



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# PLANNING ACT

## PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

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## PLANNING ACT

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## PLANNING ACT CHAPTER P-8

### INTERPRETATION

#### 1. Definitions

In this Act

- (a) **“Commission”** means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11;
- (b) **“council”** means the council of a municipality;
- (b.1) **“Department”** means the Department of Housing, Land and Communities;
- (c) **“developer”** means a person who, directly or indirectly, is authorized to apply for approval of a development or subdivision or to enter into an agreement regarding a development or subdivision;
- (d) **“development”** means
  - (i) site alteration, including but not limited to
    - (A) altering the grade of the land,
    - (B) removing vegetation from the land,
    - (C) excavating the land,
    - (D) depositing or stockpiling soil or other material on the land, and
    - (E) establishing a parking lot,
  - (ii) locating, placing, erecting, constructing, altering, repairing, removing, relocating, replacing, adding to or demolishing structures or buildings in, under, on or over the land,
  - (iii) placing temporary or permanent mobile uses or structures in, under, on or over the land, or
  - (iv) changing the use or intensity of use of a parcel of land or the use, intensity of use or size of a structure or building;
- (e) **“development agreement”** means an agreement between a developer and a council, or between a developer and the Minister, or a tripartite agreement between a developer, a council and the Minister, respecting the terms and conditions under which a development may be carried out;
- (e.1) **“development permit”** means a permit issued for a development under the regulations or pursuant to a bylaw but does not include a building permit issued under the *Building Codes Act*;
- (f) **“Minister”** means the Minister of Housing, Land and Communities;

- (g) “**municipality**” means a municipality as defined in the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1;
- (h) “**official plan**” means a plan for a municipality adopted under Part III;
- (i) “**planning board**” means a planning board or joint planning board appointed under Part III;
- (j) “**resident**” in relation to a municipality, means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of the municipality;
- (j.1) “**state of emergency**” means a state of emergency declared by the Minister of Justice and Public Safety or a mayor under the *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1, or a public health emergency declared under the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1;
- (k) “**subdivision**” means
- (i) the division of a parcel of land to create two or more new parcels of land,
  - (ii) the consolidation of two or more contiguous parcels of land to create a new parcel of land, or
  - (iii) the attachment of a part of a parcel of land to another parcel of land contiguous to that part to create a new parcel of land,
- by means of a plan of subdivision, a plan of survey, an agreement, a deed or any other instrument, including a caveat, that transfers or creates an estate or interest in the new parcels of land created by the division, or in the new parcel of land created by the consolidation or the attachment, as the case may be;
- (l) “**subdivision agreement**” means an agreement between a council and a developer whereby the developer undertakes to provide basic services in order to develop a plan of subdivision. 1988, c.4, s.1; 1991, c.18, s.22; 1993, c.29, s.4; 1994, c.46, s.1 {eff.} March 31, 1995; 1995, c.29, s.1 {eff.} Oct. 14/95; 1997, c.20, s.3; 2000, c.5, s.3; 2009, c.73, s.2; 2010, c.31, s.3; 2012, c.17, s.2; 2014, c.40, s.1; 2015, c.28, s.3; 2016, c.44, s.277; 2017, c.10, s.1(2); 2019, c.1, s.3; 2017, c.61, s.35(2); 2021, c.14, s.1; 2023, c.4, s.1; 2023, c.20, s.2.

## OBJECTS

### 2. Purposes

The purposes of this Act are

- (a) to provide for efficient planning at the provincial and municipal level;
- (b) to promote sustainable and planned development;
- (c) to protect the natural and built environment of the province;
- (d) to encourage co-operation and co-ordination among stakeholders;
- (e) to address potential conflicts regarding land use;
- (f) to provide the opportunity for public participation in the planning process; and
- (g) to ensure compatibility between land uses. 1988, c.4, s.2; 2021, c.42, s.1.

### 2.1 Provincial interests

- (1) The Minister in carrying out the Minister’s responsibilities in relation to planning matters and the effects of proposed development under this Act shall have regard but not be limited to matters of provincial interest, such as
- (a) the protection, conservation and management of resource lands;

- (b) the protection, conservation and management of coastal areas;
- (c) the protection, conservation and management of ecological systems;
- (d) the prevention of fragmentation of land and of loss of natural habitat connectivity and biodiversity;
- (e) the supply, efficient use and conservation of water;
- (f) the supply, efficient use and conservation of energy;
- (g) the adequate provision and efficient use of communication, transportation, sewage and water services, storm water management systems, waste management systems and other public services in relation to planning development, and the effect of planning development on those services;
- (h) the effect of proposed planning development on, and measures for the protection of, public health and safety;
- (i) the protection of features of significant archaeological, cultural, architectural, historical or scientific interest;
- (j) the protection of viewsapes that contribute to the unique character of Prince Edward Island;
- (k) the direction of development to areas designed to support servicing;
- (l) the orderly and sustainable development of safe and healthy communities;
- (m) the adequate provision of a full range of housing options;
- (n) the promotion of a built environment that supports public transit and active transportation;
- (o) the promotion of a built environment that incorporates the principles of conservation design;
- (p) the adaptation of the built and natural environment to address the effects of climate change;
- (q) the mitigation of greenhouse gas emissions; and
- (r) adaptation to a changing climate.

**Regulations**

- (2) The Lieutenant Governor in Council may make regulations to establish additional matters of provincial interest for the purposes of subsection (1). *2021, c.42, s.2.*

**PART I — LAND USE COMMISSION**

**Sections 3 to 5 repealed by 1991, c.18, s.22 {eff.} Nov. 4/91.**

**PART II — PROVINCIAL PLANNING****6. Role of Minister**

The Minister shall

- (a) advise the Lieutenant Governor in Council on provincial land use and development policy;
- (b) perform the functions conferred on him by this Act and the regulations;
- (c) generally, administer and enforce this Act and the regulations,

and may

- (d) provide planning advisory services;
- (e) promote co-operation between municipalities with respect to inter-municipal or regional planning issues;
- (f) promote public participation in the development of policies;
- (g) establish organizations and groups which he may consult respecting the exercise of his functions;
- (h) delegate any of his functions under this Act or the regulations. *1988, c.4, s.6.*

## **7. Role of cabinet**

- (1) The Lieutenant Governor in Council may
  - (a) adopt provincial land use development policies;
  - (b) establish minimum requirements applicable to official plans;
  - (c) make regulations establishing minimum development standards respecting
    - (i) public health and safety,
    - (ii) protection of the natural environment,
    - (iii) landscape features.

### **Modification of official plan and bylaws to conform with regulations**

- (2) Where regulations have been made pursuant to clause (1)(c) or section 8.1, the council of a municipality with an official plan or bylaws made under this Act shall, within one hundred and twenty days of the date of publication of the regulations in the Gazette, make such amendments to its official plan or bylaws as are necessary to ensure that any requirements imposed thereby are not less stringent than those imposed by the comparable provision of the regulations.

### **Procedure**

- (3) Sections 11, 13 and 18 do not apply to an amendment made pursuant to subsection (2).

### **Declaration nullifying municipal bylaws**

- (4) Where a council fails to comply with subsection (2), the Lieutenant Governor in Council may, by order, declare
  - (a) the official plan or bylaws, or any part thereof, made by that council to be null and void;
  - (b) which of the provisions of the regulations made pursuant to clause (1)(c) apply in their stead.

### **Effect of order**

- (5) Where an order is made under subsection (4),
  - (a) the regulations made under clause (1)(c), or such parts of them as are specified in the order, apply in the municipality in which the council has jurisdiction; and
  - (b) the Minister has exclusive jurisdiction with respect to subdivision approvals, development permits and building permits in the municipality, but any such approval or permit issued before the date of the order is valid if it complied with the official plan and bylaws in force at the time of issue. *1995, c.29, s.2 {eff.} Oct. 14/95.*



**7.1 Land use policy regulations**

- (1) The Lieutenant Governor in Council may make regulations with respect to land use policies adopted pursuant to clause 7(1)(a) and, in particular, may make regulations that
  - (a) establish land use designations;
  - (b) establish the objectives, purpose and function of land use designations;
  - (c) refer to or otherwise specify maps or plans that corroborate the objectives, purpose and function of the land use designations;
  - (d) prescribe the geographical boundaries within which a land use designation applies;
  - (e) refer to or otherwise specify maps or plans that illustrate the geographical boundaries within which the land use designations apply;
  - (f) regulate development and land uses within the geographical boundaries shown on a referenced map or plan for a land use designation; and
  - (g) amend or revoke a land use designation in circumstances where the objectives, purpose and function it was established to fulfill no longer apply.

**Consistency with official plan and bylaw**

- (2) A council's official plan and bylaw
  - (a) shall be, at a minimum, consistent with the regulations established under subsection (1); and
  - (b) may be more stringent than the applicable provisions of the regulations.

**Protection paramount**

- (3) In the event of an inconsistency or conflict between the regulations established under subsection (1) and a council's official plan and bylaw, the provisions that provide more protection for the matters specified in clause 7(1)(c) shall prevail. *2017, c.10, s.1(3)*.

**8. Provincial planning regulations**

- (1) The Lieutenant Governor in Council may make provincial planning regulations applicable to any area except a municipality with an official plan and bylaws

**general**

- (a) with respect to planning and land use matters affecting the general welfare, health, safety and convenience of persons in any area or municipality;

**areas**

- (b) with respect to the definition of areas to be regulated;

**zoning**

- (c) with respect to land use zones, and in particular
  - (i) establishing and prescribing the geographical boundaries of zones,
  - (ii) prescribing permitted uses of land and structures within zones, and
  - (iii) establishing and regulating areas as conservation zones for the purpose of preserving therein objects of beauty, fossil remains, other objects, animate and inanimate, of aesthetic, educational or scientific interest, or for the purpose of preserving any unusual combination of elements of the natural environment having educational, historic or scientific interest,
  - (iv) establishing and regulating areas as environmentally sensitive areas;

**subdivision**

- (d) with respect to the subdivision of land and in particular
  - (i) governing, restricting and prohibiting subdivision of land,
  - (ii) setting out procedures for subdivision application,
  - (iii) empowering and governing subdivision agreements between the Minister and subdividers and between vendors and purchasers,
  - (iv) requiring a subdivider to convey to the Crown or a non-profit corporation, for open space, recreation, park or other public use, for the benefit and enjoyment of landowners and residents in the neighbourhood, up to 10 per cent of the land being subdivided or to apply the equivalent value thereof to be held in a fund for those purposes;

**development and services**

- (e) with respect to the development of land and the provision of services and in particular
  - (i) governing the servicing of land with streets, sidewalks, and piped services,
  - (ii) establishing standards and timetables for the servicing of land,
  - (iii) establishing cost-sharing schedules for development and maintenance between the developer and the Crown or between vendors and purchasers,
  - (iv) authorizing the Minister to negotiate development agreements with a developer;

**development charges**

- (e.1) with respect to development charges to compensate the Government or another person for an increase in a capital cost that results from a need to directly or indirectly service land that is to be developed or subdivided, or that will be incurred as a result of the effect of a development or subdivision on other areas and, in particular,
  - (i) establishing eligible on-site and off-site costs, or portions of them, that a development charge may be levied to fund,
  - (ii) establishing rules to calculate a development charge for an eligible cost,
  - (iii) prescribing development charges,
  - (iv) establishing means of payment and schedules of payment of development charges,
  - (v) establishing the amount and type of security a developer may be required to provide to ensure the payment of development charges,
  - (vi) authorizing the Minister to negotiate and enter into development charge agreements with developers and other parties,
  - (vii) regarding the registration of development charge agreements,
  - (viii) any other matters necessary or desirable to effect a development charge agreement;

**building standards**

- (f) with respect to building standards and in particular
  - (i) repealed by 2017,c.61,s.35(3),
  - (ii) establishing standards for the prevention and suppression of fires,
  - (iii) establishing and prescribing architectural control standards;

**development permits**

- (g) with respect to the use of development permits and in particular
  - (i) requiring the use of development permits for subdivision and development,
  - (ii) setting the terms and conditions under which development permits may be issued, refused, suspended, reinstated and revoked or may expire,
  - (iii) providing penalties for failure to obtain development permits,
  - (iv) providing methods, sanctions and procedures for ensuring compliance with the terms and conditions of development permits,
  - (v) empowering and governing development agreements between the Minister and a developer,
  - (vi) prescribing fees for development permits,
  - (vii) providing for and authorizing the lawful inspection and entry therein of properties that are the subject of development permits;

**environment protection**

- (h) with respect to environmental protection and in particular
  - (i) establishing as a precondition to issue of a permit that the provisions of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 and the regulations thereunder and the *Water Act* R.S.P.E.I. 1988, Cap. W-1.1 and the regulations thereunder be complied with,
  - (ii) that failure to comply be grounds for refusal or revocation of permits;

**scenic heritage roads**

- (i) repealed by 2005, c.46, s.1;

**access to highways**

- (j) with respect to access to streets and highways and in particular, subject to the provisions of the *Roads Act* R.S.P.E.I. 1988, Cap. R-15,
  - (i) regulating access roads and lanes and driveways having access to a street or highway in accordance with the laws of the province,
  - (ii) requiring a permit before the construction of such roads, lanes and driveways,
  - (iii) imposing limitations or conditions on a permit;

**mobile homes**

- (k) with respect to mobile homes, mobile home courts, travel trailers used as a residence and travel trailer courts and in particular
  - (i) prescribing terms and conditions respecting their use, location, maintenance, design and construction,
  - (ii) requiring development permits for them;

**special planning areas**

- (l) repealed by 1991, c.30, s.1;

**parking areas**

- (m) with respect to vehicular parking and in particular
  - (i) regulating the allocation of space for parking and loading areas in each lot of a subdivision,

- (ii) requiring the setting aside of land in a subdivision, building or development site for vehicular parking and loading including space for public transportation services;

**summer cottages**

- (n) with respect to summer cottages and in particular
  - (i) prescribing terms and conditions respecting their use, location,
  - (ii) prescribing terms and conditions respecting the subdivision and development of land for summer cottage purposes,
  - (iii) requiring development permits for summer cottage development and the subdivision of land for summer cottage use;

**fees**

- (o) prescribing fees in respect of an application for a subdivision approval or development permit;

**land identification program**

- (p) with respect to a land identification program to prevent commercial or industrial development or subdivision of identified land and respecting the particulars of a land identification agreement;

**enforcement**

- (q) with respect to the enforcement of this Act, regulations and bylaws and in particular
  - (i) empowering the Minister to take such remedial or other action as may be necessary to ensure compliance with this Act and the regulations, including the taking of an action required to be taken by a permittee or any other person,
  - (ii) empowering the Minister to incur such costs as are necessary in taking such remedial or other action and to charge them to the permittee or other person,
  - (iii) respecting the persons or officers, or classes of persons or officers, who have the power and authority to enforce this Act and the regulations or any specified provisions of this Act and the regulations, and
  - (iv) respecting the powers and duties of persons or officers who enforce this Act and the regulations or specified provisions of this Act and the regulations.

**Municipal plan**

- (1.1) Repealed by *1995, c.29, s.3.*

**Restrictions on zoning for public purposes**

- (2) No zone shall be established pursuant to clause (1)(c) in which the land therein is used or intended to be used exclusively for public purposes unless all the land in the zone is owned by the Crown, a municipality or a public authority or is intended to be acquired by the Crown, a municipality or a public authority within six months after the date of establishment of the zone and, in the case of a zone established by a municipality on land owned by the Crown or a public authority, the written approval of the Crown or public authority is first obtained.

**Subdivision agreement, effects of covenants**

- (3) Where pursuant to this Act or any regulation made under subsection (1) an agreement respecting a subdivision of land is made by and between a developer and the Minister which provides for the incorporation of a company to hold and manage an area of land or facilities for the common benefit of the owners from time to time of land within the subdivision

affected by the agreement, any covenants made pursuant to that agreement between the developer and the owners of land within the subdivision and expressed to run with the land shall run with the land and be binding upon any subsequent owner thereof notwithstanding that such covenant is positive in nature.

#### **Agreements run with land**

- (3.1) A subdivision agreement, development charge agreement or development agreement between a developer and any other party and a council, or between a developer and any other party and the Minister, or a multipartite agreement involving developers, other parties, councils and the Minister, shall be registered in the office of the Registrar of Deeds for the county in which the land is situated, and a party to the agreement may enforce the provisions of the agreement against any other party to the agreement and against any or all subsequent owners or tenants of the land to which it applies.

#### **Registration in registry office**

- (4) Subsection (3) is of no effect unless and until the agreement referred to therein between the Minister and the developer and the covenants between the developer and the owners are registered in the office of the Registrar of Deeds for the county in which the land is situated.

#### **Prohibitions**

- (5) For the avoidance of doubt it is declared that the power to make regulations with respect to any activity or development pursuant to subsection (1) includes power to prohibit that activity or development.

#### **Cancellation of land identification agreement**

- (6) Where real property has been identified pursuant to the regulations made under clause (1)(p), the land identification agreement may be altered or cancelled only
- (a) by a majority vote of the Commission; and
  - (b) with the consent in writing of the current owner. *1988, c.4, s.8; 1991, c.30, s.1 {eff.} May 16/91; 1991, c.18, s.22 {eff.} Nov. 4/91; 1995, c.29, s.3 {eff.} Oct. 14/95; 2005, c.46, s.1; 2006, c.16, s.63(9.3); 2017, c.10, s.1(4); 2017, c.17, s.82 2017, c.61, s.35(3).*

### **8.1 Regulations, special planning areas**

The Lieutenant Governor in Council may make regulations with respect to special planning areas and, in particular

- (a) establishing the special planning areas;
- (b) prescribing their geographical boundaries;
- (c) defining the objectives, purpose and function of the special planning areas;
- (d) regulating development in special planning areas;
- (e) superseding or suspending the application of the bylaws of a municipality or any part of such bylaws within a special planning area and substituting therefor regulations under this Act. *1991, c.30, s.2 {eff.} May 16/91; 1994, c.46, s.2 {eff.} July. 14/94.*

## PART III — MUNICIPAL PLANNING

### 9. Responsibility of council

- (1) The council of a municipality which has an official plan adopted under this Act or a previous *Planning Act* is responsible for administration of the official plan within the boundaries of the municipality.

#### Consistency with provincial policies, etc.

- (1.1) Where

- (a) a provincial land use and development policy pursuant to clause 7(1)(a);
- (b) minimum requirements applicable to official plans pursuant to clause 7(1)(b); or
- (c) regulations pursuant to clause 7(1)(c)

have been adopted, established or made, the land use policy of a council or the official bylaws of a municipality shall, subject to subsection 7(2), be consistent with them.

#### Planning board

- (2) The council of a municipality may appoint a planning board to prepare an official plan.

#### Duties and powers of planning board

- (3) The planning board has the following powers and duties:

- (a) to investigate and survey the physical, social and economic conditions in relation to the development of the municipality;
- (b) to recommend to the council, for its adoption, an interim planning policy;
- (c) to prepare and recommend to council for its adoption a proposed official plan;
- (d) to prepare and recommend to the council proposed alterations and additions to the official plan;
- (e) to recommend to the council bylaws in respect of the official plan;
- (f) to hold public meetings;
- (g) when requested by the council so to do, to prepare estimates of the cost of any public work, improvement, or other project; and
- (h) to perform such other duties of a planning nature as may be requested by the council.

#### Constitution

- (4) A planning board shall consist of

- (a) a chairman who shall be a member of the council; and
- (b) not less than two other members who may be members of the council.

#### Term of office

- (5) Members of a planning board hold office until their successors are appointed.

#### Notice to Minister

- (6) The council shall notify the Minister of the establishment of a planning board, give the names of the members thereof and notify the Minister of any changes in the membership of the board.

**Remuneration**

- (7) The members of a board shall receive such remuneration and expenses as the council may determine.

**Powers**

- (8) For the purpose of assisting a planning board to prepare an official plan, a council may
- (a) employ staff;
  - (b) engage consultants;
  - (c) incur expenditures;
  - (d) study, investigate and survey physical, social and economic matters relevant to the preparation, amendment or implementation of an official plan. *1988, c.4, s.9; 1991, c.30, s.3 {eff.} May 16/91; 1994, c.46, s.3 {eff.} July 14/94; 1995c.29, s.3 {eff.} Oct. 14/95.*

**INTERIM PLANNING POLICY****10. Interim planning policy**

- (1) A planning board may recommend to the council the adoption of an interim planning policy containing limitations, restrictions and prohibitions on land use pending the completion of an official plan.

**Refusal pending adoption of bylaws**

- (2) The council or the Minister, as the case may be, may refuse to hear applications for subdivision approvals, development permits or building permits from the date of receipt by the council of the proposed interim planning policy until the bylaws giving effect to the policy come into force.

**Notice**

- (3) The council shall, before adopting an interim planning policy hold at least one public meeting, notice of which is published on at least two occasions in a newspaper circulating in the area, not less than seven days before the meeting, in order to give an opportunity to residents and other interested persons to make representation.

**Public meeting during state of emergency**

- (3.1) During a state of emergency, the public meeting referred to in subsection (3) may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

**Minutes of meeting**

- (4) The council shall maintain a record of the proceedings at the public meeting and, in particular, of the objections and representations made by the residents and other interested persons.

**Bylaws**

- (5) Within sixty days after the public meeting the council may, with the approval of the Minister, make bylaws to give effect to the interim planning policy.

**Suspension of provincial regulations**

- (5.1) Where a bylaw has been made under subsection (5), regulations made under subsection 8(1) are suspended while the bylaw is in effect.

**Duration**

- (6) The bylaws shall remain in effect for a period of six months but may be extended for a further period not exceeding six months.

**Application**

- (7) Bylaws giving effect to an interim planning policy do not apply in respect of any development for which application is made prior to the date of the receipt by the council of the proposed interim planning policy from the planning board. *1988, c.4, s.10; 1995, c.29, s.5 [eff.] Oct. 14/95; 2021, c.14, s.2.*

**OFFICIAL PLAN**

**11. Opportunity for public input**

- (1) Before recommending to the council the adoption of an official plan or any review of an official plan, the planning board shall give an opportunity to residents and other interested persons to make representations.

**Public meeting**

- (2) The board shall hold at least one public meeting, notice of which is published on at least two occasions in a newspaper circulating in the area indicating
- (a) in general terms, the content of the official plan or review of the official plan and the proposed implementing bylaws;
  - (b) the date, place and time of the meeting, which shall be held not less than seven clear days after the date of publication of the notice;
  - (c) the location at which copies of the proposed official plan or review of the official plan or proposed bylaws may be inspected during office hours; and
  - (d) that residents and other interested persons are invited to attend and make representations concerning the plan or review.

**Public meeting during state of emergency**

- (2.1) During a state of emergency, the public meeting referred to in subsection (2) may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

**Public inspection of documents - electronic means**

- (2.2) During a state of emergency, public inspection of the proposed official plan or review or proposed bylaws may be provided
- (a) by electronic means by posting the documents on a website accessible to the public; or
  - (b) if requested to do so by a person, by sending copies of the documents to the person by e-mail, mail or facsimile.



**Minutes of meeting**

- (3) The planning board shall maintain a record of the proceedings at the public meeting and, in particular, of the objections and representations made by residents and other interested persons. *1988, c.4, s.11; 2021, c.14, s.3.*

**12. Official plan**

An official plan shall include

- (a) a statement of economic, physical, social and environmental objectives;
- (b) a statement of policies for future land use, management and development, expressed with reference to a specified period not exceeding fifteen years;
- (c) proposals for its implementation, administration and the periodic review of the extent to which the objectives are achieved. *1988, c.4, s.12.*

**13. Approval by planning board**

The planning board shall recommend to the council the adoption of an official plan if approved by a vote of the majority of the members of the board present and voting at a meeting thereof. *1988, c.4, s.13.*

**14. Adoption of plan**

- (1) The council may adopt an official plan by resolution.

**Procedure**

- (2) Following the adoption of the official plan by the council, the plan
- (a) shall continue to be available for public inspection at the office of the municipality;
  - (b) shall be submitted to the Minister for approval accompanied by a copy of the notice given under subsection 11(2) and a copy of the minutes of the public meeting.

**Public inspection of official plan - electronic means**

- (3) During a state of emergency, public inspection of the official plan may be provided
- (a) by electronic means by posting the official plan on a website accessible to the public; or
  - (b) if requested to do so by a person, by sending a copy of the official plan to the person by e-mail, mail or facsimile. *1988, c.4, s.14; 1994, c.46, s.4 {eff.} Sept. 1/94; 2021, c.14, s.4.*

**15. Procedure following Minister approval**

- (1) Following the approval of an official plan by the Minister
- (a) the plan becomes the official plan for the area;
  - (b) a copy of the official plan as approved by the Minister shall be published in the Gazette;
  - (c) the Minister shall deposit a copy of the official plan, certified by the chairman as a true copy, in the office of the Registrar of Deeds for the county to which the plan relates; and
  - (d) the council shall, as soon as is practicable, cause bylaws to be made to implement the official plan.

**Bylaws, conformity with plan**

- (2) The bylaws or regulations made under clause (1)(d) shall conform with the official plan and in the event of any conflict or inconsistency, the official plan prevails. *1988, c.4, s.15; 1991, c.1, s.1; 1991, c.18, s.22; 1994, c.46, s.4 {eff.} Sept. 1/94; 1995, c.29, s.6 {eff.} Oct. 14/95.*

**15.1 Review**

- (1) The council of a municipality shall review its official plan and bylaws at intervals of not more than five years and shall by resolution confirm or amend them and where the official plan and by laws were made or last reviewed more than three years before the date on which this section comes into force the council shall review them within three years of that date.

**Declaration nullifying municipal bylaws**

- (2) Where a council fails to comply with subsection (1), the Lieutenant Governor in council may, by order, declare that the official plan and bylaws, or parts thereof, are null and void.

**Effect of order**

- (3) Where an order is made under subsection (2),
- (a) the regulations made under clause 7(1)(c) or section 8, or such parts of them as are specified in the order, apply in the municipality in which the council has jurisdiction;
  - (b) to the extent that the official plan or bylaws are declared null and void, the Minister has exclusive jurisdiction with respect to subdivision approvals, development permits and building permits in the municipality, but any such approval or permit issued before the date of the order is valid if it complied with the official plan and bylaws in force at the time of issue. *1995, c.29, s.7 {eff.} Oct. 14/95.*

## MUNICIPAL PLANNING BYLAWS

**16. Municipal planning bylaws**

A council may make bylaws implementing an official plan for the municipality. *1988, c.4, s.16.*

**17. Approval of Minister**

The bylaws shall be subject to the approval of the Minister and shall be effective on the date of approval by the Minister. *1988, c.4, s.17.*

**18. Notice of meeting**

- (1) Before making any bylaw the council shall
- (a) give an opportunity to residents and other interested persons to make representations; and
  - (b) at least seven clear days prior to the meeting, publish a notice in a newspaper circulating in the area indicating in general terms the nature of the proposed bylaw and the date, time and place of the council meeting at which it will be considered.

**Bylaw amendment requiring official plan amendment**

- (2) Where a bylaw amendment requires an amendment to the official plan pursuant to subsection 15(2), the council may consider the official plan amendment concurrently with the bylaw and shall

- (a) indicate in general terms, in the notice published under clause (1)(b), the nature of the proposed plan amendment; and
- (b) give the planning board an opportunity to comment on the plan amendment prior to adoption of the amendment.

#### **Council meeting during state of emergency**

- (3) During a state of emergency, the council meeting referred to in subsection (1) may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting. *1988, c.4 s.18; 2021, c.14, s.5.*

### **19. Procedure**

A bylaw shall be made in accordance with the following procedure:

- (a) it is read and formally approved by a majority of councillors on two occasions at meetings of the council held on different days;
- (b) after it is read a second time, it is formally adopted by resolution of the council;
- (c) it is signed by the mayor or chairman, the administrator and the Minister and formally declared to be passed, and sealed with the corporate seal of the municipality;
- (d) the minutes of the meeting record the name of the bylaw and the fact that it is passed; and
- (e) a copy of the bylaw bearing the signature of the mayor or chairman, the administrator and the Minister is entered into the register of bylaws retained by the administrator. *1988, c.4, s.19.*

### **20. Bylaws**

- (1) The powers of a council to make bylaws includes the power to make bylaws applicable within the municipality with respect to all of the matters set out in clauses 8(1)(a) to (q) except clauses (i), (l) and (p) as if
  - (a) references to the Crown were references to the municipality;
  - (b) references to the Minister were references to the council.

#### **Development officer**

- (2) A council may appoint a development officer to administer the bylaws for the council. *1988, c.4, s.20; 2017, c.10, s.1(5).*

#### **20.1 Development charge bylaw**

- (1) A council may make a development charge bylaw pursuant to subsection 20(1) for a purpose specified in clause 8(1)(e.1) if the development charge bylaw is based on
  - (a) a background study ordered or commissioned by the council that meets the requirements of this section and the regulations and that establishes the need for the eligible costs of the specified facilities and services in the area to which the bylaw will apply;
  - (b) council's consideration of the specified facilities and services in relation to the anticipated need for infrastructure growth; and
  - (c) council's consideration of the estimated timing of the introduction or expansion of the specified facilities and services.

**Standards respecting background study**

- (2) The background study referred to in subsection (1) shall be developed in accordance with the regulations and based on evidence and assumptions
- (a) that are reasonable, correct and credible; and
  - (b) that were gathered and analyzed by a suitable and competent professional in compliance with generally accepted engineering principles.

**Public notice**

- (3) A council shall give public notice in accordance with the regulations before making, amending or repealing a development charge bylaw, indicating
- (a) its intention to make, amend or repeal the development charge bylaw;
  - (b) the location where and times at which the background study referred to in subsection (1) may be inspected;
  - (c) the location where and times at which the proposed bylaw or amending bylaw may be inspected; and
  - (d) the deadline for submission of comments respecting the background study or the proposed bylaw.

**Public meeting during state of emergency**

- (3.1) During a state of emergency, a public meeting for the purpose of making a development charge bylaw may be held by telephonic or other electronic means and any person who, using the telephonic or electronic means provided, participates in, votes at or establishes a communications link to the meeting is deemed for the purposes of this Act to be present at the meeting.

**Public inspection of documents - electronic means**

- (3.2) During a state of emergency, public inspection of the background study or proposed development charge bylaw may be provided
- (a) by electronic means by posting the documents on a website accessible to the public; or
  - (b) if requested to do so by a person, by sending copies of the documents to the person by e-mail, mail or facsimile.

**Application of provisions**

- (4) Subsections 19(2) and (3) do not apply to the making of a development charge bylaw by a council.

**Filing requirement**

- (5) Within 21 days of the day on which the bylaw was made, amended or repealed, the council shall file with the Minister
- (a) a copy of the bylaw certified by the administrator and sealed with the municipal seal; and
  - (b) where the council made or amended a bylaw, a statutory declaration by the administrator that the council complied with the requirements of subsection (1).

**Addition to register of bylaws**

- (6) Where a development charge bylaw is made, amended or repealed by a council pursuant to this section, a sealed copy of the bylaw bearing the signature of the mayor and the chief administrative officer shall be entered into the register of bylaws retained by the municipality.

**Commencement of development charge bylaw**

- (7) A development charge bylaw or a bylaw amending or repealing it comes into force on the day it is passed or the day specified in the bylaw, whichever is later.

**Duration of development charge bylaw**

- (8) Unless it expires or is repealed earlier, a development charge bylaw expires five years after the day it comes into force.

**New bylaw**

- (9) Subsection (7) does not prevent a council from passing a new development charge bylaw. *2017, c.10, s.1(7); 2021, c.14, s.6.*

**20.2 Eligible costs**

- (1) Where a council of a municipality makes a development charge bylaw referred to in section 20.1, the development charge shall be used only to pay for
- (a) all or part of the on-site or off-site capital cost of
    - (i) new or expanded facilities and services for the supply and distribution of drinking water,
    - (ii) new or expanded facilities and services for the collection, treatment and disposal of waste water,
    - (iii) new or expanded facilities and services for the collection, treatment and disposal of sewage,
    - (iv) new or expanded facilities and services for the provision of storm water drainage, control and management,
    - (v) new or expanded facilities and services for the provision of transportation, including roads, traffic control, public transit, sidewalks and trails,
    - (vi) new or expanded facilities and services for electrical power generation, transmission and distribution,
    - (vii) land required for or in connection with facilities and services described in subclauses (i) to (vi), or
    - (viii) for any other purpose prescribed in the regulations; or
  - (b) the costs associated with the preparation of the background study required under subsection 20.1(1).

**Imposing development charges**

- (2) Where a council imposes a development charge for a purpose listed in subsection (1), the charge shall be imposed only once, and shall be paid at the time when the development or subdivision of the land is approved unless
- (a) the development charge bylaw includes provisions for the collection of the development charge in instalments; and

- (b) the council has entered into a development charge agreement with the developer or any other party in accordance with subsection (3) that provides for the payment of development charges in instalments.

**Contents of development charge agreement**

- (3) A council may enter into a development charge agreement with a developer and any other party that
  - (a) provides for the payment of development charges in instalments;
  - (b) permits the developer or any other party to provide specified services or extended services in lieu of the payment of all or a part of the charges in accordance with the terms of the agreement;
  - (c) provides for the provision of security by the developer or any other party to ensure that the charges are paid when due; or
  - (d) provides for any other matter necessary or desirable to effect the agreement.

**Reserve fund for specific purpose**

- (4) All money received by the council under a bylaw made pursuant to this section shall be paid into a separate reserve fund established for the specific purpose for which it was collected as described in subsection (1), and the money in that reserve fund shall be expended by the council for the specific purpose for which it was collected and for no other purpose.

**“Facilities and services”, clarified**

- (5) In this section and section 20.1, “**facilities and services**” include structures, landscaping and earthworks. *2017,c.10,s.1(6).*

## RETURNS

**21. Statistical return**

The council of a municipality shall forward to the Minister an annual statistical return showing all subdivision plans approved and development permits issued in the municipality. *1988, c.4, s.2; 2017,c.10,s.1(7).*

## JOINT PLANNING BOARD

**22. Joint planning boards**

- (1) Where two or more councils wish to establish a joint planning board, they may do so by passing a joint resolution to that effect setting out the representation and functions of the joint planning board.

**Application**

- (2) The provisions of this Part apply, with the necessary changes, to a joint planning board as if it were a planning board for the relevant area. *1988, c.4, s.22.*

## PART IV — NOTICE AND ENFORCEMENT

### 23. Definitions

- (1) In this Part,
- (a) “**appropriate authority**” means the Minister or a council, as the case may be; and
  - (b) “**enforcement officer**” means an enforcement officer appointed under subsection (2).

#### Appointment of enforcement officers

- (2) A person may be appointed as an enforcement officer to enforce the provisions of this Act, the regulations or a bylaw, as the case may be,
- (a) by the Minister, for an unincorporated area or an incorporated area that does not have an official plan approved by the Minister; and
  - (b) by a council, for its municipality. *1988,c.4,s.23; 2023,c.4,s.2.*

### 23.1 Notice of decision of Minister or council

- (2) Where
- (a) the Minister makes a decision of a type described in subsection 28(1); or
  - (b) the council of a municipality makes a decision of a type described in subsection 28(1.1)

the Minister or council, as the case may be, shall, within seven days of the date the decision is made, cause a written notice of the decision to be posted

- (c) on an Internet website accessible to the public; and
- (d) at a location accessible to the public during business hours,
  - (i) if the decision is made by the Minister, in
    - (A) a provincial government office in Charlottetown, and
    - (B) a provincial government office in the county where the land that is the subject of the decision is located, or
  - (ii) if the decision is made by the council of a municipality, in that municipality.

#### Contents of notice

- (3) A notice of a decision that is required to be posted under subsection (1) shall contain
- (a) a description of the land that is the subject of the decision;
  - (b) a description of the nature of the application in respect of which the decision is made;
  - (c) the date of the decision;
  - (d) the date on which the right to appeal the decision under section 28 expires; and
  - (e) the phone number of a person or an office at which the public may obtain more information about the decision.

#### Public inspection of documents - electronic means

- (3) During a state of emergency, public inspection of the notice of the decision of the Minister or council may be provided
- (a) by electronic means by posting the document on a website accessible to the public; or
  - (b) if requested to do so by a person, by sending a copy of the document to the person by e-mail, mail or facsimile. *2006,c.15,s.1; 2021,c.14,s.7.*

## 24. Enforcement

- (1) Any bylaw or regulation made pursuant to the powers conferred by this Act or a bylaw made under the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, relating to planning matters may be enforced and the breach thereof may be restrained by application at the instance of the appropriate authority to the Supreme Court.

### Remedies

- (2) In any proceeding commenced under subsection (1), the Supreme Court or a judge thereof may grant one or more of the following:
- (a) a declaration that an act engaged in or about to be engaged in by a person is or will be a breach of any bylaw or regulation or provision of this Act;
  - (b) an injunction restraining any person from breaching or continuing to breach any such bylaw, regulation or provision;
  - (c) an order directing any person to comply with the requirements of any such bylaw, regulation or provision and directing that compliance be carried out under the supervision of a named person;
  - (d) such other order as the court or judge may determine.

### Absence of development permit

- (2.1) Where any development requires a development permit, no person shall commence the development without first obtaining the required development permit, and no building permit or occupancy permit shall be issued by the appropriate authority prior to the issuing of the development permit.

### Absence of approval

- (3) Where any subdivision of land or a lot within a subdivision requires the approval of the appropriate authority, no person shall convey a lot without first obtaining approval and no building permit, occupancy permit or development permit shall be issued by the appropriate authority prior to approval of the subdivision of land or the lot within the subdivision. *1988, c.4, s.24; 1994, c.6, sch.2 {eff.} March 31/95; 2019, c.27, s.22; 2023, c.4, s.3.*

## 24.1 Inspection

- (1) For the purpose of ensuring compliance with this Act, the regulations, a bylaw, a permit, an approval or an order made under this Act, the regulations or a bylaw, an enforcement officer may, at any reasonable time,
- (a) enter and inspect any land, building, premises or work site in an area in which the enforcement officer has authority to conduct inspections;
  - (b) require documents or objects relevant to the inspection to be produced for inspection or for the purpose of obtaining copies or extracts of them;
  - (c) conduct tests, make inquiries and take samples, measurements, photographs or video recordings as the enforcement officer considers necessary; and
  - (d) perform any other duties relating to inspections prescribed by the regulations or a bylaw, as the case may be.

### Accompanying person

- (2) An enforcement officer may be accompanied by any person who has experience or expertise relating to a matter relevant to the inspection for the purpose of assisting the enforcement officer to carry out an inspection.



**Removal of documents**

- (3) For the purposes of conducting an inspection, an enforcement officer may remove documents that may relate to compliance, and may make copies or extracts from them or any part of them.

**Receipt**

- (4) An enforcement officer shall provide a receipt for documents removed under subsection (3) to the person who provided the documents.

**Return of documents**

- (5) A document removed under subsection (3) shall be returned within 14 business days from the time when the document was removed.

**Copy admissible in evidence**

- (6) A copy or extract of a document removed for the purposes of inspection and certified by an enforcement officer is admissible in evidence in any proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original, without proof of the appointment, authority or signature of the person purporting to have certified the copy or extract.

**Right of entry**

- (7) Subject to subsection (8), every owner or occupant shall allow an enforcement officer and any accompanying person to enter any land, building, premises or work site at any reasonable time for the purposes of administering and enforcing this Act, the regulations or a bylaw, as the case may be.

**Entry to dwelling place**

- (8) An enforcement officer shall not enter a dwelling place except with the consent of the occupant of the dwelling place or under the authority of a warrant.

**Authority to issue warrant**

- (9) Where, on *ex parte* application, a justice is satisfied by information on oath that
- (a) entry to a dwelling place is necessary in order for an enforcement officer to carry out the purpose specified in subsection (1);
  - (b) entry to the dwelling place is necessary for any other purpose relating to the administration of this Act, the regulations or a bylaw; and
  - (c) entry to the dwelling place has been refused or there are reasonable grounds to believe that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the enforcement officer named in the warrant to enter the dwelling place, subject to any conditions that may be specified in the warrant.

**Use of force**

- (10) An enforcement officer who executes a warrant shall not use force unless accompanied by a peace officer and the use of force is specifically authorized in the warrant. *2023,c.4,s.4.*

**24.2 Order of enforcement officer**

- (1) Where an enforcement officer believes on reasonable grounds that any provision of this Act or the regulations or a bylaw, permit or approval made or given under this Act, as the case may be, is being contravened, the enforcement officer may issue to the registered owner or occupier of the land, building or development or a person who is performing any activity for

which a permit or approval is required under this Act or the regulations or bylaw, as the case may be, an order in writing requiring compliance with the contravened provision.

**Expiry**

- (2) An order issued under subsection (1) shall specify that it shall be carried out immediately or before the expiry of a specified period.

**Effect of order**

- (3) Where an order issued under subsection (1) specifies
- (a) that it be carried out immediately, the order may specify that all of the work or activity related to the land, building or development, or the part of it specified in the order, other than the work necessary to carry out the order, shall stop until the order is complied with to the satisfaction of an enforcement officer; and
  - (b) the period within which it is to be carried out, and where it is not carried out within that period, the order may specify that the work or the activity, or the part of it specified in the order, other than the work necessary to carry out the order, shall stop until the order is complied with to the satisfaction of an enforcement officer.
- 2023, c.4, s.4.*

**24.3 Content of order**

- (1) An order of an enforcement officer shall
- (a) be in writing;
  - (b) be signed by the enforcement officer;
  - (c) state the location of the land, building or activity in respect of which the order is issued;
  - (d) state the action required to be taken and the reasons for it; and
  - (e) state the time period within which the action shall be completed.

**Costs of carrying out order**

- (2) The costs of carrying out the work specified in an order of an enforcement officer under this Act are the responsibility of the person named in the order or the registered owner of the land, building or development in respect of which the order was issued.

**Requirement to comply**

- (3) A person to whom an order under section 24.2 is issued shall comply with the order.

**Service of order**

- (4) No person to whom an order under section 24.2 is issued is required to comply with the order or direction until the order has been served on the person.

**When order sufficiently served**

- (5) An order is deemed to be sufficiently served
- (a) when a copy is personally served on the person to whom it is directed;
  - (b) when a copy is sent by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt is received;
  - (c) five days after a copy is sent by mail addressed to the person to whom it is directed at the last known address for that person; or
  - (d) in the case of a registered owner of real property, five days after a copy is sent by mail to the address for the registered owner shown on the last revised assessment roll.

**Service on corporation**

- (6) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (5) is deemed to be service on the corporation for the purposes of this Act.

**Order for substituted service**

- (7) Where it is impractical for any reason to serve the order in a manner referred to prescribed in subsection (5), an *ex parte* application may be made to a judge of the Supreme Court, who may make an order for substituted service, providing for the steps to be taken to bring the matter to the attention of the person to be served.

**Evidence**

- (8) An order of an enforcement officer is *prima facie* proof in proceedings in any court not only that the order was legally made, but also that every administrative prerequisite necessary to enable the making of the order was done and satisfied, and no further proof other than the production of the original order or a copy of it certified by the appropriate authority or the appropriate authority's authorized representative is necessary. 2023,c.4,s.4.

**24.4 False information**

- (1) No person shall knowingly give false information in any application, return or statement made to the Minister, a municipality, an enforcement officer or any other officer or employee of the Department or a municipality or any other person lawfully acting under the authority of this Act, the regulations or a bylaw, in respect of any matter under this Act, the regulations or a bylaw.

**Production of permit**

- (2) Where any development that requires a development permit is being carried on, an enforcement officer may require a person referred to in subsection 24.2(1) to show the permit for the development to the enforcement officer.

**Offence**

- (3) The refusal or failure by a person to comply within 24 hours with the requirement under subsection (2) to show a development permit to an enforcement officer is an offence to which section 26 applies. 2023,c.4,s.4.

**24.5 Obstruction**

No person shall obstruct or attempt to obstruct any person lawfully acting under the authority of this Act, the regulations or a bylaw. 2023,c.4,s.4.

**25. Evidentiary provisions**

In any prosecution for an offence under this Act

- (a) *prima facie* proof that a permit or license under this Act, the regulations or a bylaw has or has not been issued may be made by a certificate purporting to be signed by the executive director of the Commission, an officer of Housing, Land and Communities or the chief administrative officer of the municipality, as the case may be, and, where the name in the certificate is the same as the name of the person charged with the offence, it shall be *prima facie* proof that the person is the person named in the certificate;

- (b) *prima facie* proof of the boundaries of any municipality may be made by a certificate purporting to be signed by the chief administrative officer setting out the legal description of the boundaries;
- (c) proof that a municipality is or is not incorporated may be made by a certificate purporting to be signed by the administrator specifying in the case of incorporation the date of incorporation. 1988,c.4,s.25; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2009,c.73,s.2; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2019,c.1,s.3; 2023,c.4,s.5; 2023,c.20,s.2.

### 25.1 Prosecution - sufficient proof

- (1) In a prosecution for an offence under this Act, the regulations or a bylaw, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the defendant establishes that the offence was committed without the knowledge or consent of the defendant.

#### Prosecution - burden of proof

- (2) In a prosecution for an offence under this Act, the regulations or a bylaw,
  - (a) the burden of proving due diligence, on a balance of probabilities, is on the defendant;
  - (b) the registered owner of the property on which any development, activity, matter or thing that is prohibited or regulated by this Act or the regulations or a bylaw is or was commenced, continued, carried on or used, is deemed to have caused or permitted it to happen, unless it is established, on a balance of probabilities, that the registered owner did not cause or permit it to happen, and the burden of proving so, on a balance of probabilities, is on the registered owner;
  - (c) no condition, variance, exception, exemption, excuse or qualification prescribed by this Act or the regulations or a bylaw, as the case may be, is required to be set out or negated, as the case may be, in an information or summary offence ticket laid with respect to a charge under this Act or the regulations or a bylaw; and
  - (d) the burden of proving that any condition, variance, exception, exemption, excuse or qualification prescribed by this Act or the regulations or a bylaw operates in favour of the defendant is on the defendant, to prove on a balance of probabilities, and the prosecutor is not required, except by way of rebuttal, to prove that the condition, variance, exception, exemption, excuse or qualification does not operate in favour of the defendant, whether or not it is set out in the information or summary offence ticket. 2023,c.4,s.6.

### 26. Penalty - individual

- (1) Subject to subsection (2), any individual who contravenes or fails to comply with
  - (a) a provision of this Act or the regulations or a bylaw; or
  - (b) a term, condition or provision of a permit issued, order made or approval granted or issued under this Act or the regulations or a bylaw,

is guilty of an offence and, if no penalty is otherwise specifically provided in this Act or the regulations or bylaw, as the case may be, is liable on summary conviction to a fine of not less than \$500 and not more than \$10,000.

**Penalty - corporation**

- (2) Any corporation that contravenes or fails to comply with
- (a) any provision of this Act or the regulations or a bylaw; or
  - (b) any term, condition or provision of any permit issued, order made or approval granted under this Act or the regulations or a bylaw,

is guilty of an offence and, if no penalty is otherwise specifically provided in this Act or the regulations or bylaw, as the case may be, is liable on summary conviction to a fine of not less than \$2,000 and not more than \$100,000.

**Personal liability of corporate officers for offence of corporation**

- (3) Any officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces to or participates in the commission of an offence by that corporation under subsection (2) is guilty of an offence and is liable, in respect of the commission of an offence by the corporation under subsection (2), to any penalty set out in subsection (1).

**Continuing offence**

- (4) Notwithstanding the maximum penalties specified in subsections (1) and (2), where a contravention of or failure to comply with a provision of this Act, the regulations or a bylaw or an order or approval continues for more than one day, the person responsible is guilty of a separate offence for each day or part of a day on which the contravention or failure to comply continues, and is liable to a fine
- (a) in the case of an individual, in the amount of \$500 for each day or part of a day on which the offence continues; and
  - (b) in the case of a corporation, in the amount of \$2,000 for each day or part of a day on which the offence continues.

**Aggravating factor - financial advantage**

- (5) Where a person charged with an offence under this Act or the regulations or a bylaw has committed the offence for financial advantage or to avoid the financial burden of compliance with this Act or the regulations or the bylaw, the judge may, notwithstanding any maximum fine set for that offence under subsection (1) or (2),
- (a) where the offence was committed for financial advantage, impose a fine that will ensure that no financial advantage is gained from the commission of the offence; or
  - (b) where the offence was committed to avoid the financial burden of compliance with this Act or the regulations or the bylaw, impose a fine that is appropriate in the circumstances.

**Notification required**

- (6) A judge shall not impose a fine under subsection (5) unless the prosecutor has, before the time set for the person charged to appear in court, notified the person that a fine under subsection (5) will be sought if the person is convicted.

**Limitation period**

- (7) Notwithstanding section 224 of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, proceedings with respect to an offence under this Act or the regulations or a bylaw may be instituted at any time
- (a) within two years after the time when the act or omission that is alleged to constitute the offence occurred; or
  - (b) where the Minister or the chief administrative officer of the municipality, as the case may be, completes a certificate described in subsection (8), within two years after the

date on which the Minister or the municipality, learned of the act or omission referred to in clause (a).

**Certificate**

- (8) A certificate of the Minister or the chief administrative officer, as the case may be, certifying the date referred to in clause (7)(b) is admissible in evidence in any legal proceeding or prosecution under this Act or the regulations or the bylaw, as applicable, without proof of the signature or official character of the person appearing to have signed the certificate, and, in the absence of any evidence to the contrary, is proof of that date.

**Prosecution of Crown**

- (9) For the purposes of subsection (2), the Government of Prince Edward Island or the Government of Canada is deemed to be a corporation. *1988, c.4, s.26; 1994, c.46, s.5 [eff.] July 14/94; 2023, c.4, s.7.*

**26.1 Additional penalties**

- (1) Where a person is convicted of an offence under this Act or the regulations or a bylaw, in addition to any other penalty that may be imposed pursuant to this Act or the regulations or a bylaw, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make such order as the court may determine, including one or more of the following orders:
- (a) prohibiting the person from doing anything that may result in the continuation or repetition of the offence;
  - (b) directing the person to take any action the court considers appropriate to remedy any situation that resulted, results or may result, or to prevent any situation that may result, from the act or omission that constituted the offence;
  - (c) directing the person to pay to the Government or a municipality, as the case may be, the costs incurred by the Government or the municipality, in carrying out the investigation of the offence;
  - (d) directing the person to compensate the Government, a municipality or any other person, in whole or in part, for the costs of any remedial or preventive action that was carried out or caused to be carried out by the Government, the municipality or that other person, as the case may be, and was made necessary by the act or omission that constituted the offence;
  - (e) directing the person to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;
  - (f) requiring the person to comply with any other conditions the court considers appropriate in the circumstances for securing the good conduct of the person and for preventing the person from repeating the offence or committing other offences.

**Debt due**

- (2) Where the court makes an order pursuant to clause (1)(c) or (d), the costs constitute a debt due to the Government, the municipality or the person to be compensated, as the case may be.

**Effective date**

- (3) An order made pursuant to subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order.

**Variation of court order**

- (4) Where a court has made an order pursuant to subsection (1), the court may, on application by the person to whom it is directed or the Crown or the municipality, as the case may be, require the person to appear before it and, after hearing the person and the Crown or the municipality, as applicable, may make an order
- (a) changing the original order or the conditions specified in it;
  - (b) relieving the person absolutely or partially from compliance with any or all of the order;
  - (c) reducing the period for which the original order is to remain in effect; or
  - (d) extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

**Notice to interested persons**

- (5) Before making an order pursuant to subsection (1) or (4), the court may direct that notice be given to any persons the court considers to be interested and the court may hear these persons.

**No other application without court's permission**

- (6) Where an application made pursuant to subsection (4) in respect of a person has been heard by a court, no other application pursuant to subsection (4) may be made with respect to the person except with leave of the court. *2023,c.4,s.7.*

**27. Protection from personal liability**

No proceedings for damages shall be commenced, and no liability shall be found against

- (a) the Minister;
- (b) a council or a member of a council;
- (c) a Chief Administrative Officer; or
- (d) an enforcement officer

for any loss or damage caused by anything done or omitted to be done by the person lawfully, in good faith and without negligence in the performance or intended performance of the person's functions or duties or the exercise of the person's powers under this or any other enactment or a bylaw, as the case may be. *1988, c.4, s.27; 2023,c.4,s.8.*

**PART V — APPEALS****27.1 Definition**

In this Part, “**aggrieved person**” means, in respect of a decision of the Minister under subsection 28(1) or the council of a municipality under subsection 28(1.1),

- (a) the applicant;
- (b) the Minister;
- (c) a municipality affected by the decision;
- (d) an individual who in good faith believes the decision will adversely affect the reasonable enjoyment of the individual's property or property occupied by the individual;
- (e) an incorporated organization, the objects of which include promoting or protecting

- (i) the quality of life of persons residing in the neighbourhood affected by the decision,
  - (ii) the natural environment in the community affected by the decision, or
  - (iii) features, structures or sites having significant cultural or recreational value in the community affected by the decision; or
- (f) an organization, the majority of whose members are individuals referred to in clause (d). 2023,c.31,s.18.

## 28. Appeals from decisions of Minister

- (1) Subject to subsections (1.2) to (4), an aggrieved person may appeal, by filing a notice of appeal with the Commission, a decision of the Minister made in respect of an application for
- (a) a development permit;
  - (b) a preliminary approval of a subdivision or a resort development;
  - (c) a final approval of a subdivision;
  - (d) the approval of a change of use; or
  - (e) any other authorization that the Minister may grant or issue under the regulations.

### Appeals from decisions of council

- (1.1) Subject to subsections (1.2) to (1.4), an aggrieved person may appeal, by filing a notice of appeal with the Commission, a decision of a council of a municipality
- (a) that is made in respect of an application by a person under a bylaw for
    - (i) a development permit,
    - (ii) an occupancy permit, in relation to a matter under this Act or the regulations,
    - (iii) a preliminary approval of a subdivision, or
    - (iv) a final approval of a subdivision; or
  - (b) to adopt an amendment to a bylaw, including
    - (i) an amendment to a zoning map established in a bylaw, or
    - (ii) an amendment to the text of a bylaw.

### “bylaw”

- (1.2) In subsection (1.1) and subsection (1.4) “bylaw” means a bylaw made under this Act.

### Notice of appeal and time for filing

- (1.3) A notice of appeal must be filed with the Commission within 21 days after the date of the decision being appealed.

### Council decision that requires Minister’s approval

- (1.4) For greater certainty, the 21-day period for filing a notice of appeal under this section commences on the date that the council gave final reading to the amendment to the bylaw.

### Elimination of appeal when development approved under *Environmental Protection Act*

- (2) Where the Lieutenant Governor in Council has by order declared that
- (a) a development for which approval is required under the *Environmental Protection Act* has met all the requirements of that Act and written approval has been given;
  - (a.1) a development for which approval is required under the *Water Act* has met all the requirements of that Act and written approval has been given; and



- (b) the right of appeal to the Commission in respect of that development should be curtailed,

subsection (1) has no application and there is no right of appeal to the Commission in respect of a decision on that development.

**Reasons to be tabled**

- (3) Where a declaration has been made under subsection (2), the Lieutenant Governor in Council shall submit to the next session of the Legislative Assembly a statement of the reasons for making the declaration.

**Exceptions**

- (4) No appeal lies from a decision of the council or the Minister respecting
- (a) 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; or
- (b) the final approval of a subdivision or development permit within a resort development, where the grounds for the appeal are matters that could have been heard and determined at the stage of preliminary approval of that subdivision or development.

**Notice**

- (5) A notice of appeal to the Commission under subsection (1) shall be in writing and shall state the grounds for the appeal and the relief sought.

**Service upon council or Minister**

- (6) The appellant shall, within seven days of filing an appeal with the Commission, serve a copy of the notice of appeal on the council or the Minister, as the case may be.

**Procedure**

- (7) The Commission shall determine its own procedure for appeals under this Part, subject to
- (a) the regulations; and
- (b) adherence to the rules of natural justice.

**Order**

- (8) The Commission shall hear and decide appeals and shall issue an order giving effect to its disposition.

**Reasons**

- (9) The Commission shall give reasons for its decision.

**Implementation**

- (10) The council or the Minister, as the case may be, shall implement an order made by the Commission.

**Action by Commission**

- (11) Where the council or the Minister, as the case may be, fails to implement an order made under subsection (8), the Commission, on its own initiative or the initiative of an interested person, may act in the name of the council or the Minister to implement the order.

**Regulations respecting appeals**

- (12) The Lieutenant Governor in Council may make regulations in respect of appeals commenced under this Part. *1995, c.29, s.8 {eff.} Oct. 14/95; 2001, c.47, s.1; 2006, c.15, s.2; 2017, c.17, s.82; 2017, c.61, s.35(4); 2023, c.31, s.2.*

**PART VI — MAJOR DEVELOPMENT**

Sections 29 to 39 repealed by *1999, c.39, s.1.*

**PART VII — MAJOR RETAIL DEVELOPMENT**

Sections 40 to 43 repealed by *1991, c.30, s.5 {eff.} May 16/91.*

**PART VIII — GENERAL**

**44. Transitional**

The Lieutenant Governor in Council may make regulations for the effective transition from the administration of the *Planning Act* R.S.P.E.I. 1974, Cap. P-6 to this Act and the regulations may include provisions for the lapse of existing municipal bylaws unless an official plan is adopted by the municipality within such period as may be prescribed. *1988, c.4, s.44.*

**45. Agreements re land identification program**

Agreements made or deemed to be entered into under the land identification program established under the *Planning Act* R.S.P.E.I. 1974, Cap. P-6

- (a) where the land is identified for agricultural use, shall cease to have effect and are deemed to be null and void on the date this Act comes into force;
- (b) where the land is identified for non-development use, shall continue in force and shall have effect as if made in accordance with regulations made under clause 8(1)(p). *1988, c.4, s.46; 1990, c.44, s.2.*

**46. Existing official plans and bylaws**

- (1) Where, on the date this section comes into force, a municipality has an official plan or a bylaw controlling development made under this or any other Act, the official plan or bylaw shall, unless earlier revoked or replaced by the council of the new municipality created under the *Charlottetown Area Municipalities Act* or the *City of Summerside Act*, remain in effect until October 14, 1998 and shall be deemed to have been adopted or made by the council of the new municipality.

**Idem**

- (2) Where an area under the jurisdiction of the Minister for development control purposes becomes a part of a new municipality referred to in subsection (1), the regulations made under the *Planning Act* shall, unless earlier revoked or replaced by the council of the new municipality created under the *Charlottetown Area Municipalities Act* or the *City of*

*Summerside Act*, remain in effect for a period of up to three years and shall be deemed to have been adopted or made by the council of the new municipality. 1994, c.46, s.6 {eff.} Mar.31/95; 1998, c.76, s.1.

**47. Transitional**

- (1) A subdivision approval, development permit or building permit issued by the council of municipality after May 16, 1991, and before the date on which this section comes into force shall be deemed to have been validly issued if it complied with the official plan and bylaws then in force and shall not be liable to challenge on the ground that the official plan and bylaws were less stringent than the regulations made under this Act.

**Existing decision of Commission**

- (2) Notwithstanding subsection (1), any decision of the Commission on the issue of whether a particular official plan or bylaw was or was not less stringent than the regulations shall stand. 1995, c.29, s.10.