

Rural Municipality of
Kingston
Prince Edward Island

Development By-law
2025

Rural Municipality of
Kingston
Prince Edward Island

Table of Contents

1	TITLE AND PURPOSE	1
1.1	Title	1
1.2	Area Defined	1
1.3	Authority from the Province of Prince Edward Island	1
1.4	Purpose	1
1.5	Validity	1
1.6	Scope	2
2	INTERPRETATION	3
2.1	Certain Words	3
2.2	Permitted and Prohibited Uses	3
2.3	Units Of Measure	3
2.4	Compliance With Other Regulations	3
2.5	Development Zones	4
2.6	Interpretation of Zone Boundaries	5
2.7	Zoning Map and Boundaries	5
3	ADMINISTRATION	6
3.1	Authority Of Development Officer	6
3.2	Development Permit Required	7
3.3	No Development Permit Required	7
3.4	Permit Application	9
3.5	Development Permit	10
3.6	Payment Of Fees	10
4	INFORMATION REQUIRED FOR A DEVELOPMENT PERMIT	11
4.1	Site Plan	11
4.2	Stormwater Management Plan	13
4.3	Building Design Drawings	14
4.4	Other Information	15

Rural Municipality of
Kingston
Prince Edward Island

4.5	Conditions On Permits	16
4.6	Denying Permits and Development Restrictions.....	16
4.7	Permits Posted	17
4.8	Development Agreement.....	17
4.9	Variances.....	18
4.10	By-law Amendments	20
4.11	Public Meetings	23
4.12	Appeals	24
4.13	Offences And Penalties	25
5	GENERAL PROVISIONS FOR ALL ZONES	26
5.1	Access.....	26
5.2	Secondary Residential Structures.....	27
5.3	Accessory Apartments.....	28
5.4	Accessory Dwellings	30
5.5	Exceptions And Prohibitions.....	32
5.6	Accessory Buildings and Structures	32
5.7	Setback From Highways	33
5.8	Building Separation Distances	33
5.9	Home Occupations.....	34
5.10	Encroachments Permitted.....	36
5.11	Demolition or Moving Permits	36
5.12	Environmental Buffer	37
5.13	Excavation Pits	37
5.14	Requirement for Permit.....	38
5.15	Application for Permits.....	39
5.16	Issuance of Permits.....	41
5.17	Excavations from Excavation Pits	42
5.18	Existing Non-Conforming Buildings	43
5.19	Existing Non-Conforming Lots.....	44

Rural Municipality of
Kingston
Prince Edward Island

5.20	Existing Non-Conforming Uses	44
5.21	Fences	45
5.22	Height Restriction Exemption	45
5.23	Livestock Operations	45
5.24	47
5.25	Main Building	47
5.26	Mixed Use	47
5.27	Parking	47
5.28	Permitted Uses in All Zones	47
5.29	Prohibited Uses	48
5.30	Recreational Trailor or Vehicles	48
5.31	Servicing	48
5.32	Solar Arrays	49
5.33	Swimming Pools	50
5.34	Temporary Structures	50
5.35	Tourist Establishments	51
5.36	Development Adjacent to Wetlands and Watercourses	52
6	RURAL DEVELOPMENT ZONE (RD)	54
6.1	General	54
6.2	Permitted Uses	54
6.3	Special Permit Uses	55
6.4	Lot Requirements	55
7	COMMERCIAL DEVELOPMENT ZONE (CD)	57
7.1	General	57
7.2	Permitted Uses	57
7.3	Special Permit Uses	57
7.4	Special Provisions for Residential Uses	58
7.5	Lot Requirements	59
7.6	Temporary Commercial Permits	59

Rural Municipality of
Kingston
Prince Edward Island

8	INSTITUTIONAL ZONE (IN)	61
8.1	General	61
8.2	Permitted Uses	61
8.3	Lot Requirements	62
9	RECREATION AND OPEN SPACE ZONE (RO)	63
9.1	General	63
9.2	Permitted Uses	63
9.3	Special Permit Uses.....	63
9.4	Lot Requirements	64
10	ENVIRONMENTALLY SENSITIVE AREA ZONE (ES)	65
10.1	General.....	65
10.2	Permitted Uses	65
10.3	Development Permit Applications	66
10.4	Zone Boundaries.....	66
10.5	Zone Requirements	66
11	INDUSTRIAL ZONE (M)	67
11.1	General.....	67
11.2	Permitted Uses	67
11.3	Lot Requirements	68
11.4	Exceptions to the Maximum Building Height	68
11.5	Environmental Impact Assessment.....	69
12	GENERAL PROVISIONS FOR SUBDIVIDING LAND	70
12.1	Subdivision Approval.....	70
12.2	Conveying Interest in a Lot	70
12.3	Special Planning Area	70
12.4	Permission To Subdivide	71
12.5	Road Standards and Access.....	72
12.6	Special Requirements: Reduced Lot Frontage	73
12.7	Special Requirements: Subdivisions Adjacent to Wetlands and Watercourses	74

Rural Municipality of
Kingston
Prince Edward Island

12.8	Subdivision Agreement	74
12.9	Application And Preliminary Approval Process (5 Lots or less in total)	75
12.10	Final Approval.....	78
12.11	Severances/Consolidation.....	79
12.12	Development Permits	80
13	EFFECTIVE DATE AND REPEAL.....	81
13.1	Effective Date	81
13.2	Repeal	81
14	SCHEDULE 1: ZONING MAP	82
15	SCHEDULE 2: DEFINITIONS	83
16	SCHEDULE 3: PARKING STANDARDS	104
17	SCHEDULE 4: SCHEDULE OF FEES	106
17.1	Permit Fee Schedule.....	106
17.2	Refunds for Applications.....	108
18	SCHEDULE 5: PROVINCE-WIDE MINIMUM DEVELOPMENT STANDARDS REGULATIONS 109	
19	SCHEDULE 6: SPECIAL PLANNING AREA REGULATIONS	119

1 TITLE AND PURPOSE

1.1 Title

- 1.1.1 This By-law shall be known and may be cited as the Rural Municipality of Kingston Zoning and Subdivision Control By-law or the Development By-law.

1.2 Area Defined

- 1.2.1 This By-law applies to the geographical area within which the Council of the Municipality has jurisdiction.

1.3 Authority from the Province of Prince Edward Island

- 1.3.1 This By-law is enacted pursuant to the *Planning Act*, R.S.P.E.I. 1988, c. P-8.

1.4 Purpose

- 1.4.1 The purpose of this By-law is to implement the Rural Municipality of Kingston Official Plan and to regulate the subdivision and use of land, and the location, size, and use of buildings and Structures on land within the Rural Municipality of Kingston in order to promote public health, safety, aesthetics, and the general welfare of its residents and the natural environment.

1.5 Validity

- 1.5.1 If any provision of this By-law is for any reason held to be invalid by a decision of a court of competent jurisdiction, that provision must be severed, and the remainder of this By-law shall continue to be in full force and effect.

Rural Municipality of
Kingston
Prince Edward Island

1.6 Scope

- 1.6.1 No dwelling, business, trade, or other operation shall be located and no Building or Structure shall be erected, altered, used or have its use changed, and no land shall be subdivided, consolidated, or used in the Municipality, except in conformity with this By-law.

2 INTERPRETATION

2.1 Certain Words

2.1.1 In this By-law:

- a) words used in the present tense include the future tense;
- b) words in the singular include the plural;
- c) words in the plural include the singular;
- d) the word "may" is permissive and not mandatory;
- e) the word "shall" is mandatory and not permissive; and
- f) All other words have their customary meaning except this defined in Definitions, Schedule 2 of this By-law.

2.2 Permitted and Prohibited Uses

2.2.1 any Use not listed as a permitted Use in a Zone is prohibited in that Zone unless otherwise indicated.

2.3 Units Of Measure

2.3.1 All official measurements in this By-law are in metric. Imperial measurements are provided for convenience only.

2.4 Compliance With Other Regulations

2.4.1 Nothing in this By-law shall relieve any person from the obligation to comply with the requirements of any other by-law of the Municipality in force from time to time, or the obligation to obtain any license, permit, permit, authority, permission or other approval under any other By-law of the Municipality, or statute, regulation, or other enactment of the Province of Prince Edward Island or the Government of Canada.

2.4.2 Where the provisions of this By-law conflict with those of any other by-law of the Municipality, or any statute, regulation, or other enactment of the Province of Prince Edward Island or the Government of Canada, the highest, strictest, or most stringent provision shall prevail.

2.5 Development Zones

2.5.1 For the purpose of this By-law, the Municipality is divided into the following Zones, the boundaries of which are subject to Section 2.6 and are shown on the zoning map, which shall be attached hereto as Schedule A and which forms part of the By-law. These Zones may be referred to by the following symbols.

2.5.2

Zone	Symbol
Rural Development	RD
Special Planning Area Overlay	SO
Industrial	M
Institutional	IN
Recreation and Open Space	RO
Environmentally Sensitive Area	ES
Commercial Development	CD

2.6 Interpretation of Zone Boundaries

- 2.6.1 Boundaries between Zones shall be determined as follows:
- a) Where a Zone boundary is indicated as following a Street or Highway, the boundary shall be the centerline of such Street or Highway;
 - b) Where a Zone boundary is indicated as following Lot Lines, the boundary shall be such Lot Lines;
 - c) Where a Zone boundary is indicated as following the limits of the Municipality, the limits shall be the boundary; and
 - d) Where none of the above provisions apply, the Zone boundary shall be scaled from the original zoning map lodged with the Municipality.

2.7 Zoning Map and Boundaries

- 2.7.1 Schedule A attached hereto shall be cited as the "Zoning Map". The Zoning Map and all other Schedules attached hereto form part of this By-law.

3 ADMINISTRATION

3.1 Authority Of Development Officer

- 3.1.1 Council shall appoint a development officer(s) whose duties shall be as provided in this By-law. A development officer shall have the authority to administer this By-law.
- 3.1.2 In the absence of a development officer, Council may appoint the CAO as development officer who shall take on the role of development officer until such time as a temporary or permanent development officer can be hired.
- 3.1.3 Notwithstanding the foregoing and except where otherwise specified in this By-law, a development officer shall have the authority to approve or deny subdivisions, lot consolidations, and development permits in accordance with this By-law in all areas except for:
- Commercial, Industrial, and Institutional uses;
 - Excavation Pits;
 - Multi-lot subdivisions creating more than two additional lots;
 - Developments on non-conforming lots;
 - Special Permits and Discretionary approvals as identified in this By-law
 - Variances greater than 10%,

3.2 Development Permit Required

3.2.1 No person shall:

- a) Change the Use or intensity of Use of a Parcel, Structure or Building;
- b) Locate, place, erect, Construct, or replace a Structure or Building;
- c) Make structural Alterations, repairs, or additions to a Structure or Building;
- d) Make an underground installation such as a *septic tank*, a fuel tank, foundation wall, or other installation;
- e) Move or undertake the Demolition of a Structure or Building that is greater than 20 m² (215.28 ft²);
- f) Establish or operate an Excavation Pit;
- g) Construct a Highway;
- h) Place or dump any fill or other material or otherwise Altering the grade of the land; or
- i) Subdivide or consolidate a Parcel or Parcels.
- j) without first applying for, and receiving, a Development Permit or Subdivision approval, as the case may be, except where otherwise specifically provided in this By-law.

3.3 No Development Permit Required

3.3.1 The following developments shall not require a Development Permit:

- a) Laying paving material for a patio or sidewalk;
- b) Constructing a Fence 1.83 m (6 ft) in height or less;
- c) Installing minor structures such as retaining walls, children's play structures, hot tubs, cold frames, garden trellises, clothesline poles, dog houses, propane cylinders, heat pumps and radio or television antennae,

Rural Municipality of
Kingston
Prince Edward Island

except satellite dishes over 0.91 (3 ft) in diameter;

- d) Installing a roof-mounted Solar Array or a meteorological test tower;
- e) Making a Garden or growing a crop, or preparing land for a Garden or crop;
- f) Removal of vegetation for agricultural and/or forestry practices;
- g) Making Landscaping improvements;
- h) Constructing an Ornamental Structure or Accessory Building of less than 20 m² (215.28 ft²);
- i) Replacing a Deck with a new Deck of the same area, height and location;
- j) Conducting routine Maintenance;
- k) Erecting a tent under 20 m² (215.28 ft²) for temporary, personal Use;
- l) Placing or Erecting a Temporary Structure that is incidental to a Development that has an approved Development Permit and shall not be interpreted as a Change of Use, or constructing or placing a Structure or Building;
- m) A development that involves the interior or exterior renovation of a building that will not change the shape of the building or increase its volume, will not add more dwelling units, or will not result in a change of use of the building;
- n) The use of a portion of any dwelling unit or building accessory to a dwelling unit as a personal office for residents of the dwelling unit, provided no signage is posted;

3.3.2 When a Development does not require a Development Permit, the requirements of the By-law and any other applicable By-laws of the Municipality or any statute, regulation, or other enactment of the Provincial

Government or the Government of Canada, shall still apply.

- 3.3.3 A Development Permit issued under the By-law does not substitute or supersede the requirement for a Building permit for the construction, Demolition, occupancy or Use of a Building under the *Building Codes Act*, RSPEI 1988, c B-5.1, and applicable regulations. Furthermore, a Building permit issued under the *Building Codes Act* and applicable regulations, does not substitute or supersede the requirement for a Development Permit under the By-law.

3.4 Permit Application

- 3.4.1 A person making application for a permit shall do so on a form prescribed by Council and shall submit the application to the Development Officer or Chief Administrative Officer.
- 3.4.2 Every application form shall be signed and dated by the Owner of the property, or the authorized agent of the Owner, and shall be accompanied by the application fee.
- 3.4.3 An application is considered incomplete, and a decision shall not be rendered on such an application, until such time as all required information is submitted, including the:
- a) Application form, signed and dated by the Owner or Owner's authorized agent;
 - b) Non-refundable application fee, and any other required fees;
 - c) Site plans, drawings, and other representations of the proposed Development, as required;
 - d) Approval(s) from other governments and/or agencies, as required; and
 - e) Additional information, as required by the Development Officer.
- 3.4.4 An incomplete application shall be considered null and void if the applicant does not submit the required information and does not make payment in full on the application,

within six (6) months of submitting the initial application form.

- 3.4.5 An application submitted in accordance with the By-law shall constitute authorization for inspection of the Structure or land in question by the Development Officer, or an officer or agent of the Municipality, for the purpose of ensuring compliance with the provisions of the By-law.
- 3.4.6 In the case of a development permit application for a lot serviced by a private road subdivision approved after the effective date of the Official Plan and Development By-law, confirmation of compliance with the conditions set forth in the subdivision approval shall be required.

3.5 Development Permit

- 3.5.1 A Development Permit shall be valid for a twelve (12) month period;
- 3.5.2 The Development Officer may grant an extension on an approved Development Permit for up to twelve (12) months from the date of expiry, if the applicant requests the extension prior to the date of expiry. After such time, an application for a new Development Permit must be submitted.
- 3.5.3 Council may revoke a Development Permit where information provided for the application is found to be inaccurate.
- 3.5.4 The Development Officer shall post all decisions relating to applications in accordance with Section 23.1 of the *Planning Act*.

3.6 Payment Of Fees

- 3.6.1 Notwithstanding any other section of this By-law, a Development Permit is not valid until the application fee and any other required fees are paid in full and the permit

is acquired by the Owner.

- 3.6.2 Council shall set fees for applications and related services in a Fee Schedule, which shall be attached hereto as Schedule 4 and forms part of the By-law. Council may amend the Fee Schedule from time to time by resolution in accordance with Section 135 of the *Municipal Government Act*.

4 INFORMATION REQUIRED FOR A DEVELOPMENT PERMIT

4.1 Site Plan

- 4.1.1 Every application for a Development Permit shall be accompanied by a Site Plan, drawn to scale, and showing:
- a) the proposed use of the lot and each Building or Structure to be developed;
 - b) the boundaries of the subject Lot, including dimensions and Lot Area;
 - c) the general location and Use of every Building or Structure already Erected on the Lot and of Buildings on abutting Lots within 15.2 m. (50 ft.) of the location of the proposed Building or Structure;
 - d) the location of the Sewage Disposal System, if required;
 - e) the location of the well or water service, if required;
 - f) the distance between any existing or proposed well and Sewage Disposal System;
 - g) the location of any well, Sewage Disposal System, and driveways within 30 m (98.43 ft) on adjacent lots;
 - h) the proposed and existing location and dimensions of any entrance way, Parking Space, and Parking Lot on the Lot;
 - i) all existing Streets, Highways, rights-of-way, and easements on and adjacent to the Lot;

Rural Municipality of
Kingston
Prince Edward Island

- j) the location of existing and proposed driveways, including the distance from the centre of the driveway to the nearest property boundary;
 - k) the location and exterior dimensions of the proposed Building or Structure, including any deck, porch, or veranda attached thereto;
 - l) the distance from the proposed Building or Structure to all property boundaries;
 - m) the distance from the proposed Building or Structure to any existing Buildings or Structures;
 - n) elevation plan(s) of each exterior wall of the proposed Building or Structure;
 - o) slope and direction of surface drainage;
 - p) the distance from the proposed structure to the boundary of any Wetland, Watercourse, or the top of the bank adjacent to a Wetland or Watercourse and the location of the buffer zone as defined in the Watercourse and Wetland Protection Regulations;
 - q) north arrow and scale; and
 - r) any other information the Development Officer deems necessary to determine whether the proposed Development conforms to the requirement of this By-law.
- 4.1.2 The Development Officer may determine that any of the items listed in 4.1.1 above are not required.
- 4.1.3 When unable to determine whether the proposed Development conforms to this By-law and other by-laws and regulations in force that affect the proposed Development, the Development Officer may require that the plans submitted be based upon a survey by a licensed Prince Edward Island Land Surveyor.
- 4.1.4 A footing certificate or survey shall be prepared by a licensed surveyor and submitted to the Municipality for all

proposed Developments within 0.30 m (1.0 ft) or less of the minimum Setback permitted in the Zone to confirm the location of the Building's footing prior to the Development Permit being issued.

4.2 Stormwater Management Plan

- 4.2.1 A Surface Drainage Plan, signed and sealed by a licensed engineer or landscape architect, shall be submitted with a Development Permit application when:
 - 4.2.1.1 There is change to the Grade, when no Building or Structure is proposed, that involves:
 - a) Placing or dumping fill or other material on a Lot within 50 feet of a boundary line, except where such fill is for the maintenance of a driveway or private road;
 - b) Excavating and removing soil from a Lot; or
 - c) Any Alteration or change to the existing Grade within the minimum Setbacks of the Lot.
 - 4.2.1.2 There is a proposed new Building or Structure:
 - a) Where the footprint of the proposed building or structure is greater than 65.03 m² (700 ft²), the proposed setback is less than 15.24 m (50 ft) from any Lot Line, existing Building or Structure, excluding Accessory Buildings, and where the development requires an alteration or change to the existing Grade within 7.62 m (25 ft) from any lot line; or
 - b) With a Lot Coverage greater than 25%.
- 4.2.2 A Surface Drainage Plan is not required for:
 - a) A Development that conforms with a pre-approved storm water management plan as prepared for Subdivision approval of the Lot;
 - b) A Building or Structure that is built on raised sono-tubes or piles and will not affect the natural and existing flow for drainage on a Lot; or

- c) The replacement of a Building or Structure with a Building or Structure of the same size and in the same general location, provided no changes are being made to the Grade of the Lot.
- 4.2.3 A Surface Drainage Plan shall include the following information:
- a) The existing and proposed Grade elevations relative to any adjoining Lot and Highway;
 - b) The surface water management strategies to be used (i.e., swales, berms, ditches, etc.) when applicable, and the proposed surface drainage flow as designed to prevent surface water run-off from the Lot in question onto any adjoining Lot or Highway;
 - c) The finished floor or foundation elevation of any existing Building(s) on the Lot and on any adjacent Lot located within 15 m (49.21 ft) of the adjoining Lot Line; and
 - d) The proposed surface, finished floor, or foundation elevation of the proposed Building or Structure.
- 4.2.4 For properties with, or located adjacent to, a Watercourse or Wetland, the site plan and/or Surface Drainage Plan shall also include the location of any Buffer Zone as defined in the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*, R.S.P.E.I. 1988, c. E-9.
- 4.2.5 A site plan and Surface Drainage Plan may be submitted together as a single plan of the proposed Development.

4.3 Building Design Drawings

- 4.3.1 In cases where signed and stamped drawings are required under the *Building Codes Act*, the *Architects Act* and/or the *Engineering Profession Act*, no development shall be approved until such signed and stamped drawings are received by the *Municipality*.

4.4 Other Information

4.4.1 The Development Officer may require an Owner to submit additional information related to the Development, which it deems pertinent to an application, including but not limited to the following:

- a) Construction Information, including but not limited to: construction phasing, stockpiling of fill, temporary screening or fencing, erosion or run-off control measures, heavy truck access, hours of construction, remediation measures and any other matter that could present a nuisance or hazard during construction of the Development.
- b) Parking Lot layout and internal circulation patterns;
- c) Location of garbage containers and description of screening or fencing;
- d) Stormwater management plan for any Development other than that which requires a Surface Drainage Plan under Section 4.2 of this By-law;
- e) Location of Open Space and amenity areas;
- f) Landscaping plan;
- g) Existing vegetation;
- h) Easements;
- i) Proposed storage areas and description of screening or fencing;
- j) Traffic impact study, the requirements of which are site specific and will be provided on a case-by-case basis through consultation with the Provincial Government department responsible for the *Roads Act, R.S.P.E.I.* 1988, c. R-15;
- k) Survey Plans;
- l) Energy efficiency features; and
- m) Accessibility features.

4.5 Conditions On Permits

4.5.1 The Development Officer may impose conditions on a permit that are directly related to By-laws of the Municipality, the Official Plan, or statutes, regulations, or other enactments adopted by the Provincial Government.

4.6 Denying Permits and Development Restrictions

4.6.1 No Development Permit shall be issued if the proposed Development:

- a) Could create a hazard to the general public or any resident of the Municipality or could injure or damage neighbouring Lot or other property in the Municipality, including but not be limited to, hazards, injuries or damages arising from water drainage run-off;
- b) Could create a health, fire, or accident hazard or increase the likelihood of the existence of rodents, vermin, or other pests;
- c) Does not conform to the By-law or other By-laws of the Municipality or any applicable enactments of the Provincial Government or of the Government of Canada;
- d) Does not have a water supply that meets minimum provincial standards;
- e) Does not have a Sewerage Disposal System that meets minimum provincial standards;
- f) Involves a proposed access not permitted by the Roads Act, RSPEI 1988, c R-15;
- g) Involves a proposed access that requires the Use of a Private Road or access over an adjacent property for which a legal right-of-way has not been properly granted;
- h) Would be Detrimental to the environment by reason of noise, dust, drainage, infilling, or excavation which affects environmentally sensitive or residential areas; or

- i) Would be Detrimental to the convenience, health, or safety of residents in the vicinity of the Development or of the general public.

4.7 Permits Posted

- 4.7.1 The Owner shall post the permit at a location on the Parcel that is visible to the public.

4.8 Development Agreement

- 4.8.1 The Development Officer may require an Owner to enter into a Development Agreement with Council. This agreement is a contract and shall be binding on both parties.
- 4.8.2 The Development Agreement shall include the conditions under which a Development is to be carried out by the Owner.
- 4.8.3 Failure to comply with a Development Agreement shall constitute an offence under this By-law.
- 4.8.4 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 design;
 - h) Methods of waste disposal;
 - i) on-site wells and waste water treatment systems and any central water supply or waste water treatment

- systems; (from our By-law);
 - j) Remediation measures;
 - k) Security;
 - l) Hours of operations;
 - m) Fencing;
 - n) Other matters to ensure the health, safety, and convenience of residents of any other person; and
 - o) Any other information which the Development Officer deems necessary to determine whether or not the proposed development conforms with the requirements of this By-law.
- 4.8.5 The Development Agreement shall be registered in accordance with the *Registry Act, R.S.P.E.I. 1988, c. R-10*.
- 4.8.6 A permit issued subject to a Development Agreement shall reference the signed agreement as a condition of the permit.
- 4.8.7 Fees associated with the preparation, registration, and enforcement of the Development Agreement shall be paid by the Owner.

4.9 Variances

- 4.9.1 The Development Officer may grant a variance for a Development Permit application, not exceeding 10% of the minimum Setback, Lot Area, Frontage, Lot Coverage and/or Building Height as required in the Zone, if the variance is consistent with the general intent and purpose of this By-law, provided that:
- a) The Lot has peculiar physical conditions, such as small Lot size, irregular Lot shape, exceptional topographical conditions, or other feature, which make it impractical to develop in strict conformity with the By-law standards;

Rural Municipality of
Kingston
Prince Edward Island

- b) Strict application of the By-law standards would impose undue hardship on the Owner by excluding them from the rights and privileges for reasonable Use of the Lot as enjoyed by other Owners in the same Zone;
 - c) The variance is of the least magnitude required to enable reasonable Use of the Lot; and
 - d) The proposed variance would not impact unduly on the enjoyment of adjacent properties, or on the essential character of the surrounding neighbourhood.
- 4.9.2 Authorization of a variance shall be documented and recorded in writing.
- 4.9.3 No variance shall be granted where the matter is the result of intentional or negligent conduct of the Owner, including ignorance on the part of the Owner, or where the difficulty can be remedied in some other reasonable manner.
- 4.9.4 Notwithstanding any other section of this By-law and upon receiving a recommendation from Planning Board, Council may grant a variance for a Development Permit application, in excess of 10% but not exceeding 50% of the minimum Setback, Lot Area, Frontage, Lot Coverage, and/or Building Height as required in the Zone, if Council deems such a variance desirable and appropriate and if such variance is consistent with the general intent and purpose of this By-law.
- 4.9.5 Before Council considers a variance in excess of 10%, the Development Officer shall:
- a) Receive from the Owner sufficient funds to cover the costs associated with a mail-out and the application fee;
 - b) Provide written notice by ordinary mail or hand delivery, explaining the details of the proposed application, to all Owners within 152.40 m (500 ft) of the boundaries of the subject Lot;
 - c) Ensure that the notice identifies the subject Lot and describes the application and the date by which written

comments must be received; and

- d) Accept all comments submitted within fourteen (14) calendar days from the date of the notice.
- 4.9.6 Planning Board shall consider the application having regard for the criteria in subsection 4.9.1, the input received from the public, and the policies and objectives of the Official Plan and shall make a recommendation to Council.
- 4.9.7 Where Council decides a variance application could have a Significant effect on adjacent Parcels or Parcels in the general vicinity of the Lot, or when Council decides insufficient input has been received, Council may require that a public meeting be held pursuant to the provisions of Section 4.11 of this By-law.
- 4.9.8 When an application for a variance has been decided, the same or a similar variance application for the Lot shall not be heard by Council within one (1) year of its rendering a decision unless Council is of the opinion that there is new information.
- 4.9.9 If, after one (1) year of a variance approval, no Development Permit is issued for the Lot or the Development has not been commenced, the variance and any related Development Permit shall be deemed null and void.

4.10 By-law Amendments

- 4.10.1 A person making application for an amendment to the provisions of this By-law shall do so on a form prescribed by Council and shall submit the application to the Development Officer or the Chief Administrative Officer. The applicant shall describe in detail the reasons for the desired amendment and request Council consider the proposed amendment. Any request for an amendment shall be signed by the person seeking the amendment.

Rural Municipality of
Kingston
Prince Edward Island

- 4.10.2 An application for rezoning shall:
- a) Be deemed to be an application to amend this By-law;
 - b) Include a legal description of the location of the Lot to be rezoned, the name and address of the Owner and, if the applicant is not the Owner, approval from the Owner granting permission to the applicant to apply for such application;
 - c) Include such information as may be required for the purpose of adequately assessing the desirability of the proposal, including but not limited to:
 - i. General Development Concept showing proposed Use, Subdivision, Building, means of servicing, traffic access, and Parking;
 - ii. Assessment of potential impacts of the Development on municipal infrastructure and the natural environment; and
 - iii. Verification that the proposed Development is in conformance with any applicable provincial statute, regulation or other enactment.
 - d) Be submitted with a non-refundable application fee in accordance with the Schedule of Fees, Schedule 4 of this By-law. If the amount paid by the Owner is not sufficient to cover the costs related to the application, the Owner shall pay the additional amount required before Council gives final approval to the amendment or, if the amount paid is more than sufficient, the excess amount shall be refunded to the Owner minus the processing fee.
- 4.10.3 Council shall determine whether or not to consider an amendment and before making a decision shall consider whether:
- a) the proposed amendment is in conformity with the Official Plan; or
 - b) to amend the Official Plan in accordance with the provisions of the *Planning Act*.

Rural Municipality of
Kingston
Prince Edward Island

- 4.10.4 Related Official Plan and By-law amendments may be considered concurrently by Council, provided that both amendments are posted on the same notice and the Official Plan amendment precedes the By-law amendment.
- 4.10.5 Prior to amending this By-law, Council shall provide public notice and hold a public meeting pursuant to the provisions of Section 4.11 in this By-law and the requirements of the *Planning Act*. Amendments to the Official Plan or this By-law approved by Council also require approval by the Minister responsible for administering the *Planning Act*.
- 4.10.6 Following the public meeting, the Planning Board shall consider the feedback received from the public by way of written responses and comments made at the public meeting. The applicant may be provided another opportunity to present to the Planning Board to answer any further questions that may have arisen at or following the public meeting. The Planning Board shall make a recommendation to Council on the application.
- 4.10.7 Council shall consider the recommendation of the Planning Board and shall determine whether to proceed with an amendment to the By-law in accordance with the *Planning Act*, as requested or with modification, or to deny the application.
- 4.10.8 The Development Officer will notify the applicant that the proposed amendment has been approved or denied. Where a proposed amendment has been denied by Council, the reasons for the denial shall be stated in writing to the Owner.
- 4.10.9 No Development Permits or Subdivision applications related to a proposed amendment(s) shall be approved by the Municipality, until the approval from the Minister responsible for administering the *Planning Act* or any successor legislation has been granted for the necessary amendments.
- 4.10.10 When an application for an amendment has been decided,

the same or a similar application shall not be heard by Council within one (1) year of its rendering a decision unless Council is of the opinion that there is new information.

- 4.10.11 Nothing in this By-law restricts the right of Planning Board or Council to initiate its own amendment to the Official Plan or this By-law.

4.11 Public Meetings

- 4.11.1 The Development Officer shall review an application for a variance or an amendment to the Official Plan or this By-law and will provide a recommendation to the Planning Board and Council on whether to hold a public meeting.
- 4.11.2 The Planning Board and Council shall consider the following criteria when reviewing an application for a variance in excess of 10%, or a By-law amendment, as applicable:
- a) Conformity with all requirements of this By-law;
 - b) Conformity with the Official Plan;
 - c) Suitability of the site for the proposed Development;
 - d) Compatibility of the proposed Development with surrounding land Uses, including both existing and other permitted Uses;
 - e) Comments from residents or other interested persons;
 - f) Adequacy of existing or proposed water supply system, Sewage Disposal System, road access, stormwater management, electrical services, and any projected infrastructure requirements;
 - g) Impacts of the Development on pedestrian and vehicular access and safety, including public safety generally;
 - h) Compatibility of the Development with agricultural, environmental, scenic, and heritage resources;

- i) Impact on municipal finances and budgets;
 - j) Other related provisions in this By-law; and
 - k) Other matters considered relevant by the Planning Board or Council.
- 4.11.3 Council retains the right to deny a request without holding a public meeting, if Council has determined that such request is inconsistent with sound planning principles or the Official Plan. Should Council not proceed with a public meeting, the application fee shall be returned to the Owner minus the processing fee.
- 4.11.4 At least seven (7) clear days prior to holding a public meeting, the Development Officer shall advertise the date, time and place of the public meeting, together with the general terms of the proposed By-law amendment, and, where applicable, the Official Plan amendment, by:
- a) Public notice in a newspaper circulating in the area or other channel as enabled by the *Planning Act*;
 - b) Written notice to all property Owner(s) within 152.40 m (500 ft) of the boundaries of the subject Lot; and
 - c) Placing a Sign on the subject Lot.
- 4.11.5 At a public meeting called in respect of a proposed amendment to this By-law, Council shall preside at the meeting, the Owner or their authorized agent shall describe the proposed amendment at the meeting, and the opinions of any person shall be heard by Council.

4.12 Appeals

- 4.12.1 A person who is dissatisfied by a decision of the Development Officer or Council in respect of an application made pursuant to this By-law may appeal the decision to the Island Regulatory and Appeals Commission in accordance with Section 28 of the *Planning Act*.

4.13 Offences And Penalties

- 4.13.1 A person who violates any provision of this By-law is guilty of an offence and liable on summary conviction to the penalties set forth in the *Planning Act*.
- 4.13.2 The Municipality is also entitled to enforce this By-law and restrain any breach of this By-law in accordance with the *Planning Act* and the *Municipal Government Act*.

5 GENERAL PROVISIONS FOR ALL ZONES

5.1 Access

- 5.1.1 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.
- 5.1.2 Notwithstanding Section 5.1.1, a lot that fronts onto a private road shall be deemed to have frontage on a Street, provided the private road was legally established and is governed in accordance with an agreement registered in the Provincial Registrar of Deeds.
- 5.1.3 New private roads shall be permitted where all lots serviced by the private road accommodate one of the following uses:
- a) Single Unit Dwellings
 - b) Duplex Dwellings and Semidetached
 - c) Agricultural Buildings
 - d) Resource Buildings, Excluding Resource Commercial or Industrial Use.
- 5.1.4 Any new private road or right-of-way shall be governed by a Home Owners Association agreement registered in the Provincial Registrar of Deeds and
- a) Shall be constructed to a standard to be fully serviceable on a year-round basis and where the private road services 3 or more lots shall:
 - i. Be constructed by a construction firm that is a member of the PEI Road Builders and Heavy Construction Association, or
 - ii. Be designed and constructed under the supervision of a professional engineer licensed to practice on Prince Edward Island.

- b) Where the private road services 3 or more lots, that a stormwater management plan shall be designed and completed by a licensed engineer or landscape architect that will adequately handle projected stormwater flows and provide protection from flooding for all properties in the subdivision and for adjacent properties.
 - c) The Home Owner Association agreement shall include the Municipality as signatories.
 - i. The Municipality's involvement in the Home Owner Association shall be solely as an oversight to ensure the Home Owner Association remains actively registered with the Province; and
 - ii. All costs associated with the Home Owner Association shall be the responsibility of the developer and lot owners of the subdivision.
- 5.1.5 No person shall construct or Use an Entrance Way except where that Entrance Way meets the minimum requirements as established under the *Planning Act*, the *Roads Act*, or any successor enactment.
- 5.1.6 Where an Entrance Way permit or other approval is required under the Highway Access Regulations prescribed under the *Roads Act*, its issuance shall be a condition precedent for approval of a Subdivision or a Development Permit.

5.2 Secondary Residential Structures

- 5.2.1 This By-law provides for a second residential unit to be constructed on a Lot provided the Lot size is a minimum size of one acre. Both Accessory Apartments and Accessory Dwelling Units are permitted, but not both. No more than two residential units are permitted on a lot unless allowed under a different provision in this By-law.

5.3 Accessory Apartments

- 5.3.1 One (1) Accessory Apartment may be constructed in or as an addition to an existing Single Unit Dwelling subject to the following conditions:
- a) The proposed Development is on a lot that conforms to the Area requirement of the Zone.
 - b) The Owner shall submit a site plan indicating the proposed location of at least one (1) additional Parking Space in addition to the Parking Space(s) required for the Main Building;
 - c) The exterior of the Single Unit Dwelling shall retain the appearance of a Single Unit Dwelling;
 - d) The Accessory Apartment and the Single Unit Dwelling are connected to a common water supply and a common Sewage Disposal System, where feasible;
 - e) The Sewage Disposal System shall be evaluated by a professional licensed by the Province to install or repair a Sewage Disposal System to confirm the existing system has capacity.
 - f) Where the property is serviced by an on-site water supply and Sewage Disposal System, the Intensification of Use and necessary upgrades to the system(s) must be approved by the responsible Provincial Government department;
 - g) The Accessory Apartment shall be less than:
 - i. 80% of the Floor Area of the main Dwelling, excluding the garage; and
 - ii. 80 m² (861.11 ft²) in Floor Area.
 - h) The Accessory Apartment shall not contain more than two bedrooms;
 - i) All other provisions of the By-law remain applicable to the Dwelling and changes may be required to the exterior of the Dwelling to ensure compliance with this

Rural Municipality of
Kingston
Prince Edward Island

By-law.

- 5.3.2 One (1) Accessory Apartment may be permitted in a detached Building or in an Accessory Building on a Lot with an existing Single Unit Dwelling subject to the following conditions:
- a) The proposed Development is on a lot that conforms to the Area requirement of the Zone.
 - b) The Owner shall submit a site plan indicating the proposed location of at least one (1) additional Parking Space in addition to the Parking Space(s) required for the Main Building;
 - c) The Accessory Apartment and the Single Unit Dwelling are connected to a common water supply and a common Sewage Disposal System, where feasible;
 - d) The Sewage Disposal System shall be evaluated by a professional licensed by the Province to install or repair a Sewage Disposal System to confirm the existing system has capacity.
 - e) Where the property is serviced by an on-site water supply and Sewage Disposal System, the Intensification of Use and necessary upgrades to the system(s) or new or separate system must be approved by the responsible Provincial Government department;
 - f) The Accessory Apartment shall not contain more than two bedrooms;
 - g) The Accessory Apartment shall use the existing Entrance Way on the Lot unless the said Entrance Way leads to a garage, in which case provision must be made for access to the Rear Yard for emergency vehicles;
 - h) The Owner may be required to submit a Survey Plan showing the location of Structures and underground utilities or services and easements, upon which there shall be no encroachment;

- i) The construction of the Accessory Apartment shall not interfere with, nor disrupt the existing stormwater drainage pattern on adjacent properties, and shall not cause ponding of stormwater;
- j) All other provisions of the By-law remain applicable to the Dwelling, and changes may be required to the exterior of the Dwelling to ensure compliance with this By-law.

5.4 Accessory Dwellings

5.4.1 One accessory dwelling unit may be located as a second dwelling unit on a lot where:

- a) a single-unit dwelling already exists on the lot or existing parcel of land;
- b) the land containing the single-unit dwelling and accessory dwelling unit are owned by the same owner;
- c) the accessory dwelling unit has one or more rooms used or designed to be used as a residence by one or more persons;
- d) the accessory dwelling unit is intended for domestic use and has cooking and toilet facilities;
- e) the accessory dwelling unit has a minimum of one dedicated parking space;
- f) the accessory dwelling unit uses the existing access to the lot, or an additional access is approved under the *Roads Act* Highway Access Regulations;
- g) the accessory dwelling unit and the single-unit dwelling are connected to a common water supply system and a common Sewage Disposal System, where feasible, and where these systems are capable of handling the increase in use;
- h) the applicant, with the consent of the owner of the single-unit dwelling, if different from the applicant,

Rural Municipality of
Kingston
Prince Edward Island

applies for and receives a development permit for the accessory dwelling unit;

- i) the accessory dwelling unit meets all the requirements of any applicable sections of these regulations;
- j) the accessory dwelling unit is approved by the Provincial Fire Marshal; and
- k) the accessory dwelling unit complies with the *Building Codes Act* R.S.P.E.I. 1988, Cap. B-5.1.

5.5 Exceptions And Prohibitions

An accessory dwelling unit

- a) is not permitted on a lot where the existing residential use is a non-conforming use;
- b) shall not be severed from the existing lot or existing parcel of land.
- c) When used as a short term rental, shall require licensing under the *Tourism Industry Act* R.S.P.E.I. 1988, Cap. T-3.3.

5.6 Accessory Buildings and Structures

- 5.6.1 An Accessory Building shall be permitted on a parcel in all Zones except Environmentally Sensitive Area (ES) Zone, but shall not be used for human habitation, except where an Accessory Apartment is a permitted Use.
- 5.6.2 The combined Gross Floor Area of Accessory Buildings on a Lot:
 - a) Shall not exceed 10% of the Lot Area;
 - b) or in the case of a non-confirming lot with undersized Area (less than 1 acre), shall not exceed 10% of the Lot Area or 1,205.6 ft², whichever is greater;
 - c) Shall be included in the calculation of maximum Lot Coverage as described in the Lot requirements for the applicable Zone.
- 5.6.3 Except on a Farm or Resource Use property or in a Commercial or Industrial Zone, Accessory Buildings and Structures shall not:
 - a) Be located in less than 25.3 m (83 ft) to the center line of the highway or 15.2 m (50 ft) to the highway boundary, whichever is greater;
 - b) Be closer than 1.5 m (4.92 ft) to a Lot line;
 - c) Be closer than 1.5 m (4.92 ft) to any other Building,

subject to any limiting distance requirements under the National Building Code; or

- d) Exceed 7.62 m (25 ft) in height, where the Lot is equal to or greater than 0.405 ha (1 acre).
 - e) Exceed 4.60 m (15.1 ft) in height, where the Lot is less than 0.405 ha (1 acre);
- 5.6.4 Except on a Farm or Resource Use property or in a Commercial or Industrial Zone, the maximum Gross Floor Area for an individual Accessory Building shall not:
- a) Exceed 140 m² (1,507 ft²), where the Lot is between 0.405 ha (1 acre) and 1.22 ha (3 acres); or
 - b) Exceed 112 m² (1,205.6 ft²), where the Lot is less than 0.405 ha (1 acre); or
 - c) Be restricted in size, where the Lot is greater than 1.22 ha (3 acres).
- 5.6.5 No Accessory Building or Structure shall be constructed:
- a) Prior to the construction of the Main Building to which it is accessory, unless a development agreement is in place for a phasing of the construction process; or
 - b) Prior to the establishment of the Use of the Lot where no Main Building is to be built.

5.7 Setback From Highways

- 5.7.1 The minimum Setback from the Street Line of a Highway or Private Road shall be 25.3 m (83 ft) from the center line of the road.

5.8 Building Separation Distances

- 5.8.1 Where more than one Main Building is permitted on a Lot, the minimum separation distance between Buildings shall be 6.0 m (19.69 ft), unless the subject Buildings have been designed by a licensed architect and/or engineer and the

separation distance has been certified accordingly.

- 5.8.2 The minimum separation distance between a Main Building and an Accessory Building or Temporary Structure, shall be 1.5 m (4.92 ft).

5.9 Home Occupations

- 5.9.1 Nothing in this By-law shall prevent the Use of a portion of any Dwelling Unit or Building accessory to a Dwelling Unit as a personal office for residents of the Dwelling Unit provided the personal office is not intended to be visited by members of the public and no Signage is posted. No Development Permit is required.
- 5.9.2 Nothing in this By-law shall prevent the Use of a portion of any Dwelling Unit or Building accessory to a Dwelling Unit for the instruction of up to two students at a time provided no Signage is posted. No Development Permit is required.
- 5.9.3 Any Dwelling or Accessory Building to a Dwelling may be used for a Home Occupation provided:
- a) The Owner of the business ordinarily resides in the Dwelling;
 - b) Not more than two (2) employees live outside the Dwelling;
 - c) Not more than twenty five percent (25%) of the gross Floor Area of the Dwelling is used for the Commercial Use; or when the Home Occupation operates from an Accessory Building, the Accessory Building shall meet the regulations for maximum gross Floor Area permitted on the property.
 - d) Adequate off-highway Parking is provided on the Lot for both the Dwelling and the Home Occupation Use in accordance with the Parking Standards, Schedule 3;
 - e) No Outdoor Storage of materials or outdoor product Display used in conjunction with the Home Occupation

Rural Municipality of
Kingston
Prince Edward Island

is permitted on the property.

- f) A maximum of two (2) commercial vehicles, operated in conjunction with the Home Occupation, may be Parked or stored on the Lot. Notwithstanding the foregoing, additional vehicles may be Parked or stored on the Lot within a wholly enclosed Building;
- g) Signs advertising the Home Occupation shall be restricted to a maximum of 0.56 m² (6 ft²);
- h) The external appearance of the Dwelling is not Altered; and
- i) Where the property is serviced by an on-site water supply and sewerage disposal system, the Intensification of Use and any necessary upgrades to the system(s) must be approved by the responsible Provincial Government department.

5.9.4 The following Uses are permitted on a Residential Lot as a Home Occupation:

- a) Business or Professional Offices;
- b) Child Care Facilities;
- c) Occupations and businesses that create or repair and/or offer for sale arts and crafts, which shall include but are not limited to: weavings, paintings, sculptures, woodworking, garden or household ornaments, personal effects, clothing, or toys;
- d) Hairdressing salon, barbershop or personal services shop;
- e) Catering, for off-premise delivery of products;
- f) Tourist Establishment, subject to Section 5.8 of this By-law;
- g) Private lessons, tutoring or training sessions of between 3 and 6 students at any one time;
- h) Online Retailing;

- i) Photography studio; and
- j) Animal grooming.
- k) The following Uses are prohibited on a Residential Lot:
 - l) Automobile Shop
 - m) Automobile Service Station
 - n) Retail Store; and
 - o) Industrial Uses

5.9.5 Notwithstanding subsection 5.9.4, but after having followed the process in subsection 4.9.5 of this By-law, Council may approve an alternative Commercial Use as a Home Occupation provided Council is satisfied the Commercial Use will be compatible with adjacent land Uses, and that no permanent injury will be caused to the existing and permitted Uses of adjoining properties.

5.10 Encroachments Permitted

5.10.1 The following portions of Structures may project into a required Setback as outlined in this By-law to the limit of the specified distance:

Structure or Feature	Distance
Patio / Deck Not Exceeding 0.6 m (2 ft) from Surrounding Grade	1 m (3.3 ft)
Wheelchair Ramp	1.4 m (4.6 ft)

5.11 Demolition or Moving Permits

5.11.1 When a Structure is demolished or moved, the well and Sewage Disposal System must be decommissioned or temporarily capped in accordance with any applicable statute, regulation, or other enactment.

- 5.11.2 When a Structure is to be moved, the Owner must arrange for a Highway escort as required by any applicable statute, regulation, or other enactment.
- 5.11.3 When a Structure has been moved or demolished, the Lot must be leveled to Grade.

5.12 Environmental Buffer

- 5.12.1 A Buffer Zone shall be in place for any Watercourse or Wetland in accordance with the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*.
- 5.12.2 The Environmentally Sensitive Areas (ES) Zone applies to any Wetland, Watercourse, and Buffer Zone identified on a Lot by the Provincial Government department responsible for the *Environmental Protection Act*, and the boundary of any Wetland, Watercourse, and the Buffer Zone shall be shown on any site plan submitted to the Municipality as part of a Development Permit application.

5.13 Excavation Pits

- 5.13.1 No person shall operate an Excavation Pit in the Industrial (M) Zone unless a valid permit has been issued pursuant to the provisions of this Section.
- 5.13.2 An Excavation Pit is a Permitted Use in an Industrial (M) Zone only.

5.13.3 In this Section

- a) "abandoned" in relation to an Excavation Pit, means an Excavation Pit for which a valid permit has not been in force for a period of one year;
- b) "contractor" means any Person who has an understanding, agreement or contract with a Property Owner to open or operate an Excavation Pit on the land of the Property Owner;
- c) "Excavation Pit" means any excavation in the ground for the purpose of searching for or removing clay, gravel, sand, shale, sub-soil, topsoil, rock or any other surface or subterranean deposit, but does not include an excavation made within the boundaries of a highway, or a snow-trap constructed to protect a roadway from snow accumulation;
- d) "operate" in relation to an Excavation Pit, means to search for, move or remove any clay, gravel, sand, shale, sub-soil, topsoil, rock or any other surface or subterranean deposit, or any part thereof;

5.14 Requirement for Permit

5.14.1 No person shall:

- a) open or operate an Excavation Pit;
- b) remove excavated material from an Excavation Pit;
- c) being a Property Owner
 - i. allow any other Person to operate an Excavation Pit on that Property; or
 - ii. allow any other Person to remove excavated material from that Property

except in compliance with a valid permit issued under this By-law.

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

5.15 Application for Permits

- 5.15.1 Before opening or operating any Excavation Pit, a contractor or Property Owner shall have made application for and be in possession of a valid permit issued therefore.
- 5.15.2 An application shall be made:
- a) by the contractor in the case of an Excavation Pit that is to be operated by a contractor, but must contain the approval in writing of the Property Owner of the Property upon which the Excavation Pit is to be located; or
 - b) by the Property Owner on which the Excavation Pit is to be located, in the case of an Excavation Pit that is to be operated by the Property Owner.
- 5.15.3 An application shall contain:
- a) a map or plan showing the location, shape, dimension, approximate area and description of the Property upon which the Excavation Pit is to be located and the location of the proposed Excavation Pit, together with existing grades of the Property on which the Excavation Pit is to be located, and the anticipated grades of the Excavation Pit when it has been abandoned;
 - b) details of the existing land Use of the proposed site of the Excavation Pit;
 - c) information in respect of the Use of all land within a distance of 500 m (1,600 ft) of the boundary of the proposed pit;
 - d) information in respect of the Use of all land within a distance of 500 m (1,600 ft) of the boundary of the proposed pit;

Rural Municipality of
Kingston
Prince Edward Island

- e) the location and extent of all Watercourses within the Property boundaries or within 250 metres (800 feet) of the proposed Excavation Pit;
- f) the details of all drainage from the proposed Excavation Pit;
- g) the plans to prevent soil eroded from the Excavation Pit from entering any adjacent Watercourses;
- h) a description of all entrances and exits from the proposed Excavation Pit;
- i) the location and amount of all stockpiles of the mater being excavated, overburden and waste;
- j) proposals for the protection of people and livestock from any hazards that may be created by the Excavation Pit, including proposals for the fencing and posting of Signs for the Excavation Pit;
- k) a plan for the restoration of the site to a condition suitable for agricultural, reforestation or other Use acceptable to Council;
- l) an undertaking to post a bond or other surety acceptable to Council to cover the costs of carrying out the restoration plan required in sub-clause (j); and
- m) such other information as may be required by Council.
- n) Each application under Subsection 5.15.1 shall contain the real property tax number and the name of the owner appearing on the tax notices under the *Real Property Tax Act*, R.S.P.E.I. 1988, Cap. R-5.
- o) A plan referred to Subsection 5.15.3(a) may be an aerial photograph, a Survey Plan certified by a Prince Edward Island land surveyor, or it may be a line drawing made by the Applicant, but any plan submitted shall be of such detail and shall identify the matters referred to in Subsection 5.14 with such clarity as shall be satisfactory to Council.

- p) Each application shall be accompanied by a fee as set out in the Schedule of Fees, Schedule 4 of this By-law and made payable to the Rural Municipality of Kingston.
- q) No fee shall be payable in respect of an Excavation Pit for which a valid permit has been in force within six months prior to the date the application is received by Council and for which a fee has been paid.

5.16 Issuance of Permits

5.16.1 No permit shall be issued:

- a) if an application in accordance with subsection (4) has not been submitted;
- b) if the plan submitted by the Applicant does not contain sufficient particulars;
- c) if the Use of the land as an Excavation Pit would be in contravention of any other act, regulation, or By-law;
- d) if any part of the proposed Excavation Pit is within 300 m (1000 ft) of any residential Property other than a residence occupied by the Applicant or within 500 m (1600 ft) of any church, school, Hospital, cemetery, public hall, bathing beach, Public Park or public playground;
- e) if, in the opinion of Council, the location of a Road from the Excavation Pit giving access to the highway would create a hazard to the public;
- f) if, in the opinion of Council, the proposals of the Applicant are insufficient to provide reasonable protection for people and livestock from the hazards created by the Excavation Pit;
- g) if, in the opinion of Council, any detrimental effect on the water table or surface drainage patterns would occur;

- h) if any part of the site proposed for an Excavation Pit is within 50 m (160 ft) of a Watercourse;
 - i) if, in the opinion of Council, the operation of an Excavation Pit at that location would create a conflict with existing land Use, natural features or aesthetic quality of the surrounding area;
 - j) if the bond or surety referred to in Subsection 5.15.3(k) has not been executed;
 - k) for any period of time exceeding one year from the date of issue; or
 - l) for an Excavation Pit to be located within 60 m (200 ft) of a Highway.
- 5.16.2 Where Council is satisfied that the requirements of this By-law have been complied with, it shall issue a permit for an Excavation Pit subject to any conditions contained in the permit.

5.17 Excavations from Excavation Pits

- 5.17.1 No Person shall in operating an Excavation Pit:
- a) excavate below a line extending horizontally from an adjacent Property boundary, within 8 m (26.25 ft) of that boundary; or
 - b) excavate below a gradient line which slopes downward from an adjacent Property boundary at a slope of one unit vertical to one unit horizontal.
- 5.17.2 The holder of a permit for an Excavation Pit shall:
- a) ensure that the interior of the Excavation Pit is screened from view of every adjacent Highway either by a growth of trees of sufficient density or by the creation of an earthen berm;
 - b) control dust on the access Road to the Excavation Pit by means of an approved method.

- 5.17.3 The holder of a permit for an Excavation Pit shall, before an Excavation Pit becomes an abandoned pit, slope all of the walls of the Excavation Pit to a minimum 3:1 slope (horizontal to vertical).
- 5.17.4 No Person who holds a permit under this section shall fail to carry out any proposal contained in the application or any condition placed on the operation of the Excavation Pit.

5.18 Existing Non-Conforming Buildings

- 5.18.1 Where on the effective date of this By-law, a Building exists on a Lot having less than the minimum Frontage or Lot Area, or having less than the minimum Front Yard, Side Yard or Rear Yard required by this By-law, the building may be enlarged, reconstructed, repaired or renovated provided that:
 - a) The enlargement, reconstruction, repair or renovation does not further reduce the Front Yard, Side Yard or Rear Yard that does not conform to this By-law; and
 - b) All other provisions of this By-law and any applicable provincial statute, regulation or other enactment are satisfied.
- 5.18.2 Notwithstanding any other provisions of this By-law, the Use of a Building existing on the effective date of this By-law 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 By-law, provided that all other applicable provisions of this By-law are satisfied.
- 5.18.3 If a Building that does not conform to provisions of this By-law 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, the Building shall only be rebuilt or repaired in conformity with the provisions of this By-law.

5.19 Existing Non-Conforming Lots

- 5.19.1 Notwithstanding any other provisions of this By-law, a vacant Lot having less than the minimum Frontage or Lot Area may be used for a Use 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 By-law are satisfied.
- 5.19.2 A non-conforming Lot which is increased in Area or Lot Frontage or both, but remains undersized, is still considered an existing non-conforming Lot.
- 5.19.3 Where an existing non-conforming lot is being developed the Sewage Disposal System shall be designed by a PEI licensed engineer and the installation shall also be certified by the engineer prior to occupancy of the structure.
- 5.19.4 Accessory Apartments and accessory dwellings shall not be permitted on a non-conforming Lot with undersized Area.

5.20 Existing Non-Conforming Uses

- 5.20.1 Subject to the provisions of this By-law, the Use of a Lot, a Building or Structure lawfully in existence on the effective date of this By-law may continue to exist.
- 5.20.2 No structural Alterations that would increase the exterior dimensions, except as required by statute or By-law, shall be made to a Building or Structure while a non-conforming Use is being continued.
- 5.20.3 A change of tenants or occupants of a Lot or Building shall not be deemed to affect the Use of the Lot or Building for the purposes of this By-law.
- 5.20.4 A non-conforming Use of a Lot, Building, or Structure shall not be permitted if it has been discontinued for a period of twelve (12) months consecutively and, in such event, the Lot, Building, or Structure shall not thereafter be used except in conformity with this By-law.

- 5.20.5 No Intensification of Use shall be made while a non-conforming Use of the Lot, Building or Structure is being continued.
- 5.20.6 No increase in the Lot Area or Floor Area occupied by the non-conforming Use shall occur while a non-conforming Use is being continued.

5.21 Fences

- 5.21.1 A Fence may be Erected or placed on a Lot subject to the following regulation:
 - a) The maximum height for a Fence in any Zone is 2.5 m (8.20 ft).

5.22 Height Restriction Exemption

- 5.22.1 The maximum Building Height requirement set out in this By-law shall not apply to Church spires, lightning rods, water tanks, monuments, elevator enclosures, silos, flag poles, lighting standards, television or radio antennae, telecommunications towers, meteorological test towers, ventilators, skylights, fire towers, drive-in theatre screens, chimneys, clock towers, Roof Mounted Solar Arrays, power transmission towers, roof top cupola, Wind Turbines, or Utility poles.

5.23 Livestock Operations

- 5.23.1 Livestock operations shall comply with all applicable provincial statutes, regulations and other enactments, and confirmation that the proposed Development complies with such enactments shall be submitted with a Development Permit application.

Rural Municipality of
Kingston
Prince Edward Island

5.23.2 The following separation distances shall apply to all new Intensive Livestock Operations or extensions. The following separation distances shall also apply to a new residential Development in the vicinity of an Intensive Livestock Operation:

	Requirement
Distance from any existing Dwelling on an adjacent property	304.8 m (1000 ft)
Distance from a public Road	45.72 m (150 ft)
Distance from any domestic well	152.4 m (500 ft)
Distance from any Lot Line	45.72 m (150 ft)
Distance from any Watercourse or Wetland boundary	90.0 m (295.28 ft)

5.23.3 Where a new Intensive Livestock Operation is proposed within 300 m (984.2 ft) of an existing residential Subdivision, the Development Officer shall notify the property Owners within 300 m (984.2 ft) of the proposed operation and invite their comments.

5.23.4 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.

5.23.5 The Development Officer 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.

5.24

5.25 Main Building

- 5.25.1 No person shall erect more than one main Building on a Lot except on a Farm or for Institutional, Commercial, or Industrial purposes.

5.26 Mixed Use

- 5.26.1 Where any Lot or Building is used for more than one (1) purpose, all provisions of this By-law relating to each Use shall be satisfied by the Owner.

5.27 Parking

- 5.27.1 Parking standards in the Municipality shall be as established in the Parking Standards, Schedule 3 of this By-law.
- 5.27.2 Where the Parking requirement is calculated to be greater than 0.5 of a space and less than 1.0 of a space, it shall be deemed to be a requirement for one (1) additional space.
- 5.27.3 A Development Permit application shall include a copy of a Parking plan showing the provision of adequate off-street Parking for residents, employees, visitors, and other traffic.
- 5.27.4 Where Parking is provided in the Front Yard of a non-residential Building, a minimum 3 m (9.8 ft) wide area of Landscaping shall be provided between the Parking and the Highway boundary but shall not prevent the provision of an access driveway across the strip of land.

5.28 Permitted Uses in All Zones

- 5.28.1 The following Uses are permitted in all Zones:
- a) Temporary construction facilities such as sheds, scaffolds, and equipment incidental to a Development for so long as construction is in progress or for a maximum period of six (6) months, whichever is the

shorter period, and for a maximum of thirty (30) days after the completion of the Development; and

b) Public or Private Park, Open Space, or Conservation Activity.

5.28.2 Except where otherwise specifically provided in this By-law, Public and Private Utilities and Utility-related Structures:

a) may be located in any Zone; and

b) no Zone standards shall apply.

5.29 Prohibited Uses

5.29.1 Uses that are not specified as permitted Uses in the Zone shall not be permitted in the Zone unless otherwise indicated.

5.29.2 Satellite dishes greater than 0.91 m (3 ft) in diameter are not permitted.

5.30 Recreational Trailer or Vehicles

5.30.1 No person shall use or occupy a Recreational Trailer or Vehicle, unless a Development Permit has been issued in accordance with the following:

a) A Development Permit shall be valid for a period of not more than 120 days and shall not be renewed; and

b) The Recreational Trailer or Vehicle shall be removed from the Lot, or stored and discontinued from Use, immediately following expiry of the Development Permit.

5.31 Servicing

5.31.1 A Development Permit may be withheld until such time as Sewage Disposal System is shown by the Owner to be sufficient for the whole Development.

- 5.31.2 As part of the application for a Development Permit, the Owner shall provide written confirmation that:
- a) The sewerage disposal system meets minimum provincial requirements.
 - b) A shared or common Sewage Disposal System may be approved if it meets the requirements of the Provincial Government department responsible for approving such systems and subject to the approval of Council's consulting engineer. All costs related to the design and approval of a shared or common system shall be borne by the Owner.

5.32 Solar Arrays

- 5.32.1 Ground Mounted Solar Arrays shall be permitted in all Zones, subject to the following:
- a) The minimum Setback to adjacent side or Rear Lot Lines for Ground Mounted Solar Arrays shall be 4.57 m (15 ft) or the height of the Ground Mounted Solar Array as measured from Grade to the highest point of the Solar Array, whichever is greater;
 - b) When installed in a front or flanking yard, the setback from the center line of the Street or Highway shall be a minimum of 25.3 m (83 ft); and
 - c) The Owner of the Ground Mounted Solar Array shall remove the Ground Mounted Solar Array and associated equipment sufficient to return the land to its previous Use within two (2) years of Ground Mounted Solar Array inactivity.
- 5.32.2 The application for a Development Permit for a Ground Mounted Solar Array must include, in addition to the requirements of Section 4.1, the design of the Solar Collectors including racking and footings.

5.33 Swimming Pools

- 5.33.1 A Swimming Pool shall be permitted in the RD, SO, and RO Zones subject to the following conditions:
- a) The land owner shall first secure a Development Permit;
 - b) A 1.8 m (5.91 ft) Fence shall be constructed in such a manner so as to impede unauthorized persons from entering the Swimming Pool;
 - c) The gate in the Fence shall be capable of being locked;
 - d) The Owner shall satisfy any other conditions related to the Maintenance and safety of the Swimming Pool; and
 - e) The Swimming Pool shall not be located in a Yard that abuts a Highway.

5.34 Temporary Structures

- 5.34.1 No one may Erect or place a Temporary Structure without first obtaining a Temporary Structure permit, unless the Temporary Structure is incidental to a Development that has an approved Development Permit;
- 5.34.2 Temporary Structures must conform to the Setback and Lot Coverage regulations for an Accessory Building in the Zone;
- 5.34.3 The placement or Erection of a Temporary Structure shall not involve an Alteration to the existing Grade of the Lot and shall not result in an Alteration to the natural surface drainage pattern on the Lot;
- 5.34.4 Temporary Structures with a footprint of 37.16 m² (400 ft²) or less, may be permitted on any Lot with a Main Building for up to 6 months, and only one Temporary Structure shall be permitted on a Residential Lot in a single annual cycle, unless the Temporary Structure is incidental to an approved Development.

- 5.34.5 Temporary Structures with a footprint larger than 37.16 m² (400 ft²) may be permitted for a Lot subject to the following:
- a) The Lot is a Residential Use and the Temporary Structure is incidental to an approved Development;
 - b) The Lot is a commercial, industrial, institutional, agricultural, resource commercial, or resource industrial land Use, and the Temporary Structure is incidental to that use or to an approved Development; and
 - c) The Temporary Structure may be permitted for up to 6 months, and a maximum of two (2) consecutive Temporary Structure permits may be approved for the same Structure, unless otherwise approved by Council after following the process in Section 3.14.5 of this By-law, and Council is satisfied that the Temporary Structure is compatible with adjacent land Uses and that no permanent injury or nuisance will result from an extension to the maximum time period permitted.

5.35 Tourist Establishments

- 5.35.1 Bed and Breakfast establishments shall be permitted to operate in any Single Unit Dwelling subject to the following:
- a) 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;
 - b) not more than three (3) rooms shall be offered for overnight accommodation;
 - c) adequate off-street Parking, in accordance with this By-law, separate from that required for the Dwelling, shall be provided.
 - d) premise Signs shall be restricted to a maximum of 900 square inches;

- e) there shall be no other signage, open storage or visible display area.
 - f) Council may require that any required Sewage Disposal System be certified by a professional engineer licensed to practice on Prince Edward Island, certifying that the system can adequately accommodate the waste water treatment needs of the development in a sustainable fashion.
- 5.35.2 Notwithstanding Subsection 5.34.1(b), Council may allow a larger number of rooms, where it is deemed that such a development is appropriate and there would be no significant inconvenience or nuisance to adjoining properties.

5.36 Development Adjacent to Wetlands and Watercourses

- 5.36.1 No person shall, without a license or a Buffer Zone Activity Permit issued by the Province, Alter or disturb the ground or soil within the Buffer Zone as defined in the *Environmental Protection Act*, Watercourse and Wetland Protection Regulations.
- 5.36.2 The minimum Setback of any Building or Structure from a Wetland, Watercourse, or shoreline shall be 15 m (49.21 ft) plus the minimum Setback for the proposed Building or Structure as required by this By-law.
- 5.36.3 A Flood Risk Assessment is required prior to the review of a Development or Subdivision application on a Lot adjacent to a Wetland or Watercourse, or within the flood risk area identified on the Future Land Use Map.
- 5.36.4 No Building or Structure on a Lot near a Wetland, Watercourse or shoreline shall be Erected or placed where the elevation of the Grade of the Lot is 3.0 m CGVD2013 (3.846 chart datum) or less, to avoid potential coastal flood risk, except where the Structure will be used for fishing or

Rural Municipality of
Kingston
Prince Edward Island

bait sheds, aqua-culture operations, boat launches, wharfs, or Structures or Buildings on a property in which a wharf is located.

- 5.36.5 Where a property is at risk of flooding and the finished Grade of the Lot can be raised to accommodate the projected risk, the grading plan shall be designed and stamped by a qualified engineer and any Alteration to the Grade shall not encroach within the Buffer Zone, as defined in the *Environmental Protection Act*, Watercourse and Wetland Protection Regulations.
- 5.36.6 An erosion management plan may be required to address siltation and overland erosion during construction that may impact an adjacent Wetland or Watercourse.
- 5.36.7 Development will be in accordance with provincial policies and regulations to address coastal flood risk, erosion, and environmentally sensitive areas.

6 RURAL DEVELOPMENT ZONE (RD)

6.1 General

Except as provided in this By-law, all Buildings and parts thereof erected, placed or altered or any land used in a Rural Development (RD) Zone shall conform with the provisions of this Section.

6.2 Permitted Uses

- 6.2.1 No Building or part thereof and no land shall be used for purposes other than:
- a) Single Unit Dwelling
 - b) Mini-Home
 - c) Duplex Dwelling
 - d) Accessory Apartment
 - e) Accessory Dwelling
 - f) Resource Uses, including Agricultural Uses with barns and stables or other agricultural structures, accessory buildings, and residential use directly related to a farm.
 - g) Tourist Establishment
 - h) Accessory buildings
- 6.2.2 All permits for residential Uses in a Rural Development (RD) Zone shall contain a caveat informing the applicant that he/she/they are choosing to construct a home in an established agricultural area and should expect to be exposed to normal agricultural activities such as: manure spreading; chemical spraying; planting, cultivation and harvesting activities; and slow-moving equipment on roadways.

6.3 Special Permit Uses

6.3.1 Notwithstanding Section 6.2 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 By-law are met, and subject to such conditions as Council may impose:

- a) Resource based Commercial Developments
- b) Innovative Multiple Family Dwellings up to 4 units
- c) Group Homes
- d) Child Care Facilities
- e) Inns and Bed and Breakfasts with over 3 rental bedrooms
- f) Other Uses as deemed appropriate by Council and as consistent with the provisions of this By-law and the Official Plan.

6.3.2 The Development Officer shall refer all Special Permit Use applications to the Provincial Fire Marshall’s Office for comment and recommendation prior to the Development Permit being issued

6.4 Lot Requirements

6.4.1 The following requirements shall apply to all Uses in the Rural Development (RD) Zone:

Minimum Lot Area	4,3046.86 m ² (1 acre)
Minimum Frontage	53.34 m (175 ft)
Minimum Front Yard Setback	15.24 m (50 ft)
Minimum Rear Yard Setback	7.62 m (25 ft)
Minimum Side Yard Setback	4.57 m (15 ft)
Minimum Flankage Yard Setback	15.24 m (50 ft)

Rural Municipality of
Kingston
Prince Edward Island

Maximum Height of any Building	10.67 m (35 ft)
Maximum Lot Coverage	25%

- 6.4.2 All Accessory Buildings shall be included in the calculation of maximum Lot coverage as noted above.
- 6.4.3 All Lots shall also conform to the Provincial Minimum Lot Size Standards, Schedule 5 of this By-law, as prescribed under the *Planning Act*, as amended from time to time, and shall adhere to the most stringent standard.

7 COMMERCIAL DEVELOPMENT ZONE (CD)

7.1 General

Except as provided in this By-law, all Buildings and parts thereof erected, placed or altered or any land used in CD Zone shall conform with the provisions of this Section.

7.2 Permitted Uses

- 7.2.1 No Building or part thereof and no Lot shall be used for purposes other than:
- a) Business or Professional Office
 - b) Child Care Facility
 - c) Dwelling Unit in a Commercial Building (maximum of 2 units)
 - d) Funeral Home
 - e) Hotel or Motel
 - f) Medical, Health, and Dental Office
 - g) Personal Service Shop
 - h) Public Parking Lot
 - i) Resource Commercial Use
 - j) Restaurant
 - k) Retail Store
 - l) Accessory Buildings

7.3 Special Permit Uses

- 7.3.1 Notwithstanding Section 7.2 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 By-law are met, and subject to such conditions as Council may impose:

- a) Separate residential structure on the Lot used as a Single Unit Dwelling,
- b) A maximum number of two (2) residential units on the lot, subject to the provisions for Secondary Structures, Accessory Apartments, Accessory Dwellings, and any other applicable Part.
- c) Other Uses as deemed appropriate by Council and as consistent with the provisions of this By-law and the Official Plan.

7.3.2 The Development Officer shall refer all Special Permit Use applications to the Provincial Fire Marshall's Office for comment and recommendation prior to the Development Permit being issued

7.4 Special Provisions for Residential Uses

- 7.4.1 For each Dwelling Unit, Landscaping having an area of 36.96 m² (398 ft²) and one (1) additional Parking Space shall be provided.
- 7.4.2 Each Dwelling Unit shall meet the requirements of the Provincial Fire Marshall's office.
- 7.4.3 The total Floor Area of Dwelling Unit(s) in a Commercial Building shall be a minimum of 36.96 m² (398 ft²) and shall not exceed the Floor Area of the Commercial Use.
- 7.4.4 A separate entrance shall serve the Dwelling Unit(s) in a Commercial Building. Dwelling Units may share an entrance.

7.5 Lot Requirements

7.5.1 The following requirements shall apply to all Uses in the Commercial Development (CD) Zone:

Minimum Lot Area	4,3046.86 m ² (1 acre)
Minimum Frontage	53.34 m (175 ft)
Minimum Front Yard Setback	15.24 m (50 ft)
Minimum Rear Yard Setback	15.24 m (50 ft)
Minimum Side Yard Setback	4.57 m (15 ft)
Minimum Flankage Yard Setback	15.24 m (50 ft)
Maximum Height of any Building	10.67 m (35 ft)
Maximum Lot Coverage	25%

7.5.1 All Accessory Buildings shall be included in the calculation of maximum Lot coverage as noted above.

7.5.2 All Lots shall also conform to the Provincial Minimum Lot Size Standards, Schedule 5 of this By-law, as prescribed under the Planning Act, as amended from time to time, and shall adhere to the most stringent standard.

7.6 Temporary Commercial Permits

7.6.1 Notwithstanding any other provisions of this By-law, temporary permits may be issued for a transient-type Commercial Use subject to compliance with the following conditions:

- a) The Development shall comply with all applicable provincial statutes, regulations and other enactments, including the *Roads Act*, and written confirmation that the Development is in compliance with all such

Rural Municipality of
Kingston
Prince Edward Island

enactments shall be submitted with a Development Permit application;

- b) The Development shall not interfere with the parking requirements of permanent Users of the Lot in which the Development will be located;
- c) The expiry date(s) of the temporary permit shall not exceed twelve (12) consecutive weeks;
- d) A letter of approval from the Owner of the Lot on which the temporary Development will be situated shall be submitted; and
- e) Where required, the Owner shall confirm that such Development complies with all provincial statutes, regulations, and other enactments related to public health and safety.

8 INSTITUTIONAL ZONE (IN)

8.1 General

8.1.1 Except as provided in this By-law, all Buildings and Structures or parts thereof Erected, placed or Altered on any Lot in the IN Zone shall conform to the provisions of this Section.

8.2 Permitted Uses

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

- a) Child Care Facility
- b) Civic Centre
- c) Community Care Facility
- d) Club
- e) Fire Training School
- f) Government Building (federal, provincial, or municipal)
- g) Institutional Use
- h) Medical, Health, and Dental Office
- i) Nursing Home
- j) Public or Private Park
- k) Recreational Use
- l) Accessory Building

8.2.2 The Development Officer shall refer all Institutional Zone permit applications, where deemed appropriate, to the Provincial Fire Marshall's Office for comment and recommendation prior to the Development Permit being issued.

8.3 Lot Requirements

8.3.1 The following requirements shall apply to Development in the IN Zone:

Minimum Lot Area	4,3046.86 m ² (1 acre)
Minimum Frontage	53.34 m (175 ft)
Minimum Front Yard Setback	15.24 m (50 ft)
Minimum Rear Yard Setback	7.62 m (25 ft)
Minimum Side Yard Setback	6 m (19.69 ft)
Minimum Flankage Yard Setback	15.24 m (50 ft)
Maximum Height of any Building	10.67 m (35 ft)

8.3.2 All Lots shall also conform to the Provincial Minimum Lot Size Standards, Schedule 5 of this By-law, as prescribed under the *Planning Act*, as amended from time to time, and shall adhere to the most stringent standard.

9 RECREATION AND OPEN SPACE ZONE (RO)

9.1 General

9.1.1 Except as provided in this By-law, all Buildings and Structures or parts thereof Erected, placed or Altered on any Lot in the RO Zone shall conform to the provisions of this Section.

9.2 Permitted Uses

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

- a) Public or Private Park
- b) Open Space or Conservation Activity
- c) Golf Course
- d) Recreational Use
- e) Pavilion or Band Shell
- f) Uses accessory to recreation such as concession stand and supporting retail
- g) Administrative Office related to the above permitted Uses
- h) Parking Lot related to the above permitted Uses
- i) Accessory Building

9.3 Special Permit Uses

9.3.1 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 By-law are met, and subject to such conditions as Council may impose:

a) Uses as deemed appropriate by Council and as consistent with the provisions of this By-law and the Official Plan.

9.3.2 The Development Officer shall refer all Special Permit Use applications to the Provincial Fire Marshall’s Office for comment and recommendation prior to the Development Permit being issued

9.4 Lot Requirements

9.4.1 The following requirements shall apply to Development in the RO Zone:

Minimum Lot Area	4,3046.86 m ² (1 acre)
Minimum Frontage	53.34 m (175 ft)
Minimum Front Yard Setback	15.24 m (50 ft)
Minimum Rear Yard Setback	15.24 m (50 ft)
Minimum Side Yard Setback	7.5 m (24.61 ft)
Minimum Flankage Yard Setback	15.24 m (50 ft)
Maximum Height of any Building	9.67 m (35 ft)

9.4.2 All Lots shall also conform to the Provincial Minimum Lot Size Standards, Schedule 5 of this By-law, as prescribed under the *Planning Act*, as amended from time to time, and shall adhere to the most stringent standard.

10 ENVIRONMENTALLY SENSITIVE AREA ZONE (ES)

10.1 General

- 10.1.1 Except as provided in this By-law, all Buildings and Structures or parts thereof Erected, placed or Altered on any Lot in the ES Zone shall conform to the provisions of this Section.
- 10.1.2 The ES Zone is intended to enhance the protection of surface and groundwater quality, sensitive landscapes, and wildlife habitat and mitigate the impacts of climate change with respect to flooding. Passive agricultural activities and other such passive resource activities, together with tree, shrub and plant cover, are intended to be predominant Use in this Zone.
- 10.1.3 For the avoidance of doubt, the requirements in this By-law for the ES Zone are in addition to all requirements in the Watercourse and Wetland Protection Regulations made pursuant to the *Environmental Protection Act*, and any other federal or provincial statute, regulation, or other enactment.

10.2 Permitted Uses

- 10.2.1 No Building or part thereof and no Lot shall be used for purposes other than:
- a) Conservation Activity
 - b) Open Space
 - c) Passive Recreational Use
 - d) Passive agricultural activities and other such passive resource activities

10.3 Development Permit Applications

10.3.1 Prior to the issuance of a Development Permit for any Use other than passive Recreational Use, Conservation Activity or Open Space, the Owner shall submit written confirmation from all responsible federal and Provincial Government departments that the application complies with applicable federal and provincial statutes, regulations, or other enactments.

10.4 Zone Boundaries

10.4.1 The zoning map shall indicate the approximate boundaries of the ES Zone; however, the exact boundaries of the E2 Zone shall be the boundaries as identified in CHRIS: PEI Climate Hazard & Risk Information System (Inland Flooding, 25 year future projection) and all Wetlands, Watercourses, and Buffer Zones and the as determined by the Provincial Government department responsible for the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*.

10.4.2 The boundary of any Wetland, Watercourse, and Buffer Zone shall be shown on any site plan submitted to the Development Officer as part of a Development Permit application.

10.5 Zone Requirements

10.5.1 In the ES Zone, no Development shall 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*.

11 INDUSTRIAL ZONE (M)

11.1 General

11.1.1 Except as provided in this By-law, all Buildings and Structures or parts thereof Erected, placed or Altered on any Lot in the M Zone shall conform to the provisions of this Section.

11.2 Permitted Uses

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

- a) Permitted Uses in the CD Zone
- b) Excavation Pits
- c) Activities connected with an Automobile Shop, Automobile Service Station or repair shop
- d) Concrete Plant
- e) Contractor's Yard
- f) Farm Machinery and Heavy Equipment Depot, Dealerships and Repair Shop
- g) Food Processing
- h) Manufacturing and assembly
- i) Restaurant or Cafeteria
- j) Storage of Sand and Aggregate
- k) Transport Operations, including trailer storage
- l) Warehousing
- m) Wholesale Operation
- n) Wind Energy Facility
- o) Accessory Buildings

11.2.2 The Development Officer shall refer all Industrial Zone permit applications, where deemed appropriate, to the Provincial Fire Marshall’s Office for comment and recommendation prior to the Development Permit being issued.

11.3 Lot Requirements

11.3.1 The following requirements shall apply to Development in the M Zone:

Minimum Lot Area	4,3046.86 m ² (1 acre)
Minimum Frontage	53.34 m (175 ft)
Minimum Front Yard Setback	15.24 m (50 ft)
Minimum Rear Yard Setback	15.24 m (50 ft)
Minimum Side Yard Setback	4.57 m (15 ft)
Minimum Flankage Yard Setback	15.24 m (50 ft)
Maximum Height of any Building	10.67 m (35 ft)
Lot Coverage	25%

11.3.2 All Lots shall also conform to the Provincial Minimum Lot Size Standards, Schedule 5 of this By-law, as prescribed under the Planning Act, as amended from time to time, and shall adhere to the most stringent standard.

11.4 Exceptions to the Maximum Building Height

11.4.1 Notwithstanding any other provisions in this By-law, an application for a Structure exceeding the maximum Building Height in the M Zone may be approved provided that:

- a) The application meets the requirements of the provincial Fire Marshal's Office;
- b) The Structure conforms to all other provisions of this By-law and all provincial statutes, regulations and other enactments, including the Building Codes Act;
- c) The proposed height of the Structure is physically necessary for the processes that will be carried out in the Structure; and
- d) The proposed height of the Structure would not exceed 30 m (98.43 ft) or would not exceed 20 m (65.62 ft) where the Structure is within 100 m (328.08 ft) of an existing Dwelling or Lot in the RD or SO Zones.

11.5 Environmental Impact Assessment

- 11.5.1 Where a proposed Industrial Use may have a Significant impact on Highways, Sewerage Disposal Systems or water supply systems or may have a Significant environmental impact, the Owner may be required to undertake an environment impact assessment, in conjunction with staff at the responsible Provincial Government department prior to consideration of an application for a Development Permit.

12 GENERAL PROVISIONS FOR SUBDIVIDING LAND

12.1 Subdivision Approval

12.1.1 No person shall subdivide one or more Lots or any portion of a Lot until the requirements of this By-law have been complied with and the application has received final approval.

12.2 Conveying Interest in a Lot

12.2.1 No person shall sell or convey any interest in a Lot in a Subdivision before final approval of the Subdivision in which the Lot is situated has been granted.

12.3 Special Planning Area

12.3.1 Section 63 of the Subdivision and Development Regulations, as set out in Schedule 6 of this By-law and amended from time to time, prescribed under the *Planning Act*, being the Special Planning Area Regulations, apply to Subdivision, land Use, and Development in the eastern section of the Municipality identified as the Special Planning Area Overlay (SO) Zone.

Rural Municipality of
Kingston
Prince Edward Island

12.3.2 Applications to subdivide land must be consistent with subsection 63(3) and subsection 63(10) the Special Planning Area Regulations and the standards below:

- a) The Maximum number of Lots to be subdivided from an Existing Parcel as defined under the Special Planning Area (July 9, 1994) in the Special Planning Area Overlay (SO) Zone:

ZONE	MAXIMUM
Rural Development (RD)	Five (5)
Commercial Development (CD)	Two (2)
Institutional (IN)	Five (5)
Recreational and Open Space (OS)	Five (5)
Environmentally Sensitive Area (ES)	Five (5)
Industrial (M)	One (1)

12.4 Permission To Subdivide

12.4.1 No person shall subdivide a Parcel unless the Subdivision:

- a) can be subdivided according to the provisions of this By-law and any applicable provincial statute, regulation, or other enactment;
- b) Is suitable to the topography, physical conditions, soil characteristics, and natural surface drainage of the land;
- c) Has safe and convenient Highway access and will provide for safe and convenient traffic flow as determined and approved by the government department responsible for the administration of the Roads Act;
- d) Has adequate Sewage Disposal System(s)

Rural Municipality of
Kingston
Prince Edward Island

- e) Will reasonably conform with existing land Use in the immediate vicinity;
- f) Is designed so that Lots will have suitable dimensions, shapes, orientation, and accessibility;
- g) Is suitable to the Use for which it is intended;
- h) the Lot of land in respect of which the permit is requested has Frontage on a public road, private road, or a private right-of-way established pursuant to Access, Section 5.1, of this By-law
- i) Will not precipitate premature Development, necessitate unnecessary public expenditure, or place undue pressure on the Municipality or Provincial Government to provide services;
- j) Will not result in flooding or erosion; and
- k) Will not result in damage to the natural environment, including any Wetland or Watercourse.

12.5 Road Standards and Access

- 12.5.1 No Subdivision shall be permitted of lot that does not abut a public road or Highway.
- 12.5.2 Notwithstanding 12.5.1 above, a private road subdivision containing no more than 5 lots may be permitted and shall be deemed to have frontage on a public road or highway, provided the private road is legally established.
- 12.5.3 Where an entrance way permit or other access approval or permit is required pursuant to the Roads Act, a final approval of Subdivision shall not be granted until that entrance way permit or other approval or permit has been granted.
- 12.5.4 No person shall establish an access to a lot with less than 53.34 m (175 ft) of road frontage for the following purposes:
 - a) a driveway;

- b) a shared driveway with a minimum width of 7.3 m (24 ft) and a minimum depth of 61.0 m (200 ft) for up to two Lots, one being a Panhandle Lot;
 - c) a 20.1 m (66 ft) wide Private Road approved pursuant to Access Subsection 5.1.4 of this By-law.
- 12.5.5 New private roads and extensions to existing private roads shall be limited to a total road length of 300 m (984.25 ft).

12.6 Special Requirements: Reduced Lot Frontage

- 12.6.1 If a Parcel is of such configuration, or is located along a bend in a Street or facing a cul-de-sac in such a manner, that it cannot reasonably be subdivided in such a way to provide the required minimum Frontage on a Highway, a reduced Lot Frontage may be approved, provided:
- a) The Lot width at the Building Line measures at least as long as the minimum Lot Frontage for the Zone;
 - b) The Lot has access on a Highway, approved by the Provincial Government department responsible for administering the Roads Act;
 - c) The Lot Frontage and Entrance Way has a minimum width of 7.32 m (24 ft); and
 - d) The Lot size in all other respects meets the requirements of this By-law.
- 12.6.2 Not more than two Panhandle Lots shall be subdivided from an Existing Parcel.
- 12.6.3 The Subdivision of an existing nonconforming Lot may be permitted if the Subdivision would bring the Lot into closer conformance, even if the Lot will remain undersized following the Subdivision, where that Subdivision would otherwise be permitted under this By-law.

12.7 Special Requirements: Subdivisions Adjacent to Wetlands and Watercourses

- 12.7.1 The area of a Lot identified as the Environmental Buffer as required under Section 5.12, may be included as part of one or more Lots in a Subdivision of a Lot adjacent to a Wetland or Watercourse, where the Lot has sufficient area exclusive of the area of the Buffer to permit the Setbacks and on site services, including the minimum circle diameter for the services, as required by this By-law; and
- 12.7.2 Where a Lot or a portion of a Lot contains a Wetland or Watercourse, the boundary of which is defined by the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*, the Lot(s) shall meet the minimum Lot Area for the Zone exclusive of the area of the Wetland or Watercourse.

12.8 Subdivision Agreement

- 12.8.1 An Owner may be required to enter into a Subdivision agreement as a condition of Subdivision approval. The Subdivision agreement may cover, but is not limited to, the following matters:
- a) Design, construction and costs of water supply services, Sewage Disposal Systems, stormwater management infrastructure, Roads, multi-Use active transportation lanes, and Street lighting;
 - b) Dedication of land for recreation and public Open Space purposes, or payment of a fee in lieu of land;
 - c) Building of Highways to provincial standards and deeding of Highways to the Provincial Government;
 - d) Deeding of utility systems to the Municipality or Public Utility;
 - e) Posting of a financial guarantee, bond, or other security satisfactory to Council;

- f) The provision of a stormwater management plan to guard against flooding in the Subdivision and adjacent properties;
- g) Phasing for the Subdivision of Lots;
- h) Assignment of costs associated with the drafting, Signing and enforcing of the agreement;
- i) Preservation and enhancement of surface water drainage systems and other environmental features within or adjacent to the Subdivision; and
- j) Any other matter(s) that is deemed necessary to conform to this By-law or to ensure the health, safety and convenience of the Municipality and its residents.
- k) All Subdivision agreements shall be registered in accordance with the provisions of the *Registry Act*.

12.9 Application And Preliminary Approval Process (5 Lots or less in total)

- 12.9.1 Any person seeking approval of a Subdivision shall first submit an application to subdivide land to the Municipality for preliminary approval, and shall be required to submit the following:
- a) An application in the form approved by Council;
 - b) The appropriate fee as laid out in the Schedule of Fees, Schedule 4 of this By-law, is paid in full;
 - c) An orthophoto (or similar representation deemed suitable and acceptable by the Development Officer) showing the location of the Parcel and all adjoining properties;
 - d) A description of Uses on the surrounding Parcels;
 - e) Septic categorization from a licensed septic installer of qualified engineering firm.

Rural Municipality of
Kingston
Prince Edward Island

- f) Confirmation from the Department of Highways that proposed accesses, driveways and/or private roads meet provincial standards.
- g) A preliminary Subdivision plan, drawn to scale showing
 - i. contours showing topography of the Parcel with at least 2 m (6.56 ft) contour lines;
 - ii. the true shape and dimensions of the proposed Lots;
 - iii. the location of every existing Building or Structure on the Parcel and adjacent Parcels;
 - iv. existing and proposed services and utilities;
 - v. proposed widths and locations of all roads and/or driveways;
 - vi. location of land proposed for Open Space and Parks Use, if applicable;
 - vii. proposed surface water drainage patterns and designed drainage features, when applicable; and
 - viii. other existing features, including Buildings, Watercourses, Wetlands, Buffer Zones, wooded areas, and areas subject to flooding or erosion.

12.9.2 The Owner may be required to provide additional information as required to assist in evaluating a proposed Subdivision, including, but not limited to:

- a) A water test;
- b) An assessment on any potential environmental impacts, including any requirements imposed by provincial statutes, regulations or other enactments;
- c) A stormwater management plan; and
- d) A traffic survey or a traffic study.

Rural Municipality of
Kingston
Prince Edward Island

- 12.9.3 In formulating their decision, the Development Officer and Council may:
- a) Consult with Provincial Government officials and/or private consultants; and
 - b) Conduct a public hearing to consider public opinion in accordance with the procedures established in this By-law.
- 12.9.4 Council may refuse to approve a Subdivision which is unsuitable and the provisions of this By-law. In formulating its decision, Council may consult with Government Officials and private consultants and may conduct a public hearing to consider public opinion.
- 12.9.5 A proposed Subdivision shall be evaluated to determine appropriate street design standards to promote the Development of safe, accessible, and complimentary rural neighbourhoods.
- 12.9.6 Preliminary approval for any proposed Subdivision shall not be construed as final approval of the Subdivision for the purpose of describing or conveying Lots or for land registration purposes.
- 12.9.7 Preliminary approval shall be effective for a period of twenty-four (24) months and may be renewed once for a period not exceeding twelve (12) months upon application to the Development Officer and shall be valid only for the time period specified at the time of renewal by the Development Officer.
- 12.9.8 A Subdivision application which does not meet the requirements of the By-law shall be rejected.
- 12.9.9 Where the Development Officer generally accepts the details of a Subdivision application, they may issue a preliminary approval, which shall include all conditions to be satisfied for the Subdivision to proceed to final approval.

- 12.9.10 If preliminary approval is granted, Council may require that a Subdivision agreement with the Owner be executed outlining the conditions to be satisfied for the Subdivision to proceed to final approval.
- 12.9.11 Where a Subdivision application is submitted concurrently with a rezoning application, the preliminary Subdivision approval shall not be granted until the rezoning application has been processed and has received approval.

12.10 Final Approval

- 12.10.1 Final Subdivision approval shall be granted by the Development Officer or Council only after the Owner has complied with all applicable requirements of this section and has submitted six (6) copies of a final Subdivision plan showing all Lots pinned and certified by a licensed Prince Edward Island Land Surveyor.
- 12.10.2 Where a Parcel that is being subdivided exceeds 4 ha (10 acres) in Lot Area, the pinned Survey Plan requirement may be waived for the remaining portion of the Parcel from which a Lot is being subdivided.
- 12.10.3 Final approval of a Subdivision plan shall not be given until:
 - a) All agreements and other documents required under this By-law have been prepared and concluded to the satisfaction of the Development Officer;
 - b) All transactions involving the transfer of land, money or security in conjunction with the Subdivision have been concluded to the satisfaction of the Development Officer; and
 - c) The applicant has completed any necessary conditions of agreements with the provincial department responsible for transportation respecting Highway construction and the Highway has been accepted as public.

Rural Municipality of
Kingston
Prince Edward Island

- 12.10.4 A digital file containing the (real earth) geographic coordinates of the plan of Subdivision may be required.
- 12.10.5 An approval stamp shall be placed on the Survey Plans and two copies shall be returned to the Owner.
- 12.10.6 Final approval of a Subdivision shall be provided in writing, and the Development Officer shall place the Municipality's seal on the six (6) copies of the Survey Plan and shall return two copies to the applicant;
- 12.10.7 The Development Officer shall file copies of the final Survey Plan with the:
 - a) Registrar of Deeds;
 - b) provincial department responsible for Transportation;
 - c) Municipality's records; and
 - d) local utilities, as required.

12.11 Severances/Consolidation

- 12.11.1 Applications for Lot Consolidations may be approved, having regard to the provisions in this By-law for the approval of Subdivisions, as may be applicable, and provided the application otherwise conforms to this By-law.
- 12.11.2 Notwithstanding the Application and Preliminary Approval Process set out in Subsection 11.9, final approval applications for Lot Consolidations or boundary line adjustments may be submitted without the preliminary approval stage of the application process, having regard to the provisions in the By-law for the approval of Subdivisions, as may be applicable, and provided the application otherwise conforms to the By-law.

12.12 Development Permits

- 12.12.1 A Development Permit shall not be issued for a Lot until all the requirements for Subdivision approval have been satisfied and approval granted.

13 EFFECTIVE DATE AND REPEAL

13.1 Effective Date

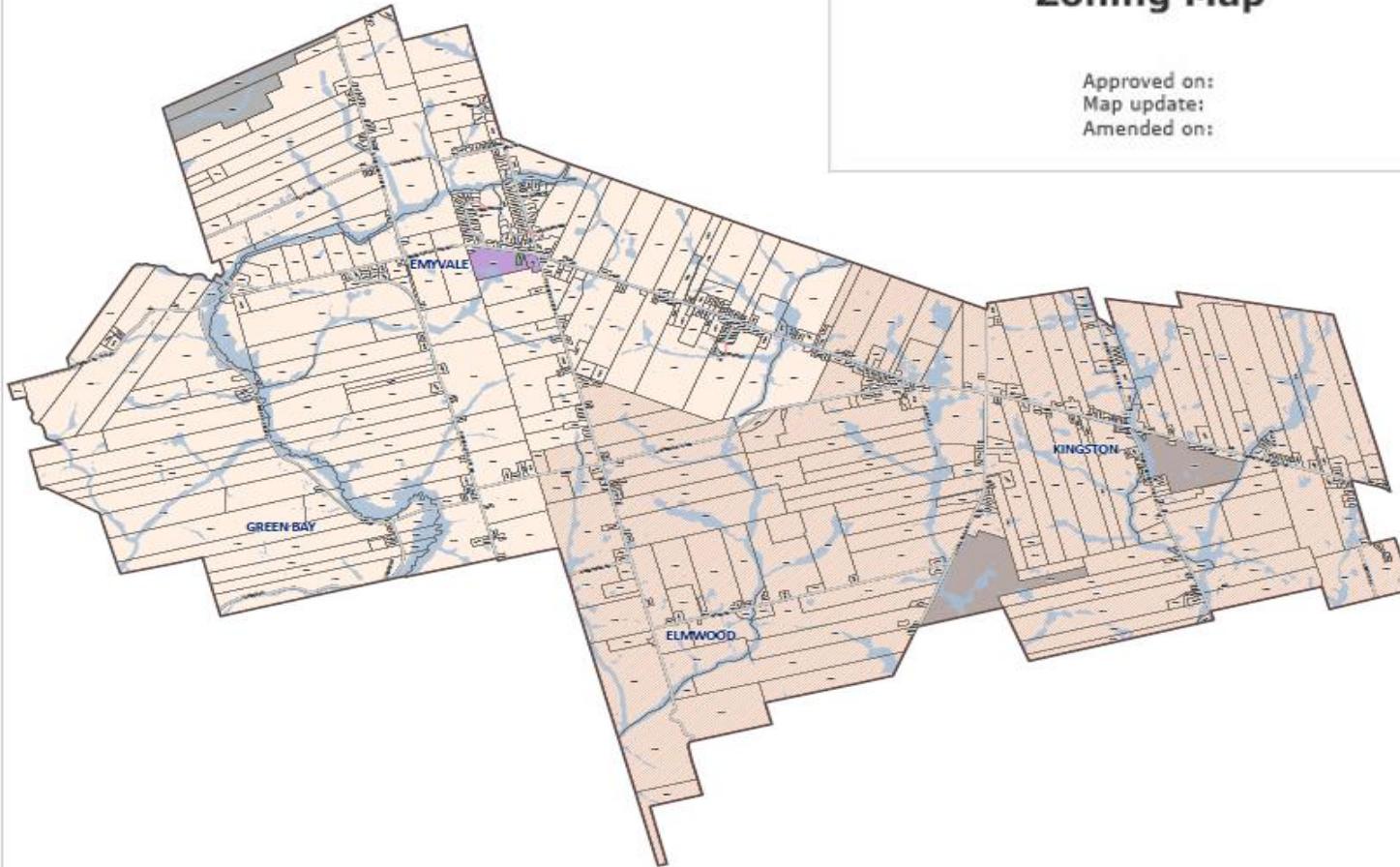
- 13.1.1 This By-law shall come into force on the date of approval by the Minister responsible for administering the *Planning Act*.

13.2 Repeal

- 13.2.1 Any prior By-laws enacted under the *Planning Act* within the current boundaries of the Rural Municipality of Kingston shall be repealed as of the effective date of this By-law.

Rural Municipality of Kingston Zoning Map

Approved on:
Map update:
Amended on:

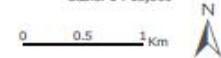


Rural Municipality of Kingston

Zoning Map

Approved on:
Amended on:

Scale: 1 : 13,000



Legend

- Roads
- ▭ Kingston Rural Municipality
- ▭ Property lines
- Zone
- ▭ Rural Development (RD)
- ▭ Commercial Development (CD)
- ▭ Institutional (IN)
- ▭ Industrial (M) - Includes Partial Industrial
- ▭ Recreation & Open Space (RO)
- ▭ Environmentally Sensitive Areas (ES)*
- ▭ Special Planning Overlay (SO)

*Environmentally Sensitive Areas are based on a 25-year flood future climate scenario.

Data Source: Open Data Portal PEI, Department of Finance Taxation and Property Records Division Government of PEI.

Coordinate System: NAD 1983 CSRS Prince Edward Island
Prepared by Brighter Community Planning and Consulting
Updated on: 2025-03-20

Disclaimer: This map is a graphic representation of property boundaries and Municipal boundary. It is not a survey and is not intended to be used to calculate exact dimensions of area.

15 SCHEDULE 2: DEFINITIONS

15.1.1 For the purpose of this By-law, all words shall carry their ordinary meaning except for those defined hereafter. In this By-law:

1. **Accessory Apartment**, see Dwelling definition.
2. **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.
3. **Accessory Use** means a Use customarily subordinate and incidental to the main Use of Buildings or land on the same Lot.
4. **Agricultural Use** means a Use of a Parcel or Buildings for Farming, dairying, pasturage, agriculture, apiculture, floriculture, horticulture, and animal and poultry husbandry and the necessary Accessory Uses for packing, storing or treating the produce.
5. **Alter** or **Alteration** means 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.
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.
7. **Automobile Shop** means a Building or part of a Building or a clearly defined space on a Lot used for the sale, Maintenance or repair of used or new automobiles.
8. **Automobile Service Station** means a Building or part of a Building or a clearly defined space on a Lot used for the sale of lubricating oils and/or gasoline and may include the sale of automobile accessories and the servicing and repairing essential to the actual operation of motor vehicles.

Rural Municipality of
Kingston
Prince Edward Island

Rural Municipality of
Kingston
Prince Edward Island

9. **Barn** means a large Building used for the storage of Farm products or feed including, but not limited to, grain, hay or straw or for housing Livestock.
10. **Bed and Breakfast** means a Dwelling used incidentally to provide accommodation and limited meals to transient travelers and includes a tourist home but does not include a boarding house, rooming house, domiciliary hostel, Hotel, Motel, Restaurant or Lounge.
11. **Buffer** means a portion of any Lot or Parcel that is set aside to serve as a visual and spatial separation between the land Use or activity that is carried out on the Lot, and the land Use or activity that is carried out on the Lot adjacent to the Buffer.
12. **Building** means any Structure having a roof supported by columns or walls intended for the shelter, housing or enclosure of any person, animal or chattel.
13. **Building Footprint** means the area that falls directly beneath and shares the same perimeter as a Building or Structure.
14. **Building Height** means the vertical distance measured from the averaged finished Grade to the highest point of roof surface.
15. **Building Line** means any line regulating the position of a Building or Structure on a Lot.
16. **Business or Professional Office** means a premise where services are offered for a fee but does not include premises used for the retailing, wholesaling, manufacturing or conversion of goods.
17. **Campground** means a Parcel 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 Manufactured Housing Parks.
18. **Change of Use** means the Change of Use of a Parcel or a Building from one type of permitted Use to another type of permitted Use or an increase in the Intensification of Use, including an increase in the number of Dwelling Units.

19. **Child Care Facility** means any institution, agency, or place, whether known as a day nursery, nursery school, kindergarten or play school, which receives children 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.
20. **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.
21. **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.
22. **Collector Highway** means any highway that has been designated as a collector highway under the provisions of the *Roads Act* Highway Access Regulations.
23. **Commercial Use** means the Use of a Building or Parcel for the purpose of buying and selling goods and supplying services.
24. **Common Wall** means a vertical wall separating two Dwelling Units between the top of the footings to the underside of the roof Deck, and shall be mutually common to both Dwelling Units.
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.
26. **Conservation Activity** means an activity in which people make efforts to protect, preserve or restore the environment and its biological diversity.
27. **Contractor's Yard** means a Yard of any general contractor or builder where equipment and materials are stored and where shop or assembly work is performed and does not include a Salvage Yard.

Rural Municipality of
Kingston
Prince Edward Island

28. **Council** means the Council for the Rural Municipality of Kingston Park.
29. **Craft Studio** means a space occupied by a Craftsperson and used solely for the production and sale of craft items such as pottery, weaving, sewing, jewelry, painting and print making, sculpture and fine woodworking, and such other similar handcrafted items.
30. **Craftsperson** means a person who produces various handcrafted products in relatively limited quantities and may include an artist, a sculpture, a potter, a weaver, a seamstress, a knitter or a similar artisan.
31. **Deck** means a Structure intended as outdoor living space, either Attached or adjacent to a Building.
32. **Demolition** means to demolish, remove, pull down or destroy a Structure.
33. **Detrimental** means an impact suffered in person or property pursuant to the Subdivision and Development Regulations prescribed under the *Planning Act R.S.P.E.I. 1988, c. P-8*.
34. 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 Use or Structures in, under, on or over the land; or

Rural Municipality of
Kingston
Prince Edward Island

- iv. Changing the Use or intensity of Use of a Lot or the Use, intensity of Use or size of a Structure or Building.

- 35. **Development Agreement** means a binding contract between an Owner and the Municipality to ensure a Development is carried out in a particular manner.
- 36. **Development Concept** means a detailed plan representing a proposed Development showing all necessary information in order to confirm compliance with this By-law.
- 37. **Development Officer** means the person appointed by the Council with the duty of administering the provisions of this By-law.
- 38. **Development Permit** means the formal and written authorization for a person to carry out any Development.
- 39. **Display** includes any item, group of items, Sign, or billboard visible to the general public, indicating that items or services are offered for sale or trade.
- 40. **Domestic Animals** means dogs, cats, budgies, parrots, parakeets, hamsters, gerbils, guinea pigs and fish.
- 41. **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. **Accessory Apartment** means a self-contained Dwelling Unit with a prescribed Floor Area located in an **Accessory Building** or in a portion of a Building of only residential occupancy that contains only one other Dwelling Unit and common spaces, and where both Dwelling Units constitute a single real estate entity;

- iii. **Single Unit Dwelling** means a Building containing one Dwelling Unit; either constructed on site or composed of components substantially assembled in a manufacturing plant and transported to the Building Lot for final assembly and installation on a foundation
 - iv. **Duplex Dwelling** means a Building that is divided into two 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. **Multi-Unit Residential Dwelling** means a Building containing three or more Dwelling Units.
-
- 42. **Edge** means the boundary between different Zones, or the boundary between different Uses within the same Zone.
 - 43. **Entrance Way** means a driveway providing access to and from a Parcel to a Road.
 - 44. **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.
 - 45. **Excavation Pit** means any excavation in the ground for the purpose of searching for or removing clay, gravel, sand, shale, subsoil, topsoil, rock or any other surface or subterranean deposit, but does not include an excavation made within the boundaries of a Highway, or a snow-trap constructed to protect a roadway from snow accumulation;
 - 46. **Existing Parcel** means a Parcel that existed on July 9, 1994 at the time of the establishment of the Special Planning Area.
 - 47. **Farm** means arable land, Dwelling and complementary Buildings containing at least ten (10) acres, operated as a

Rural Municipality of
Kingston
Prince Edward Island

Farm enterprise and includes land leased from the Crown, and may comprise a lesser area when operated as a Farm enterprise by a *bona fide* Farmer as defined in the *Real Property Assessment Act*, R.S.P.E.I. 1988, Cap. R-4., but does not include land leased or rented from Owner(s) who are not bona fide Farmers.

48. **Farm Gate Outlet** means an Accessory Use located on a Farm for sale only of its own agricultural products and excluding sale of Farm products not grown on the premises or any non-Farm products and excluding a Plant Nursery
49. **Fence** means an artificially constructed barrier of any material or combination of materials Erected to enclose or screen areas of land.
50. **Floor Area** means:
 - i. With reference to a 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 a non-residential Building, the total usable Floor Area within a Building excluding washrooms, furnace rooms and common halls between stores; and
 - iii. With reference to an Accessory Building, the area contained within the outside walls.
51. **Forestry Use** means commercial silviculture and the production of timber or pulp and any Uses associated with a Forestry Use, including sawmills, shingle mills, vehicle and equipment storage and maintenance Buildings and Yards and retail and wholesale outlets for wood and wood products.
52. **Frontage** means all land abutting on one side of a Highway measured along the common or actual Lot Line.

Rural Municipality of
Kingston
Prince Edward Island

53. **Garden** means a portion of land where herbs, fruit, flowers or vegetables are cultivated.
54. **Grade** means
- i. as it applies to the determination of Building Height, the lowest of the average levels of finished ground adjoining each exterior wall of a Building, except that localized depressions such as for vehicle or pedestrian entrances need not be considered in the determination of average levels of finished ground; and
 - ii. as it applies to ground level, the average of the mean elevations of all the natural levels or finished ground adjoining existing walls of Buildings, and the degree of rise or descent of the sloping surface.
55. **Greenhouse** means a Building or Parcel used primarily to raise and store trees, shrubs, flowers, and other plants for sale, for transplanting, or for personal Use.
56. **Heavy Equipment Depot** means a Parcel and/or Building where heavy machinery is stored and serviced.
57. **Highway, Road or Street** means all the area within the boundary lines of a road, street or right- of-way which is vested in the Province of Prince Edward Island or the Municipality and used or intended for use by the general public for the passage of vehicles and includes any bridge over which any such road, street or right-of-way passes.
58. **Home Occupation** means the Accessory Use of a Dwelling for gainful employment involving the production, sale, or provision of goods and services, on a small scale.
59. **Hotel** means a Building other than a Motel, or Tourist Establishment occupied or intended to be occupied as the temporary lodging place for any individual for a fee.
60. **Industrial Use** means Use of a Parcel or Buildings in or from which goods or materials are manufactured, processed, assembled or extracted, or premises from which wholesale trade is carried on, including warehousing.

61. **Institutional Use** means the Use of a Parcel 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.
62. **Intensification** means the Development of a Parcel at a higher density than previously existed and includes redevelopment or Development within existing communities, infill Development, or Development on vacant Lots or underdeveloped Lots within a built-up area, conversion or the Change of Use of an existing Structure or Use, and the creation of apartments or other accommodation in Dwellings.
63. **Kennel** means a Building or Structure where more than four (4) Domestic Animals excluding Livestock are kept for boarding, breeding or raised for profit or gain.
64. **Landscape Buffer** means a visual barrier formed by a row of shrubs or trees that is maintained to form a screen between one Lot or land Use and another.
65. **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.
66. **Livestock** means Farm animals kept for Use, for propagation, or for intended profit or gain and, without limiting the generality of the foregoing, includes: dairy and beef cattle, horses, swine, sheep, laying hens, chicken and turkeys, goats, geese, mink, llamas and rabbits.
 - i. **Intensive Livestock Operation** means a place where Livestock are found in a density greater than seven animal units per acre in confined area to which the Livestock have access, with the calculation of animal units in accordance with the *Environmental Protection Act* Watercourse and Wetland Protection Regulations.

Rural Municipality of
Kingston
Prince Edward Island

67. **Loading Space** means an unencumbered area of a Parcel 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.
68. **Lot or Parcel** means any division of land or property which is recognized as a separate unit of land for the purposes of this By-law, and
- i. **Lot Area** means the total area included within the Lot Lines of a Parcel;
 - 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. **Panhandle Lot** means a Lot that does not have the minimum Frontage on a Road required by these regulations, but has an Entrance Way providing access to a Highway;
 - ix. **Rear Lot Line** means the Lot Line further from and opposite to the Front Lot Line; and
 - x. **Side Lot Line** means a Lot Line other than a front, rear or Flankage Lot Line.

Rural Municipality of
Kingston
Prince Edward Island

69. **Lot Consolidation** means the legal incorporation of two or more Parcels to form a single, larger Parcel.
70. **Lot Coverage** means the percentage of the Lot covered by the Main Building, Attached or
71. detached garage, and any Accessory Buildings or in-ground Swimming Pools.
72. **Lounge** means a commercial facility or Structure licensed to sell alcoholic beverages to the public.
73. **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.
74. **Maintenance** means those actions undertaken to prevent the deterioration of a Building or Structure, but does not include any Alteration, design change, and/or replacement where such replacement involves a change in design.
75. **Manufactured Housing Park** means a Parcel planned and developed for the placement of single- unit Dwellings and Mini Homes.
76. **Medical, Health and Dental Office** means an establishment used by qualified medical practitioners and staff for the provision of medical, health and dental care on an outpatient basis. This term refers to such Uses as medical and dental offices, physiotherapy services, chiropractic services, counseling services, and ancillary clinic counseling services.
77. **Mini Home** means Dwelling Unit having a maximum width of 5 m (16.4 ft) and that may or may not be on a foundation and includes a tiny home.
78. **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.
79. **Municipality** means the Rural Municipality of Kingston.
80. **Nursing Home** means an establishment that for compensation provides continual residential accommodation with meals and housekeeping and nursing services, as required, to any five or more residents.

81. **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.
82. **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.
83. **Ornamental Structure** means a Structure of less than 20 m² (215.28 ft²), Erected with no foundation or footings and no connection to Utility services, and which serves no purpose other than for the aesthetic value and/or delight of its user, such as a gazebo or a play Structure. This definition excludes any Structures used for storage.
84. **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.
85. **Owner** means a part Owner, a joint Owner, tenant in common or joint tenant of the whole or any part of a Parcel 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 Parcel or Building in the event of the absence or disability of the person having the title thereof.
86. **Parcel** (see Lot)
87. **Park** means an area of land set aside for Recreational Use and areas designed for passive enjoyment and other similar Uses, and includes the Buildings and Structures in connection therewith.
88. **Parking Lot** means an open area of a Parcel, other than a Street or an area within a Structure for the parking of vehicles.
89. **Parking Space** means an area which is suitable for the parking of a vehicle, and is not less than 2.74 m (9 ft) wide

Rural Municipality of
Kingston
Prince Edward Island

and 5.49 m (18 ft) long and accessible to vehicles without the need to move other vehicles on adjacent areas.

90. **Pavilion** or **Band Shell** means a raised Structure, with or without a roof or other enclosure that is intended for outdoor performances.
91. **Personal Service Shop** means a business in which services are administered to an individual for their personal needs and may include barber shops, hairdressing shops, beauty parlours, shoe repair and shoe shining, tailoring, and other similar services.
92. **Phase** means to develop a Parcel over time in a series of prescribed stages; or one of such stages.
93. **Planning Board** means the Planning Board of the Municipality appointed by Council pursuant to the *Planning Act, R.S.P.E.I. 1988, c. P-8*.
94. **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 Parcel upon which such Sign is located, or to which it is affixed.
95. **Private Park** means a Park owned by individuals or businesses and are used at the discretion of the Owner.
96. **Private Road** means a road, street or right-of-way which is not a Highway.
97. **Provincial Government** or **Province** means the Province of Prince Edward Island.
98. **Public Park** or **Parkland** means a Park owned by the Municipality or other level of government used or intended for Use by members of the public.
99. **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.
100. **Recreational Use** means the Use of a Parcel for a Park, playground, tennis court, lawn bowling green, athletic field,

golf course, picnic area, Swimming Pool, day camp, and similar Uses but does not include a track for the racing of animals or any form of motorized vehicles.

101. **Recycling Depot** means a Building or Parcel 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.
102. **Residential Lot** means a Lot where the primary Use is residential.
103. **Residential Use** means the Use of a Parcel, Building or Structure or parts thereof as a Dwelling.
104. **Resource Use** means the Use of a Parcel or Building for production and harvesting or extraction of any agricultural, forestry or fisheries product.
105. **Resource Commercial Use** means the Use of a Parcel or Building for the storage, Display or sale of goods directly and primarily related to Resource Uses.
106. **Resource Industrial Use** means the Use of a Parcel or Building for any Industrial Use directly associated with agriculture, fisheries or forestry industries.
107. **Restaurant** means a Building or Structure or part thereof where food and drink is prepared and offered for sale to the public.
108. **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.
109. **Salvage Yard** means an area of a Parcel 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.
110. **Setback** means the minimum horizontal separation distance between two objects as identified in this By-law, such as a Building or Structure, Street Line, Watercourse, or Zone

Rural Municipality of
Kingston
Prince Edward Island

boundary, except Fences.

111. **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 central waste treatment system.
112. **Short-Term Rental** means the Use of a residential Dwelling, or one or more sleeping units or rooms within a Dwelling for temporary overnight accommodation for a period of 29 days or less. This Use does not include Bed and Breakfasts, Hotels or Motels.
113. **Sign** or **Signage** means a Structure, device, light or natural object including the ground itself, or any part, or any device Attached, 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 Parcel or from a parking Lot.
114. **Solar Array** means a system of any number of solar energy collectors and associated mounting and electrical equipment. The capacity of a photovoltaic Solar Array is considered to be the aggregate nameplate capacity of all associated Solar Collectors.
115. **Solar Collector** means a device, Structure or a part of a device or Structure for which the primary purpose is to convert solar radiant energy into thermal, chemical, or electrical energy (photovoltaic).
116. **Solar Array, ground mounted,** or **Ground Mounted Solar Array** means a Solar Array that is structurally supported by the ground, rather than by a Building.
117. **Solar Array, roof mounted,** or **Roof Mounted Solar Array** means a Solar Array that is structurally supported by

Rural Municipality of
Kingston
Prince Edward Island

a Building, rather than by the ground.

118. **Special Planning Area** means the Charlottetown Region Special Planning Area ("SPA"), as established in the Subdivision and Development Regulations of the *Planning Act*, July 9, 1994 to protect the rural agricultural areas near urban centres from inappropriate Developments and unsustainable suburban sprawl.
119. **Storey (pl. Stories)** 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 1.83 m (6 ft) above Grade and provided also that any portion of a Building between any floor and ceiling or roof next above exceeding 4.27 m (14 ft) in height shall be deemed an additional Storey.
120. **Street or Road** (see Highway)
121. **Street Line** means the boundary of a street.
122. **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.
123. **Subdivision** means a division of a Parcel to create two or more new Parcels; the consolidation of two or more contiguous Parcels to create a new Parcel; or the attachment of a part of a Parcel to another Parcel contiguous to that part to create a new Parcel, 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 created by the division, or in the new Parcel created by the consolidation or the attachment, as the case may be.
124. **Surface Drainage Plan** means a plan that complies with the surface drainage requirements set out in this By-law and is duly sealed and signed by a qualified landscape architect or a licensed engineer.
125. **Survey Plan** means an appropriately scaled drawing of survey details, certified by a licensed Prince Edward Island

Land Surveyor.

126. **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 0.60 m (1.96 ft) or more at any point or with a surface area exceeding 10 m² (107.64 ft²).
127. **Temporary Structure** means a Structure that is not affixed to the ground by foundation, footings or piles, and has a short-term or seasonal purpose, and which will be removed when the designated time period, activity or Use for which the Temporary Structure was Erected has ceased, and for greater certainty includes but is not limited to any tent, awning, bin, bunk, platform vessel, trailer truck body or container.
128. **Tourist Establishment** means an establishment that provides temporary accommodation for a guest for a continuous period of less than one month, and includes a Building, Structure or place in which accommodation or lodging, with or without food, is furnished for a price to travelers;
129. **Use** means any purpose for which a Building or other Structure or Parcel 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.
130. **Utility, Private** means a person or corporation and the lessees, trustees, liquidators or receivers of a person or corporation who owns, operates, manages or controls, or is incorporated for the purpose of owning, operating, managing or controlling any plant or equipment
- i. for the conveyance or transmission of telephone messages or internet services,
 - ii. for the production, transmission, distribution or furnishing of electric energy, or
 - iii. for the provision of water or sewerage service,
 - iv. to or for that person or corporation and not to

or for the public; and

131. **Utility, Public** means a person or corporation and the lessees, trustees, liquidators or receivers of a person or corporation who owns, operates, manages or controls, or is incorporated for the purpose of owning, operating, managing or controlling any plant or equipment
- i. for the conveyance or transmission of telephone messages or internet services,
 - ii. for the production, transmission, distribution or furnishing of electric energy, or
 - iii. for the provision of water or sewerage service either directly or indirectly, to or for the public.
132. **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, Recycling Depot, or Salvage Yard.
133. **Watercourse** shall have the same meaning as defined in the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*, as may be amended, and, in the case of any dispute, the final determination shall be made by the Provincial Government department having responsibility for enforcement of such regulations.
134. **Wetland** shall have the same meaning as defined in the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*, as may be amended, and, in the case of any dispute, the final determination shall be made by the Provincial Government department having responsibility for enforcement of such regulations.
135. **Wind Energy Facility** means a system intended to generate electricity from the wind and may consist of any

number of Wind Turbines and associated equipment including but not limited to electrical equipment and energy storage systems commonly referred to as a wind Farm. The capacity of a Wind Energy Facility is considered to be the aggregate nameplate capacity of all associated Wind Turbines.

136. **Wind Turbine** means a wind energy generating system.
137. **Yard** means an Open Space on a Parcel appurtenant to a Building and unoccupied by Buildings or Structures except as specifically permitted in this By-law and
- i. **Front Yard** means a Yard extending across the width of a Parcel between the Front Lot Line and nearest wall of any Building or Structure on the Parcel and "minimum Front Yard" means the minimum depth of a Front Yard on a Parcel between the Front Lot Line and the nearest main wall of any Building or Structure on the Parcel;
 - ii. **Rear Yard** means a Yard extending across the width of a Parcel between the Rear Lot Line and the nearest wall of any Main Building or Structure on the Parcel and "minimum Rear Yard" means the minimum depth of a Rear Yard on a Parcel between the Rear Lot Line and the nearest main wall of any Main Building or Structure on the Parcel;
 - iii. **Side Yard** means a Yard extending from the Front Yard to the Rear Yard of a Parcel between a Side Lot Line and nearest wall of any Building or Structure on the Parcel, and "minimum Side Yard" means the minimum width of a Side Yard on a Parcel between a Side Lot Line and the nearest main wall of any Main Building or Structure on the Parcel; and
 - iv. **Flankage Yard** means the Side Yard of a corner Parcel which Side Yard extends from the Front Yard to the Rear Yard between the Flankage Lot Line and

Rural Municipality of
Kingston
Prince Edward Island

the nearest main wall of any Building or Structure on the Parcel.

138. **Zone** means a designated area of land shown on the zoning map of the By-law within which land Uses are restricted to those specified by this By-law.

16 SCHEDULE 3: PARKING STANDARDS

16.1.1 Off-street parking and Loading Spaces shall be in accordance with the following requirements:

- a) The minimum number of Parking Spaces shall be provided for the proposed Use, as listed in the following table;
- b) Every Parking Space shall have access to a clear manoeuvring lane;
- c) Every Parking Space shall have minimum dimensions of 2.74 m (9 ft) by 5.49 m (18 ft); and
- d) Every Loading Space shall have minimum dimensions of 21.34 m (70 ft) by 3.66 m (12 ft).

Use	Parking Spaces Required
Dwelling	1.5 for each Dwelling or sleeping unit; minimum of 2 spaces
Auditorium, theatre, place of worship, or hall	1 per 4 seats
Hotel, Motel, or Tourist Establishment	1 per guest room
Restaurants (including take out)	1 per 9.29 m ² (100 ft ²); minimum of 10
Business or Professional Offices	1 per 27.87 m ² (300 ft ²) of Floor Area
Warehouse and storage facilities and other Industrial Uses	1 per employee; 1 per loading bay
Medical, Health and Dental Offices	6 spaces per practitioner

Rural Municipality of
Kingston
Prince Edward Island

Other Commercial Uses	1 per 27.8 m ² (300 ft ²) of Floor Area
Other Industrial Uses	1 per employee; 1 per loading bay
Other	As required by Council

17 SCHEDULE 4: SCHEDULE OF FEES

17.1 Permit Fee Schedule

Rural Municipality of Kingston Permit Fee Schedule - Amended April 9, 2024				
	Fee per Sq.Ft	Minimum	Maximum	Flat Fee
SUBDIVISION APPLICATIONS				
Subdivision - First Lot				\$200.00
Subdivision - Additional Lots to a maximum of 5 in total				\$100.00
Lot Consolidation				\$100.00
DEVELOPMENT				
Residential - New Construction, Additions, Moving Structures	\$0.12	\$250.00	\$1,000.00	
Accessory Buildings	\$0.12	\$50.00	\$1,000.00	
Change of Use				\$50.00
Agricultural Buildings	\$0.10	\$50.00	\$500.00	
Commercial/Institutional/Industrial	\$0.20	\$300.00	\$2,000.00	
Solar Array - Ground Mounted				\$50.00
Wind Turbine - \$2.00 per \$1000 of Construction Cost		\$100.00	\$2,000.00	
Swimming Pools				\$50.00

Rural Municipality of
Kingston
Prince Edward Island

Demolition				\$50.00
Excavation Pit - New (up to 5 acres)				\$200.00
Excavation Pit - New (greater than 5 acres up to 10 acres)				\$500.00
Excavation Pit - New (greater than 10 acres up to 15 acres)				\$1,000.00
Excavation Pit - New (greater than 15 acres)				\$1,500.00
Excavation Pit - Renewal				\$200.00
VARIANCE, AMENDMENT, REZONING				
Variance	\$50 (no public meeting) + associated costs* \$200 (public meeting required) + associated costs*			
Official Plan Amendment	\$300 + associated costs*			
By-law Amendment/Rezoning	\$300 + associated costs*			
AGREEMENT FEES				
Development or Subdivision Agreement	\$200			
Other Agreements	\$100			

17.2 Refunds for Applications

A processing fee shall be retained for permits or approvals where staff, Planning Board or Council have carried out work on the application. The minimum processing fee of \$25 and with a maximum refund to be 25% of the fee paid where staff, Planning Board, or Council have acted on an application and the application was withdrawn, abandoned or otherwise discontinued. The amount of any processing fee shall be determined by Council.

18 SCHEDULE 5: PROVINCE-WIDE MINIMUM DEVELOPMENT STANDARDS REGULATIONS

18.1.1 Notwithstanding any provisions of this By-law, the Province-Wide Minimum Development Standards Regulations prescribed under the *Planning Act* R.S.P.E.I. 1988, c. P-8, as may be amended, apply in the Rural Municipality of Kingston. The Province-Wide Minimum Development Standards Regulations are included for information and reference purposes only.

NOTE: This Schedule is not the official version of these regulations, and these regulations may be amended after the enactment of this By-law

Rural Municipality of
Kingston
Prince Edward Island



PLEASE NOTE

This document, prepared by the [Legislative Counsel Office](#), is an office consolidation of this regulation, current to November 19, 2011. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the [Royal Gazette](#) should be consulted to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the [Table of Regulations](#).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
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Email: legislation@gov.pe.ca

Rural Municipality of
Kingston
Prince Edward Island

CHAPTER P-8

PLANNING ACT

**PROVINCE-WIDE MINIMUM DEVELOPMENT STANDARDS
REGULATIONS**

Pursuant to clause 7(1)(c) of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, Council made the following regulations:

1. (1) In these regulations “authority having jurisdiction” means the Minister responsible for the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, or in the case of a municipality with an official plan and bylaws, the municipal council. “authority having jurisdiction”, defined

- (2) Words and expressions defined in section 1 of the *Planning Act* Subdivision and Development Regulations have the same meaning when used in these regulations. (EC703/95; 552/11) *Idem*, existing definitions

2. These regulations apply to all areas of the province. (EC703/95) Application

3. Revoked by EC41/96. Lot size

4. (1) No approval or permit shall be granted for the subdivision of a lot for residential use unless the lot conforms with the minimum lot size standards set out in Table 1. Residential

- (2) The area encompassed by the required minimum circle diameter as set out in Table 1 and Table 2 shall be located on the lot such that it will accommodate an on-site sewage disposal system. Location

- (3) Notwithstanding the minimum lot size standards set out in Table 1 and Table 2, for infilling purposes, a lot may be reduced to a minimum of 10,000 sq. ft. / 929 sq. m. provided that Reduced size
 - (a) it is serviced by an on-site water supply system and a central sewerage system; and
 - (b) only one additional lot from the existing parcel is created by any proposed subdivision.

- (4) Notwithstanding the minimum circle diameter requirements set out in column (f) of Table 1 and column (e) of Table 2, a lot that does not meet those requirements may be subdivided from a lot or parcel that existed prior to June 12, 1993 where Reduced circle requirement

Rural Municipality of
Kingston
Prince Edward Island

2

Cap. P-9

Planning Act

Updated 2011

Province-Wide Minimum Development Standards Regulations

- (a) the lot is intended for either single unit residential use or non-residential use, and will be serviced by on-site water and sewerage disposal systems;
- (b) the lot meets Category I standards in accordance with clause 5(a) and the minimum lot area requirements set out in column (e) of Table 1 and column (d) of Table 2 respectively;
- (c) a circle with a minimum diameter of 125 ft./38.1 m. will fit within the boundaries of the lot; and
- (d) there is no practical alternative to increasing the size of the property to permit compliance with the circle diameter requirement. (EC703/95; 41/96; 694/00; 552/11)

Non-residential

5. (1) No approval or permit shall be issued to subdivide a lot for non-residential use unless in conformity with the minimum lot size standards set out in Table 2.

Exception

- (2) Notwithstanding subsection (1),
 - (a) where a lot is intended for any non-residential use where water and sewage services are not required for the proposed development, the Minister may approve an exemption from the requirement of subsection (1);
 - (b) where an approval or permit has been granted by an authority having jurisdiction pursuant to subsection (1), a subsequent approval or permit requiring or proposing a sewerage system shall only be granted in accordance with the standards set out in Table 2. (EC703/95; 41/96; 552/11)

Categories of lots

- 6.** 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 of permeable natural soil is 2 ft. (0.61 m.) or greater,
 - (ii) the depth to bedrock is 4 ft. (1.22 m.) or greater, and
 - (iii) the depth to the maximum groundwater elevation is 4 ft. (1.22 m.) or greater;
 - (b) Category II, where
 - (i) the depth of permeable natural soil is greater than 1 ft. (0.3 m.), but less than 2 ft. (0.61 m.),
 - (ii) the depth to bedrock is 4 ft. (1.22 m.) or greater, and
 - (iii) the depth to the maximum groundwater elevation is 4 ft. (1.22 m.) or greater;
 - (c) Category III, where
 - (i) the depth of permeable natural soil is 1 ft. (0.3 m.) or greater,
 - (ii) the depth to bedrock is 2 ft. (0.61 m.) or greater, but less than 4 ft. (1.22 m.), or

Rural Municipality of
Kingston
Prince Edward Island

Updated 2011

Planning Act
Province-Wide Minimum Development Standards Regulations

Cap. P-8

3

(iii) the depth to the maximum groundwater elevation is 2 ft. (0.61 m.) or greater, but less than 4 ft. (1.22 m.);

(d) Category IV, where

(i) the lot has a depth of permeable natural soil of less than 1 ft. (0.3 m.),

(ii) the depth to bedrock is greater than 1 ft. (0.3 m.), and

(iii) the depth of the maximum groundwater elevation is greater than 2 ft. (0.61 m.);

(e) Category V, where

(i) the depth to bedrock is less than 1 ft. (0.3 m.), and

(ii) the depth to the maximum ground water elevation is greater than 2 ft. (0.61 m.). (EC703/95; 694/00; 552/11)

7. Revoked by (EC694/00).

Upgrade

8. The minimum lot size standards set in Tables 1 and 2 do not apply to subdivisions approved prior to October 14, 1995. (EC703/95; 552/11)

Application

9. (1) The authority having jurisdiction may, for special cause, authorize such minor variance from the provisions of these regulations as, in its opinion, is desirable and not inconsistent with the general intent and purpose of these regulations.

Minor variance

(2) Notwithstanding any other provisions of these regulations, where a lot is designed for use by a public or a private utility, the authority having jurisdiction may authorize a variance from the provisions of these regulations as, in its opinion, is desirable. (EC703/95; 552/11)

Variance, public utility use

MINIMUM HIGHWAY ACCESS

10. (1) The *Roads Act* Highway Access Regulations shall constitute the Minimum Highway Access Standards.

Minimum highway access standards

(2) An authority having jurisdiction shall not grant an approval or issue a permit for development unless an entrance way permit has been obtained for the applicable lot or development when so required. (EC703/95; 2/96; 552/11)

Entrance way permit

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

(a) Servicing	(b) Lot Category	(c) Minimum Lot Frontage	(d) Number of Dwelling Units	(e) Minimum Lot Area sq. ft. / sq. m.	(f) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet / metres
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	25,000 sq. ft. / 2,322.5 sq. m.	150 ft. / 45.7 m.
			2	30,000 sq. ft. / 2,787 sq. m.	160 ft. / 48.8 m.
			3	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			4	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
			more than 4	40,000 sq. ft. / 3,717 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	200 ft. / 61 m.
on-site water supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
			2	40,000 sq. ft. / 3,717 sq. m.	200 ft. / 61 m.
			3	45,000 sq. ft. / 4,180.5 sq. m.	225 ft. / 68.6 m.
			4	50,000 sq. ft. / 4,645 sq. m.	250 ft. / 76.2 m.
			more than 4	50,000 sq. ft. / 4,645 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	250 ft. / 76.2 m.
on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 15.25 metres, 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 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	1	75,000 sq.ft. / 6,975 sq.m.	300 ft. / 91.4 m.
			2	80,000 sq.ft. / 7,440 sq.m.	
			3	85,000 sq.ft. / 7,905 sq.m.	
			4	90,000 sq.ft. / 8,370 sq.m.	
			more than 4	90,000 sq.ft. / 8,370 sq.m., plus 1,500 sq.ft. / 457 sq.m. for each additional unit	
on-site water supply and on-site sewage disposal system	V	N/A	N/A	not developable	N/A

Rural Municipality of
Kingston
Prince Edward Island

Updated 2011

Planning Act

Cap. P-8

5

Province-Wide Minimum Development Standards Regulations

central water supply and on-site sewage disposal system	I	50 feet / 15.25 metres	1 2 3 4 more than 4	20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 35,000 sq. ft. / 3,251 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and on-site sewage disposal system	II	50 feet / 15.25 metres	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. / 6,450.5 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., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	275 ft. / 83.8 m.
central water supply and on-site sewage disposal system	V	N/A	N/A	not developable	N/A
on-site water supply and central waste treatment system	I or II	50 feet / 15.25 metres	1 2 3 4 more than 4	15,000 sq. ft. / 1,393.5 sq. m. 20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 30,000 sq. ft. / 2,787 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	100 ft. / 30.5 m. 125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 160 ft. / 48.8 m.

Rural Municipality of
Kingston
Prince Edward Island

6

Cap. P-9

Planning Act

Updated 2011

Province-Wide Minimum Development Standards Regulations

on-site water supply and central waste treatment system	III	50 feet / 15.25 metres	1 2 3 4 more than 4	20,000 sq. ft. / 1,858 sq. m. 25,000 sq. ft. / 2,322.5 sq. m. 30,000 sq. ft. / 2,787 sq. m. 35,000 sq. ft. / 3,251.5 sq. m. 35,000 sq. ft. / 3,251.5 sq. m., plus 1,500 sq. ft. / 457 sq. m. for each additional unit	125 ft. / 38.1 m. 150 ft. / 45.7 m. 160 ft. / 48.8 m. 175 ft. / 53.3 m. 175 ft. / 53.3 m.
central water supply and waste treatment systems	I, II, or III	n/a	any number	as determined by the Minister	as determined by the Minister

Rural Municipality of
Kingston
Prince Edward Island

Updated 2011

Planning Act
 Province-Wide Minimum Development Standards Regulations

Cap. P-8

7

TABLE 2

**TABLE 2 - MINIMUM LOT SIZE STANDARDS:
 NON-RESIDENTIAL LOTS**

(a) Servicing	(b) Lot Category	(c) Minimum Lot Frontage	(d) Minimum Lot Area	(e) Minimum Circle Diameter to be Contained Within the Boundaries of the Lot - feet/metres
on-site water supply and on-site sewage disposal system	I	100 feet / 30.5 metres (or 50 feet / 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 supply and on-site sewage disposal system	II	100 feet / 30.5 metres (or 50 feet / 15.25 metres, where the frontage is on the interior curve of a street)	35,000 sq. ft. / 3,251.5 sq. m.	175 ft. / 53.3 m.
on-site water supply and on-site sewage disposal system	III	100 feet / 30.5 metres (or 50 feet / 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.

Rural Municipality of
Kingston
Prince Edward Island

8

Cap. P-9

Planning Act

Updated 2011

Province-Wide Minimum Development Standards Regulations

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 systems	I, II or III	n/a	as determined by the Minister	as determined by the Minister

(EC542/87; 703/95; 694/00; 552/11)

19 SCHEDULE 6: SPECIAL PLANNING AREA REGULATIONS

Part IV of the Subdivision and Development Regulations prescribed under the Planning Act R.S.P.E.I. 1988, c. P-8, as may be amended, apply in the Rural Municipality of Kingston. Part IV of the Subdivision and Development Regulations is included for information and reference purposes only.

NOTE: This Schedule is not the official version of these regulations, and these regulations may be amended after the enactment of this By-law.