and costs of prosecution are paid within the time provided by the court.
- (iii) The Judge presiding on any prosecution under this Bylaw may fix the costs of prosecution to be paid by the person found guilty hereunder.
- (iv) The provisions of this Bylaw may be enforced by Council via injunction.

SECTION #22- REPEAL

22.1 EFFECTIVE DATE

This Bylaw shall come into force effective _____.

22.2 REPEAL

The Town of O'Leary Zoning and Subdivision Control Bylaw, 2000 is hereby repealed.

APPENDIX “A”

OFFICIAL ZONING MAP

APPENDIX “B”

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

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

a) Servicing	b) Lot Category	c) Minimum Lot Frontage	d) Number of Dwelling Units	e) Minimum Lot Area sq. ft./sq. m	f) Minimum Circle Diameter to be contained within the boundaries of the lot feet/metres
On-site water supply and on-site sewerage disposal system	I	100 feet/ 30.5 m (or 50 feet/15.25 m, where the frontage is on the interior curve of a street)	1	25,000 sq.ft./2,322.5 sq.m	150 ft./ 45.7 m
			2	30,000 sq.ft./2,787 sq.m	160 ft./ 48.8 m
			3	35,000 sq.ft./3,251.5 sq.m	175 ft./ 53.3m
			4	40,000 sq.ft./3,717 sq.m	200 ft./ 61m
			more than 4	40,000 sq.ft./3,717 sq.m plus 1,500 sq.ft./457 sq.m for each additional unit	200 ft./ 61 m
On-site water supply and on-site sewage disposal system	II	100 feet/ 30.5 m (or 50 feet/15.25 m, where the frontage is on the interior curve of a street)	1	35,000 sq.ft./3,251.5 sq.m	175 ft./ 53.3 m
			2	40,000 sq.ft./3,717 sq. m	200 ft./ 61 m
			3	45,000 sq.ft./4,180.5 sq.m	225 ft./ 68.6 m
			4	50,000 sq.ft./4,645 sq. m	250 ft./ 76.2 m
			more than 4	50,000 sq. ft./4,645 sq.m, plus 1,500 sq.ft./457sq. m for each additional unit	250 ft./ 76.2 m

On-site water supply and on-site sewage disposal system	III	100 feet/ 30.5 m (or 50 feet/ 15.25 m, where the frontage is on the interior curve of a street)	1	51,000 sq.ft./4,738 sq.m	225 ft./ 68.6 m
			2	56,000 sq.ft./5,202 sq. m	250 ft./ 76.2 m
			3	61,000 sq.ft./5,667 sq. m	275 ft./ 83.8 m
			4	66,000 sq.ft./6,131 sq. m	300 ft./ 91.4 m
			more than 4	66,000 sq.ft./6,131 sq.m Plus 1,500 sq.ft./457 sq.m for each additional unit	300 ft./ 91.4 m
On-site water supply and on-site sewage disposal system	IV	100 feet/ 30.5 m (or 50 feet/ 15.25 m, where the frontage is on the interior curve of a street)	1	75,000 sq.ft./6,975 sq.m	300 ft./68.6 m
			2	80,000 sq.ft./7,440 sq. m.	
			3	85,000 sq. ft./7,905 sq. m	
			4	90,000 sq. ft./8,370 sq. m	
			more than 4	90,000 sq. ft./8,370 sq. m plus 1,500 sq. ft./457 sq. m for each additional unit	
On-site water supply and on-site sewage disposal system	V	N/A	N/A	Not developable	N/A
Central water supply and on-site sewage disposal system	I	50 feet/ 15.25 metres	1	20,000 sq. ft./1,858 sq. m	125 ft./ 38.1 m
			2	25,000 sq. ft./2,322.5 sq. m	150 ft./ 45.7 m
			3	30,000 sq. ft./2,787 sq. m	160 ft./ 48.8 m
			4	35,000 sq.ft./3,251.5 sq.m	175 ft./ 53.3 m
			more than 4	35,000 sq.ft./3,251.5 sq.m	175 ft./ 53.3 m

				plus 1,500 sq.ft./457 sq.m for each additional unit	
Central water supply and on-site sewage disposal system	II	50 feet/ 15.25 m	1 2 3 4 more than 4	25,000 sq.ft./2,322.5 sq.m 30,000 sq. ft./2,787 sq.m 35,000 sq.ft./3,251.5 sq.m 40,000 sq. ft./3,717 sq.m 40,000 sq. ft./3,717 sq.m plus 1,500 sq.ft./457 sq.m for each additional unit	150 ft./ 45.7 m 160 ft./ 48.8 m 175 ft./ 53.3 m 200 ft./ 61 m 200 ft./ 61 m
Central water supply and on-site sewage disposal system	III	50 feet/ 15.25 metres	1 2 3 4 more than 4	40,000 sq. ft./3,717 sq.m 45,000 sq.ft./4,180.5 sq.m 50,000 sq. ft./4,645 sq. m 55,000 sq, ft./5,110 sq.m 55,000 sq. ft./5,110 sq. m plus 1,500 sq.ft/457 sq.m for each additional unit	200 ft./ 61 m 225 ft./ 68.6 m 250 ft./ 76.2 m 275 ft./ 83.8 m 275 ft./ 83.8 m
Central water supply and on-site sewage disposal system	IV	50 feet/ 15.25 metres	1 2 3 4 more than 4	60,000 sq. ft./5,580 sq. m 65,000 sq .ft./6,450 sq. m 70,000 sq. ft./6,510 sq. m 75,000 sq. ft./6,975 sq. m 75,000 sq. ft./6,975 sq. m 1,500 sq.ft/457 sq.m for each additional unit	275 ft./83.8 m

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

TABLE 2
MINIMUM LOT SIZE STANDARDS:
NON-RESIDENTIAL LOTS

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

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

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

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

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

- (e) Category V, where
 - (i) the depth to bedrock is less than 1 foot (0.3 metres), and
 - (ii) the depth to the maximum groundwater elevation is greater than 2 feet (0.61 metres).