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# 1. Scope

## 1.1. Title

This Bylaw shall be known and may be cited as the Community of Eastern Kings 2013 Subdivision and Development Control Bylaw or the Development Bylaw.

## 1.2. Purpose

The purpose of this Bylaw is to carry out the land use development policies found in the Official Plan and to establish a fair and systematic means of development control for the municipality.

## 1.3. Authority

This Bylaw is enacted under the authority of the Planning Act, R.S.P.E.I. 1988, Cap. P-8, referred to here as the “Planning Act” and the Municipalities Act, R.S.P.E.I. 1988, Cap. M- 13.

## 1.4. Area Defined

This Bylaw applies to the geographical area within which the Community of Eastern Kings Council has jurisdiction.

## 1.5. Scope

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

## 1.6. Authority of Development Officer

Council may appoint a Development Officer whose duties shall be as provided in this Bylaw. A Development Officer shall have the authority to administer this Bylaw.

Notwithstanding the foregoing, a Development Officer shall have the authority to approve or deny severances, lot consolidations and development permits in accordance with this Bylaw in all areas except for Commercial, Industrial, Institutional and Special Permit uses.

## **2. Administration**

### **2.1. Administration**

The Development Officer shall administer this Bylaw.

### **2.2. Units of Measurement**

All official measurements are in metric. Where imperial measurements are provided they are for information purposes only.

### **2.3. Development Permit**

No person shall:

- a) change the use of a parcel of land or a structure;
- b) commence any Development;
- c) construct or replace any structure;
- d) make structural alterations to any structure;
- e) make any water or sewer connection;
- f) make any underground installation such as a septic tank, a fuel tank, a foundation wall or the like;
- g) move or demolish any structure;
- h) construct a driveway;
- i) locate a travel trailer on any lot as the main or accessory use, other than in a travel trailer park where utility services are provided;
- j) subdivide or consolidate a parcel or parcels of land;

without first applying for, and receiving a permit from Council. A development permit shall be valid for a twelve month period, or such additional time as may be authorized by Council. Council may revoke a development permit where information provided on the application is found to be inaccurate.

### **2.4. No Development Permit Required**

Unless otherwise specified, no development permit shall be required for:

- a) laying paving materials for patios or sidewalks or constructing a deck less than 2 feet above ground;
- b) constructing fences of less than 4 feet in height;
- c) installing clotheslines, poles, and radio or television antennae;
- d) making a garden;
- e) growing a crop or preparing land for a crop;

- f) making landscaping improvements or accessory buildings of less than 18.5 sq. m /200 sq. ft.;
- g) conducting routine maintenance which has the effect of maintaining or restoring a structure or any of its elements to its original state or condition;
- h) 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 involve a change in use of the building; and
- i) public and private utilities located within the public right-of-way; although the applicable requirements of this bylaw must still be met.

## **2.5. Permit Application**

1. Any person applying for a permit shall do so on a form prescribed by Council, and shall submit the application to the Community.
2. Every application form shall be signed by the property owner or the property owner's authorized agent, and shall be accompanied by an application fee in accordance with the fee schedule established by Council.
3. An application form must be submitted to the Municipality for any structure over 18.5 sq. m./200 sq. ft. in area.
4. An application for a development permit shall constitute authorization for inspection of the building or land in question by an officer or agent of the community for the purpose of ensuring compliance with the provisions of this Bylaw.

## **2.6. Payment of Fees**

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

## **2.7. Site Plan**

1. No permanent main building shall be erected or placed without first providing existing and proposed grade elevations relative to the adjoining property or properties, and to the public right of way, as well as showing the pattern and allowing for surface water run off on the lot so as not to cause damage or water run off onto adjacent lots. Such a plan shall be prepared by a licensed engineer or qualified landscape architect or licensed land surveyor.
2. Every application for a development permit shall be accompanied by a sketch or site plan, drawn to scale and showing:
  - a) the shape and dimensions of the lot to be used;
  - b) the existing and proposed grade elevations relative to the adjoining property or properties;
  - c) the distance from the lot boundaries, dimension, and height of the building or structure proposed to be erected;

- d) the distance from the lot boundaries and size of every building or structure already erected on the lot and the general location of the buildings on abutting lots;
  - e) the proposed location and dimension of any well, sewerage systems, parking space, loading space, driveway, and landscaped area on the subject lot as well as within a minimum of 30 m on abutting lots;
  - f) the proposed use of the lot and any building or structure; and
  - g) any other information the Development Officer deems necessary to determine whether or not the proposed development conforms to the requirements of this Bylaw.
3. Where the Development Officer is unable to determine whether the proposed development conforms to this Bylaw, the Development Officer may require that the plans submitted under clause (a) be based upon a survey certified and stamped by a Licensed Land Surveyor.
  4. The applicant may be required to submit any additional information related to the development.

## **2.8. Conditions on Permits**

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

## **2.9. Development Agreement**

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

### 3. Zones

For the purpose of this Bylaw, the municipality is divided into the following development zones, the boundaries of which are shown on the attached Schedule "A"; the Zoning Map. Such zones may be referred to by the appropriate symbols.

|                             |    |
|-----------------------------|----|
| Agricultural Zone           | AZ |
| Residential Zone            | RZ |
| Parks and Conservation Zone | PZ |
| General Commercial          | CZ |
| Industrial                  | IZ |
| Environmental Overlay       | EZ |

#### 3.1. Zoning Map

Schedule "A" is the Zoning Map and forms part of the Bylaw.

#### 3.2. Zoning Not on the Map

The Zoning Map may be amended, in conformance with the Official Plan to use any zone in this Bylaw, regardless of whether or not such a zone has previously appeared on the Zoning Map.



## 4. Interpretation

### 4.1. Symbols

The symbols used on the Zoning Map refer to the corresponding zones established in the Bylaw. See Schedule A the Zoning Map.

### 4.2. Definitions

The definitions used in this Bylaw are provided in Schedule “B”, Definitions.

### 4.3. Interpretation of Zone Boundaries

Boundaries between zones as indicated in Schedule "A" shall be determined as follows:

- a) Where a zone boundary is indicated as following a street, road or highway, the boundary shall be the centre line of such street, road or highway;
- b) Where a zone boundary is indicated as following lot or property lines, the boundary shall be such lot or property lines;
- c) Where a zone boundary is indicated as following the limits of the Municipality, the limits shall be the boundary;
- d) Where none of the above provisions apply, the zone boundary shall be scaled from the original zoning map lodged with the municipality; and
- e) Where a zone boundary is indicated as following the edge or a watercourse the zone shall follow any change in the boundary of that watercourse.

### 4.4. Permitted Uses

In this Bylaw any use not listed as a permitted use in a zone is prohibited in that zone unless otherwise indicated.

Where a permitted use within any zone is defined in the Bylaw the uses permitted in the zone include any similar uses except where a definition specifically excluded any similar use.

### 4.5. Special Permit Uses

Subject to these Regulations, the uses that fall within the Special Permit Uses set out in the corresponding Zone may be permitted in that Zone if Council is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Official Plan, and to the public interest, and if Council has given notice of the application in accordance with the procedures established in section 13.2 (4), and

has considered any objections or representations which may have been received on the matter.

**4.6. Uses Not Permitted**

Uses that do not fall within the Permitted Uses or Special Permit Uses set out in the corresponding Zone shall not be permitted in that Zone.

**4.7. All Land to be Zoned**

All lands within the municipality shall be zoned.

**4.8. Change of Use**

Where a change of use would require a rezoning, Council shall consider the potential impact of the new zone on existing zoning and proposed land uses. The primary goal of promoting long term viability of farming, forestry and fishing in the community shall be considered when reviewing any application to change the use of land or to rezone land.

**4.9. Schedules and Appendices**

All schedules and figures attached to this Bylaw form an official part of the Bylaw.

Any appendices that may be attached to this Bylaw are for informative purposes only and are not an official part of the Bylaw.

## **5. General Provisions for All Zones**

### **5.1. Accessory Buildings and Structures**

1. Accessory uses, buildings and structures, including detached garages, shall be permitted on any lot but shall not:
  - a) be used for human habitation except where a dwelling is a permitted accessory use; and
  - b) be built closer than 3 m (10') to any lot line, except that common garages for semi-detached dwellings may be centred on a mutual side lot line.

### **5.2. Bed and Breakfast**

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

- a) the use is carried out by a resident of the dwelling;
- b) not more than three (3) rooms shall be offered for overnight accommodation;
- c) adequate off-street parking, separate from that required for the dwelling, shall be provided; and
- d) the establishment is licensed under Provincial Regulations.

### **5.3. Buffering**

A minimum 15 m environmental buffer shall be in place adjacent to any watercourse, stream or wetland, in accordance with provincial regulations. The Community will specify areas where greater buffers are in place. The Parks and Conservation Zone or the Environmental Overlay Zone classification may be used to indicate location of environmental buffers.

### **5.4. Building to be Erected on a Lot**

No building shall be erected or used unless it is erected on a single lot.

### **5.5. Building to be Moved**

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

### **5.6. Calculation of Lot Frontage**

Lot frontage shall be measured as the distance between the side lot lines where they meet the front lot line.

1. If a parcel of land in any zone is of such a configuration that it cannot reasonably be subdivided in such a way to provide the required minimum frontage on a street or road, Council may approve a reduced frontage, provided that the lot width at the building line measures at least as much as the minimum lot frontage for the zone.
2. In any zone, lots designed with a reduced frontage along an bend in a street or facing a cul-de-sac may be approved by Council if in the opinion of Council adequate and safe access is provided and if the lot width at the front building lot line measure at least as much as the minimum lot frontage for the zone.

#### **5.7. Commercial Operation as a Secondary Use**

A commercial operation may be located in a residential dwelling or an accessory building in any zone, provided:

- a) the owner of the business lives in the dwelling;
- b) not more than two (2) employees live outside the dwelling;
- c) not more than twenty five percent (25%) of the total floor area of the dwelling is used for the business;
- d) adequate off-street parking is provided for both the dwelling and the business;
- e) no outdoor storage of materials or product display is used in conjunction with the business;
- f) premise signs shall be restricted to a maximum of 0.3 square metres (465 sq. in.);
- g) no mechanical equipment shall be used except what is reasonably consistent with the use of the dwelling;
- h) the external appearance of the dwelling is not altered; and
- i) sewage requirements are satisfied.

#### **5.8. Conformity with Existing Front Yards**

Notwithstanding the minimum front yard requirements found elsewhere in this Bylaw, in any zone, when a building is erected between two existing buildings within 15 metres of the proposed building, the minimum front yard requirement shall be no less than that of the adjacent building which is closest to the street or road.

#### **5.9. Driveway Access**

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

#### **5.10. Frontage on a Road**

No development permit shall be issued unless the lot intended to be used, or upon which a building or structure is to be erected, abuts and fronts upon a public road or a private road.

**5.11. Garden Suites**

1. A garden suite may be permitted on any residential or agricultural lot if the owner of the dwelling, upon written application to the Council, satisfies the Council that the garden suite is a temporary housing unit, and if the application meets the following requirements:
  - a) The garden suite shall be accessory to the permanent detached dwelling on the property with respect to its services and utilities and must be connected to the services and utilities of the permanent detached dwelling;
  - b) The owner of the single unit dwelling applies for and receives a development permit for the garden suite; and
  - c) The garden suite is approved by the Provincial Fire Marshal.
  
2. a) The following site standards for a garden suite shall apply:

| <b>Standard</b>                               |   |
|---|---|
| <i>Maximum height</i>                         | 5.0 m.  |
| <i>Minimum floor area</i>                     | 32.5 m.   |
| <i>Maximum floor area</i>                     | 60 sq.m.  |
| <i>Maximum width</i>                          | 7.3 m.  |
| <i>Maximum roof pitch</i>                     | 4/12  |
| <i>Permitted location</i>                     | rear yard only, within the width of the existing primary unit |
| <i>Minimum setback from property boundary</i> | 9 m.  |

- b) the garden suite shall use the existing access to the lot unless said access leads to a garage, in which case provisions must be made for access to the rear yard for emergency vehicles;
  - c) the garden suite shall be constructed and erected in such a manner as to be capable of being readily removed from the site;
  - d) the unit shall not be situated over any existing underground services or utilities and shall not encroach upon any permanent easements registered on the property. Council may require the owner to submit a survey plan certified by a duly licensed Prince Edward Island land surveyor or licensed engineer;
  - e) the installation of the garden suite shall not interfere with, nor disrupt, the existing storm water drainage pattern on adjacent properties, nor cause any ponding of storm water; and
  - f) the main residence shall not contain an accessory apartment.
  
3. a) The owner shall enter into a development agreement with the Municipality that may be registered, recorded or filed by Council in such public offices as the Council deems appropriate;

- b) the owner shall pay all legal costs and expenses which Council may incur in connection with the preparation, registration or enforcement of the development agreement; and
- c) when the garden suite no longer complies with any requirements under subsections 1 and 2, the owner of the single unit dwelling shall, within 1 year, remove the garden suite from the site. If the owner fails to remove the suite within the required period, the Municipality reserves the right to remove the suite at cost to the owner.

#### **5.12. Grade of Site**

No permanent building shall be erected or placed without first providing existing and proposed grade elevations relative to the adjoining property, and to the public right of way, as well as showing the pattern and allowing for surface water run off on the lot so as not to cause damage or water run off onto adjacent lots.

#### **5.13. Home Occupation Uses/Secondary Uses**

List of Home Occupation Uses/ Secondary Uses

A home occupation/ commercial operation/ secondary use within a residence shall include the following types of uses:

- a) offices;
- b) artisan workshops with or without a retail sales component;
- c) catering establishments;
- d) hairdressing salon including a barbershop;
- e) photographic studio;
- f) day care centre;
- g) bed and breakfast establishments;
- h) retail store;
- i) auto body repair shop/ small engine repair shop; and
- j) agricultural/forestry or fishing gear manufacturing, servicing and repair.

#### **5.14. Inspection**

The Community's Development Officer, as authorized by Council may, with reasonable prior notice, enter a building or a premise at a reasonable hour in the performance of duties with respect to the administration and enforcement of this Bylaw.

#### **5.15. Landscaping**

1. The provision and maintenance of adequate landscape buffering and/or appropriate fencing shall be required to the satisfaction of the Council between agricultural zones and new residential zones, or between residential zones and new commercial, industrial or other land uses characterized by significant traffic generation, the heavy

use of trucks, noise, outdoor storage, congregations of people other factors that may adversely affect adjacent residential amenity.

2. The provision and maintenance of adequate landscaping shall be required on the site plan for new development to the satisfaction of the Development Officer.
3. Where a non-residential use abuts a residential use along a side and/or rear lot line, or where potentially conflicting land uses abut each other, a strip of not less than fifteen (15') ft. (4.5 m) in width along the said side and/or rear lot shall be landscaped to the satisfaction of the Development Officer.

#### **5.16. Licences, Permits and Compliance with Other Bylaws**

1. Nothing in this Bylaw shall exempt any person from complying with the requirements of any other Bylaw of the municipality or from obtaining any license, permission, permit, authority, or approval required by any other Bylaw of the municipality or any regulation of the Province of Prince Edward Island or the Government of Canada.
2. Where the provisions of this Bylaw conflict with those of any other Bylaw of the municipality or regulation of the Province or the Government of Canada, the higher or more stringent provision shall prevail.

#### **5.17. Maximum Lot Coverage**

Maximum lot coverage shall be determined as the percentage of the lot covered by the main building, attached or detached garage, and any garden suites, accessory buildings or in-ground swimming pools.

Maximum lot coverage for all residential lots shall be 10%.

#### **5.18. Multiple Uses**

In any zone, where any land or building is used for more than one purpose, all provisions of the Bylaw relating to each use shall be satisfied. Where there is a conflict, such as in the case of lot size or frontage, the standards that apply to the most dominant use shall prevail.

#### **5.19. Nonconforming Uses**

1. Subject to the provisions of this Bylaw, a building or structure, or use of land, buildings or structures lawfully in existence on the effective date of approval of this Bylaw may continue to exist.
2. A building or structure shall be deemed to exist on the effective date of approval of this Bylaw if:
  - a) it was lawfully under construction; or
  - b) the permit for its construction was in force and effect, but this clause shall not apply unless the construction is commenced within six (6) months after the date

of the issue of the permit and is completed in conformity with the permit within one year.

3. No structural alterations that would increase the exterior dimensions, except as required by statute or bylaw, shall be made to a building or structure while a non-conforming use thereof is continued.
4. Notwithstanding Subsection 3. above, nothing in this Bylaw shall apply to prevent the alteration and/or extension of a single family dwelling existing at the date of passing of this Bylaw in any non-residential or agricultural zone provided that the number of dwelling units is not increased and provided further that such alteration does not contravene any of the provisions of this Bylaw for such use in an R (residential zone).
5. If a building which does not conform to provisions of this Bylaw is destroyed by a fire or otherwise to an extent of fifty percent (50%) or more of the assessed value of the building above its foundation, it shall only be rebuilt or repaired in conformity with the provisions of this Bylaw, except if the building or repair work would not be detrimental, in the opinion of Council, to the convenience, health or safety of residents in the vicinity or the general public.
6. Any change of tenants or occupants of any premises or building shall not of itself be deemed to affect the use of the premises or building for the purposes of this Bylaw.
7. A non-conforming use of land, buildings or structures shall not be permitted if it has been discontinued for a period of twelve (12) months consecutively, and in such event, the land, building or structure shall not thereafter be used except in conformity with this Bylaw.
8. No intensification of use or increase in business volumes or activity levels shall be made while a non-conforming use of land, buildings or structures is being continued.
9. No increase in the area occupied by the non-conforming use shall occur while a non-conforming use is being continued.

#### **5.20. One Main Building on a Lot**

No person shall erect more than one main building on any residential lot.

#### **5.21. Parking**

Unless otherwise specified two parking spaces shall be provided for every dwelling unit. Parking standards shall be subject to the provisions of the Planning Act respecting Parking Standards. (See Table 1 Parking Standards ).

#### **5.22. Public and Private Utilities**

Public and private utilities located within or under the public right-of-way may be placed in any zone, and no development permit shall be required and no zone standards shall apply. However the Community reserves the right to require a permit for any structure over 18.5 sq. m. in area located anywhere within the Community.



### **5.23. Reduced Lot Requirements**

Notwithstanding anything else in this Bylaw, a lot approved in accordance with the Subdivision Bylaw may be used for a purpose permitted in the zone in which it is located and a building may be erected provided all other applicable provisions of this Bylaw are satisfied.

### **5.24. Servicing**

1. Council may require that developments in any zone shall be serviced by central sewerage systems and/or central water systems which would be designed and construction certified by a qualified professional engineer.
2. Council may require on-site sewage treatment systems in any zone to be designed and construction certified by a qualified professional engineer. Council may also consider shared or common sewage treatment systems based on the recommendations of staff at the department responsible for environmental resources and subject to the approval of the Community's consulting engineer. All costs related to the design and approval of a shared or common sewage treatment system shall be borne by the developer(s). Council may also establish individual lot levies in order to offset potential future municipal servicing costs.

### **5.25. Setback from Road**

Building setbacks shall be determined as follows:

1. 15.2 m minimum setback from arterial roads, collector roads, local roads and seasonal roads
2. 6 m minimum setback from interior subdivision roads, or seasonal subdivision roads

### **5.26. Side Yard Waiver**

Notwithstanding anything else in this Bylaw, where buildings on adjacent lots share a common wall, the applicable side yard requirement will be zero along the common lot line.

### **5.27. Swimming Pools**

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

1. The owner shall first secure a Development Permit from Council;
  - a) A 1.8 metre (6 ft.) fence shall be constructed in such a manner as to impede unauthorized persons from entering over or under said fence;
  - b) Such fence shall be aesthetically presentable and preference will be given to wood type fence; and
  - c) A self closing and self latching gate shall be installed.

## 5.28. Temporary Buildings

Temporary construction camps and structures directly pertinent to the approved construction project shall be permitted during construction, erection, placement or alteration of a building or structure, and up to a maximum of thirty (30) days after the completion of the building or structure, after which time, if they have not applied for and received an extension from Council, they shall be immediately removed.

## 5.29. Undersized Lots

Existing approved under sized lots may be used for the purpose of developing a single family dwelling, subject to the following:

- a) all existing lots that are below the current provincial minimum lot size shall have a site plan prepared by a licensed professional engineer;
- b) the lot is serviced by an on-site sewage system designed and construction certified by a professional engineer or by a municipally owned or approved sewer system;
- c) the lot has frontage on either a public right-of-way or a private right-of-way, provided that frontage on a private right-of-way meets the requirements set forth in Section 5.10 of this bylaw;
- d) the consolidation of several lots may be permitted as a means of acquiring the minimum standard lot area;
- e) the owner enters into a development agreement with the Community, which agreement shall be registered at the King's County Registry Office, stipulating that:
  - i) the development shall conform to the lot standards as noted in Section 8 of this bylaw;
  - ii) the owner shall be responsible for the provision of any roads, sewer services or water supply;
  - iii) the owner shall agree to pay all future costs related to the extension of services;
  - iv) the owner shall submit a landscaping and grading plan to minimize the visual effect of any engineered on-site sewage system;
  - v) the maximum lot coverage shall not be greater than ten percent (10%) of the lot;
  - vi) in cases where the lot is accessed by a private right-of-way, the owner shall acknowledge and agree that neither the Community nor the Province maintains the private right-of-way, that neither the Community nor the Province shall have any liability for that private right-of-way and, without limiting the generality of the foregoing, that neither the Community nor the Province is responsible for providing snow removal, bus service or emergency vehicle access to the private right-of-way; and
  - vii) the owner shall be responsible for the cost of registering the above-noted development agreement in the King's County Registry Office.

### **5.30. Waiver of Minimum Yard Standards**

1. Notwithstanding anything else in this Bylaw, a building erected on or before the effective date of this Bylaw and which has less than the minimum yard distances required by this Bylaw, may be enlarged, reconstructed, renovated or repaired provided the said development does not further reduce the yard distance that does not conform to this Bylaw and all other applicable provisions of this Bylaw are satisfied.
2. Any building erected on or before the effective date of this Bylaw may be used in a manner permitted in the zone in which the building is located.

### **5.31. Waiver of Minimum Lot Area and Frontage Standards**

1. Notwithstanding anything else in this Bylaw a lot which existed on or before the effective date of this Bylaw and which had less than the minimum frontage or area required by this Bylaw, may be used for a purpose permitted in the Zone, and a building may be erected on the lot provided that all other applicable provisions of this Bylaw are satisfied.
2. An existing undersized lot which is increased in area or frontage or both, but remains undersized, is still considered an existing undersized lot for the purposes of this section.

### **5.32. Watercourse Retention of Natural Vegetation**

No person shall, without a license or a Buffer Zone Activity Permit issued by the Province, alter or disturb the ground or soil within 15 meters of a watercourse boundary or wetland boundary, or cause or permit the alteration or disturbance of the ground or soil, therein, in any manner.

### **5.33. Wind Turbines**

All provincial rules and regulations regarding wind turbines will be respected. Where the provisions of this section conflict with those of any other Bylaw of the municipality or regulation of the Province or the Government of Canada, the higher or more stringent provisions shall prevail.

No large scale wind turbines shall be permitted within 2 kilometres of the shoreline.

All wind turbines shall require as a special permit review process.

Large scale wind turbines shall be permitted as a special permit use in the A1 Zone, subject to the following:

1. the blade clearance shall be a minimum of 25 feet;

2. the minimum separation distance between wind turbines shall be equal to or exceed the height of the tallest turbine;
3. the wind turbine(s) shall be setback a minimum of one (1) times the turbine height from rear, front and side lot lines, public rights-of-way;
4. the wind turbine(s) shall be setback from a dwelling a minimum of four (4) times the height of the turbine, as measured from the ground to the top of the blade
5. where adjacent properties are part of the same proposal, the setback requirement from a shared property line shall be zero
6. the wind turbine(s) shall be located a minimum of 3280 feet (1000 m) from any dwelling on a neighbouring property. This separation distance does not apply to a dwelling on the same property on which the large-scale wind turbine is installed or a dwelling on an adjacent property containing a wind turbine that is part of the same proposal;
7. the required separation distance for any expansion shall be equal to or greater than the separation distance between the initial wind turbine development and the dwelling;
8. a development permit may be issued for one or more large-scale wind turbines to be located on a lot which does not front on a public road provided proof of access can be demonstrated;
9. the wind turbine shall be finished in a non-reflective matte and in an unobtrusive colour;
10. the only artificial lighting permitted on the wind turbine is lighting that is required by federal or provincial regulation;
11. no signage shall be permitted on the wind turbine except that of the manufacturer's identification;
12. the owner(s) of the land on which the wind turbines are located shall notify the Municipality of Eastern Kings within one (1) year of wind turbine inactivity and shall remove the wind turbines and associated infrastructure within two (2) years of wind turbine inactivity.
13. Upon application for a development permit for a large-scale wind turbine, the developer shall submit the following documentation:
  - a. the project definition including installed turbine(s) capacity, targeted long term production levels, scale elevations or photos of wind turbines showing total height, tower height, rotor diameter and colour;
  - b. a site plan showing all buildings, roads, boundaries, natural features and alterations of site;
  - c. wind turbine manufacturer's specifications and professional engineer's design and approval of turbine base(s);
  - d. copies of all documentation required for Canadian Environmental Assessment Act and any regulations for the Province of Prince Edward Island, where applicable Environment Act and regulations, if applicable;

- e. evidence of notification to and approval from Department of National Defence, Nav Canada, Transport Canada or other applicable agencies regarding potential radio, telecommunications and radar interference, if applicable;
- f. an emergency response plans for site safety;
- g. a decommissioning and reclamation plan; and any other information the Development Officer or the Municipality of Eastern Kings deems necessary to determine whether the development conforms to this Bylaw.

#### **5.34. Yard Requirements Concerning Natural Areas**

The required front, rear or side yard as set out in this Bylaw shall not include any portion of the lot covered by a natural area or natural hazard such as, but not limited to, a marsh, the bank of a watercourse, or a slope greater than 15 percent.

## 6. Variances

1. Council may authorize a minor variance not exceeding 10% from the provisions of this Bylaw if the variance is desirable and appropriate, and if the general intent and purpose of this Bylaw is maintained.
2. Variance applications shall be considered against the following tests for justifying a variance:
  - a) That the lot in question has peculiar physical conditions, including small lot size, irregular lot shape, or exceptional topographical conditions, which make it impractical to develop in strict conformity with Bylaw standards.
  - b) That strict application of all Bylaw standards would impose undue hardship on the applicant by excluding them from the same rights and privileges for reasonable use of their lot as enjoyed by other persons in the same zone.
  - c) That the variance is of the least magnitude required to enable reasonable use of the lot.
  - d) That the proposed variance would not impact unduly on the enjoyment of adjacent properties, or on the essential character of the surrounding neighbourhood.
3. Authorization for a minor variance shall be documented and recorded in writing.
4. No variance shall be granted where the difficulty experienced is the result of intentional or negligent conduct of the applicant or the owner, or where the difficulty cannot be remedied reasonably in some other manner.
5. Notwithstanding any other section of this Bylaw, Council may, authorize variances in excess of ten (10%) percent variance from the provisions of this Bylaw if Council deems such a variance desirable and appropriate and if such variance is in keeping with the general intent and purpose of this Bylaw.
6. Where Council deems that a variance application could have a significant effect on adjacent properties or properties in the general vicinity, Council may require that a public meeting be held pursuant to the provisions in this Bylaw.

# 7. Agriculture Zone (AZ)

## 7.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in an AZ zone shall conform with the provisions of this section.

### 7.1.1. Permitted Uses

|   |
|---|
| Agriculture, forestry use and conservation (parks and open space) |
| Accessory buildings incidental to the main use of land            |
| Garden Suites   |
| Single Family Dwellings   |
| Farm Gate Outlets   |
| Fish, Forestry, Processing or Distribution Facilities             |
| Home occupations  |

### 7.1.2. Special Permit Uses

|   |
|---|
| Multi-unit residential  |
| Telecommunication towers  |
| Wind turbines/ wind farms   |
| Industrial and Commercial uses directly related to agriculture, forestry and the like |

### 7.1.3. Standards

|   |   |
|---|---|
| <b>Lot Area (min)</b>                   | The greater of 0.8 ha (2 acres) or per Provincial Standards noted in section 23.(1) of the Planning Act<br>See Schedule "C" |
| <b>Frontage (min)</b>                   | 46 m (150 ft)   |
| <b>Building Line Set Back (min)</b>     | 15.0 m (50 ft)  |
| <b>Side Yard width (min)</b>            | 9 m (30 ft)   |
| <b>Rear Yard (min)</b>                  | 9 m (30 ft)   |
| <b>Height (max)</b>                     | 10.5 m (35 ft) 2.5 stories  |
| <b>Flanking Yard</b>                    | 15.0 m (50 ft)  |
| <b>Provincial Minimum Lot Standards</b> | See Schedule "C"  |

## 7.2. Intensive Livestock Operations

1. For the purpose of this section “Intensive Livestock Operation” means an agricultural operation consisting of only one type of livestock in which at least 30 animal units are confined to feedlots or barns for feeding, breeding, milking, or holding for egg production. One animal unit is equal to: -1 cow with calf, -50 chickens, -1 bull or steer, -25 female mink or fox (plus associated males and kits), -1 horse, -25 rabbits (plus males), -4 hogs, -1 bee hive, -4 sheep or goats;
2. The following separation distances shall apply to all new Intensive Livestock Operations or extensions and to new residential development in the vicinity of an Intensive Livestock Operation:

|  |                    |
|--|--------------------|
| <b><i>Distance from any dwelling on an adjacent property</i></b> | 150.0 m (500 feet) |
| <b><i>Distance from Public Road</i></b>                          | 45.0 m (150 feet)  |
| <b><i>Distance from any Domestic Well</i></b>                    | 150.0 m (500 feet) |
| <b><i>Distance from any Lot Line</i></b>                         | 45.0 m (50 feet)   |
| <b><i>Distance from any watercourse or wetland</i></b>           | 90.0 m (300 feet)  |

3. Where a new intensive livestock operation is proposed within 300 metres of an existing residential subdivision Council shall notify the property owners within 300 metres of the proposed operation and invite their comments; and
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.



## 8. Residential Zone (RZ)

### 8.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in an RZ zone shall conform with the provisions of this section.

#### 8.1.1. Permitted Uses

|                               |
|-------------------------------|
| Single Family Dwellings       |
| Garden Suites                 |
| Parks and playgrounds         |
| Accessory Buildings           |
| Private Garages               |
| Small scale agricultural uses |
| Home occupations              |

#### 8.1.2. Institutional Permitted Uses

|  |
|--|
| Art Galleries, Libraries, Museums and Cultural Centres |
| Churches, Community Halls and Cemeteries               |
| Community Service Clubs and Organizations              |
| Emergency Service Facilities (fire halls)              |
| Nursing Homes and Senior Citizen Housing               |
| Medical Clinics  |
| Schools and Sports Facilities                          |

#### 8.1.3. Special Permit Uses

|                                       |
|---------------------------------------|
| Wind Generators for domestic use      |
| Institutional uses/ multi family uses |

#### 8.1.4. Standards

|                                     |   |
|-------------------------------------|---|
| <b>Lot Area (min)</b>               | As per section 23.(1) of the Planning Act<br>See Schedule "C" |
| <b>Frontage (min)</b>               | 30.5 m (100 ft)   |
| <b>Building Line Set Back (min)</b> | 6 m (20 ft) 6 m or 15.2 (50 ft) m – * see<br>5.23 Setback     |
| <b>Side Yard width (min)</b>        | 4.5 m (15 ft)   |
| <b>Rear Yard (min)</b>              | 9 m (30 ft)   |
| <b>Flanking Yard</b>                | 9 m (30 ft)   |
| <b>Height (max)</b>                 | 10.5 m (35 ft) 2.5 stories                                    |

## **8.2. Special Requirement Lots Abutting Residential Zones**

Where the yard of a lot located for an institutional use abuts a residential zone the following standards apply:

1. The institutional use shall be setback from the abutting lot line a minimum of 50.0 m; and
2. A landscaped buffer shall be provided along the abutting lot line with vegetation sufficient to provide a screen at least 2.0 m in height.

## **8.3. Special Requirements for Water and Sewer Servicing**

Developments within the Residential Zone for institutional uses shall have water and sewer services designed by a professional engineer to the standards deemed by the Community, in consultation with the staff from the department responsible for the Environment.

## 9. Parks and Conservation Zone (PZ)

### 9.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in a PZ zone shall conform with the provisions of this section.

#### 9.1.1. Permitted Uses

|  |
|--|
| Parks, Playgrounds and Gardens         |
| Cropping and Pasturing type activities |
| Sport fields                           |
| Natural Areas                          |
| Conservation Areas                     |
| Accessory Buildings                    |

All buildings and parts thereof erected, placed or altered or any land used in an PZ zone shall conform with the provisions of this section.

#### 9.1.2. Special Permit Uses

|  |
|--|
| Golf Courses                           |
| Campgrounds                            |
| Service buildings or convenience shops |

### 9.2. Special Requirements – Accessory Buildings or Structures

Any building or structure erected in the PZ zone shall be deemed to be an accessory building or structure and in addition to the requirements above such building or structure shall occupy an area no greater than 10% percent of the total lot area of the use.

# 10. General Commercial Zone (CZ)

## 10.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in a CZ zone shall conform with the provisions of this section.

### 10.1.1. Permitted Uses

|  |
|--|
| Business or commercial retail enterprises excluding shopping malls |
| Office   |
| Restaurant   |
| Personal service shop  |

### 10.1.2. Standards

|                                     |   |
|-------------------------------------|---|
| <b>Minimum Open Space</b>           | 20%   |
| <b>Minimum Driveway Width</b>       | 6.0 m (20 ft)   |
| <b>Frontage (min)</b>               | 30.5 m (100 ft)   |
| <b>Building Line Set Back (min)</b> | 15.2 m (50 ft)  |
| <b>Side Yard width (min)</b>        | 9.0 m (30 ft)   |
| <b>Rear Yard (min)</b>              | 9.0 m (30 ft)   |
| <b>Lot Coverage (max)</b>           | 30%   |
| <b>Height (max)</b>                 | 10.5 m (35 ft)  |
| <b>Lot Area (min)</b>               | As per section 23.(1) of the Planning Act<br>See Schedule "C" |

# 11. Industrial Zone (IZ)

## 11.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in an Industrial zone shall conform with the provisions of this section.

### 11.1.1. Permitted Uses

|   |
|---|
| Agricultural Industries   |
| Manufacturing, assembling, storage, or processing plant except those listed below in section 11.1.2 |
| Commercial uses accessory to the main use; Business and professional offices                        |
| Marine Related Industries   |
| Fishery related industries  |
| Forestry related industries   |
| Research facilities   |
| Service industries  |
| Trucking Depots   |
| Utilities   |
| Wholesale and warehouse facilities  |

### 11.1.2. Industrial Uses Not Permitted

|  |
|--|
| All facilities for the manufacture, processing, or reprocessing of dangerous goods |
| Facilities for the chemical treatment of timber resources                          |
| Facilities engaged in the production of fish meal                                  |

### 11.1.3. Standards

|                                |   |
|--------------------------------|---|
| <b>Maximum building height</b> | 10.5 m (35 ft)  |
| <b>Minimum open space</b>      | 20% of total area of lot                                      |
| <b>Minimum driveway width</b>  | 6.1 m (20 ft)   |
| <b>Minimum frontage</b>        | 30.5 m (100 ft)   |
| <b>Minimum front yard</b>      | 15.2 m (50 ft)  |
| <b>Minimum side yard</b>       | 9.0 m (30 ft)   |
| <b>Minimum rear yard</b>       | 9 m (30 ft)   |
| <b>Minimum lot area</b>        | As per section 23.(1) of the Planning Act<br>See Schedule "C" |

## 11.2. **Special Requirement Accessory Uses**

Accessory uses are permitted within the main building or in an accessory building but in any case shall not be larger than 25% of the gross floor area devoted to the main use.

# 12. Environmental Overlay Zone (EZ)

This overlay zone is designated to enhance the protection of water quality, sensitive landscapes, and wildlife habitat, including bird sanctuaries. In addition it is designated to address preservation of land susceptible to erosion. Passive agricultural activities, together with tree, shrub and plant cover will continue to predominate in this zone. Scenic viewsapes will be respected. Any landscaping within this zone will require a permit.

## 12.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in an EZ zone shall conform with the provisions of this section. Setbacks have generally been illustrated on the zoning map, but will require verification at the time of issuing any development permit. Within a EZ zone no person shall cut down any trees or disturb the natural ground cover without first submitting a landscape plan to Council, and to provincial staff as required, documenting all proposed changes to the topography and vegetation and measures to control erosion and siltation.

### 12.1.1. Permitted Uses

|   |
|---|
| Conservation, natural areas and parks for passive recreational uses                         |
| Open Space  |
| Conservation activities and landscaping or planting to facilitate effective erosion control |

### 12.1.2. Standards

|   |  |
|---|--|
| <b>Buffer Area (min)</b>                            | 15 m (50 ft)   |
| <b>Minimum Distance of Structure from shoreline</b> | The greater of 30 m (100 ft) or 60 times the erosion rate as determined by staff at the department responsible for environment |

## 12.2. Special Requirements: Setbacks from Watercourses, Embankments and Lakes

1. Notwithstanding anything contained in this Bylaw, no person shall erect any building or structure in the Community:
  - a) within 15 metres (50 feet) of the mean high watermark of any river, stream or watercourse located within or bordering on the legal boundaries of the Community;
  - b) within 30 metres (100 feet) of the mean high watermark of North Lake and South Lake;

- c) 60 metres (200 feet) of the watercourse in North Lake Creek, Priest Pond Creek west of the highway, the Basin Head area; or East Lake Creek
  - d) within 23 metres (75 feet) of any embankment, excluding highway embankments, the slope of which is greater than 30 degrees from horizontal.
- 2. This Section does not apply to buildings or structures used for fishing or bait sheds, aqua-culture operations, boat launches, structures or buildings on a wharf, or wharf structures, but Council, in issuing a development permit, may stipulate that the building or structure be located some fixed distance from the watercourse or wetland; and
- 3. Development shall be subject, where applicable, to the provisions of the Coastal Area regulations under the Province's Planning Act, R.S.P.E.I. 1988, Cap. P-8.



# 13. Zoning and Official Plan Amendments

## 13.1. Amendment Applications

1. A change to either the text or the zoning map of this Bylaw shall be considered a zoning amendment and must be consistent with Official Plan policies;
2. Council may amend an Official Plan policy to enable a zoning amendment, including policy statements and/or the general land use plan, but any such Official Plan amendment shall precede the zoning amendment;
3. A person who seeks an amendment to this Bylaw or the Official Plan shall address a written and signed application to Council;
4. An application under this section shall include such information as may be required for the purpose of adequately assessing the desirability of the proposal, including but not limited to:
  - a) general development concept showing proposed land uses, any subdivisions, buildings, means of servicing, traffic access and parking;
  - b) assessment of any potentially significant development impacts on Municipal infrastructure and the natural environment.
5. The applicant shall at the time of submitting the application, deposit with the Community the application fee and any other required fees in accordance with a fee schedule, which the Council shall establish.

## 13.2. Amendment Procedures/ Public Meeting Procedures

1. Planning Board shall review each amendment request and provide recommendations to Council;
2. Planning Board and Council shall consider the following general criteria when reviewing applications for zoning amendments, as applicable:
  - a) Conformity with all requirements of this Bylaw;
  - 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 projected uses;
  - e) Any comments from residents or other interested persons.
  - f) Adequacy of existing or proposed water, sewer, road, storm water and electrical services, and parklands for accommodating the development, and any projected infrastructure requirements;
  - g) Impacts from the development on pedestrian/vehicular access and safety, and on public safety generally;

- h) Compatibility of the development with agricultural, environmental, scenic viewscales and heritage resources;
  - i) Impact on Municipal finances and budgets;
  - j) Other matters as specified in this Bylaw; and
  - k) Other matters as considered relevant.
3. Council retains the right to deny an amendment request, without holding a public meeting, if such request is deemed to be inconsistent with appropriate land use planning standards or the Official Plan. Should Council not proceed with a public meeting, the application fee shall be returned to the applicant;
  4. Council shall hold a public meeting to solicit input from residents on the proposed request. At least 7 clear days prior to the public meeting, the Development Officer shall post the date, time and place of the public meeting, together with the general terms of the application, by:
    - a) public notice in a newspaper circulating in the area;
    - b) written notice to all property owners wholly or partially within 60 m. (197 ft) of the boundaries of the subject property; and
    - c) placing a sign on the land being proposed for rezoning indicating that a rezoning request has been received.
  5. Following the public meeting, Council shall formulate a decision on the proposed amendment. Council shall have the authority to determine whether an amendment request is approved, modified, or denied and applications shall be approved or denied by resolution of Council and the applicant shall be notified in writing of the decision;
  6. Nothing in this Bylaw restricts the right of Planning Board or Council to initiate its own amendment requests;
  7. Related Official Plan and zoning amendments may be considered concurrently by Council, provided that applications for both amendments are posted on the same public and written notices, and that the Official Plan amendment precedes the zoning amendment in compliance with section 13.1 (2); and
  8. Official Plan and zoning amendments approved by Council also require approval by the Minister responsible for administering the Planning Act or any successive legislation.

### **13.3. Zoning and General Land Use Map Revisions**

1. Provided that there is no inconsistency with Official Plan policies, the Development Officer may make technical revisions to the zoning map and/or the general land use map in the Official Plan for purposes of:
  - a) better reflecting detailed topographical or legal conditions; or
  - b) ensuring that the zoning map and the general land use map are concurrent.
2. The Development Officer shall advise Council of all technical revisions made and may refer a proposed technical revision to Council to determine its consistency with Official Plan policies.

# 14. General Provisions for Subdividing Land

## 14.1. Subdivision Approval

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

## 14.2. Conveying Interest in a Lot

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

## 14.3. Permission to Subdivide

No land shall be subdivided within the Community unless the subdivision:

- a) conforms with the requirements of this Bylaw;
- b) is suitable to the topography, physical conditions, soil characteristics, and natural and surface drainage of the land;
- c) will not cause undue flooding or erosion;
- d) has convenient street access;
- e) has adequate utilities and services available or can be conveniently provided with such utilities and services;
- f) will reasonably conform to or is compatible with existing land use in the immediate vicinity;
- g) will provide for safe and convenient traffic flow;
- h) is designed so that lots will have suitable dimensions, shapes, orientation and accessibility;
- i) is suitable to the use for which it is intended, and the future use of adjacent lands; and
- j) the parcel of land in respect of which the permit is requested has frontage on a public road or a private right-of-way.

## 14.4. Changes to Existing Lots

1. No person shall reduce the dimensions or change the use of any lot in an approved subdivision where Council deems there would be a detrimental effect on neighbouring property owners; and
2. Where an application to subdivide land would change the dimensions or the use of a lot in an existing approved subdivision, Council shall notify all property owners within

150 metres of the boundaries of the lot in writing, informing them of the details of the application and soliciting their comments.

#### **14.5. Special Requirements**

1. Special Requirements for road standards
  - a) Council may permit development on a lot served by a private road, if the private road existed prior to the effective date of this bylaw;
  - b) All new roads shall be public roads;
  - c) All roads shall conform to Provincial regulations and standards.
2. Special Requirements Agricultural Zone
  - a) Within an Agricultural (AZ) Zone, no person shall be permitted to subdivide from any existing parcel of land more than (3) lots;
  - b) For the purposes of this section “existing parcel” shall mean a parcel of land which was held in separate ownership as of January 25, 1989;
  - c) Any lots subdivided pursuant to this section shall conform to the lot requirements for an AZ Zone, the driveway access requirements of the Province of Prince Edward Island and all other relevant provisions of this Bylaw;
  - d) Within an Agricultural (AZ) Zone:
    - i) A residential subdivision shall not be permitted within 150 metres of an existing livestock operation;
    - ii) Where a residential subdivision is proposed, Council shall notify operators of intensive livestock operations within 300 metres and invite their comments.
3. Special Requirements Watercourse Areas and Coastal Areas
  - a) Where a subdivision is located along a coastal area or watercourse, the subdivision shall include the following:
    - i) where adjacent to a beach or a sand dune, a buffer having a minimum width of 50 metres (164 feet), measured from the top of the bank adjacent to the beach or watercourse or from the inland boundary of the sand dune;
    - ii) access to the beach or watercourse if the property being subdivided includes frontage on a beach or watercourse, with at least one access to be located approximately every 200 metres (656 ft) of watercourse frontage;
    - iii) where appropriate, the area to be set aside as parkland dedication shall consider viewsapes and shall be located at least in part along the watercourse; and
    - iv) beach and watercourse accesses shall measure at least 5 metres in width.
4. Special Requirements Conservation Subdivisions:

- a) Notwithstanding the provisions of this Bylaw, within any Residential Zone, Council may grant approval of conservation subdivisions with reduced minimum lot standards where the following criteria have been met:
  - i) The property to be subdivided is at least 6 hectares in size.
  - ii) At least 50% of the lands being subdivided is put aside in the form of an undivided permanent conservation zone to be deeded to the Community, an incorporated homeowners association or a recognized land trust or conservancy, and a maintenance fund is established to protect this conservation area.
  - iii) All undivided open space capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in form acceptable to the Community, and duly recorded with the Provincial Registry Office.
  - iv) At least twenty-five percent (25%) of the minimum required open space shall be suitable for active recreation purposes, but no more than fifty percent (50%) shall be utilized for that purpose, in order to preserve a reasonable proportion of natural areas on the site.
  - v) A portion of the conservation zone shall be designated for general public access.
  - vi) The subdivision is serviced by shared on-site water and septic systems that meet current provincial standards and is designed and certified by a licensed professional engineer.
  - vii) The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems, subject to approval by the provincial department responsible for the environment. However, "mound" systems protruding above grade and aerated sewerage treatment ponds shall be limited to no more than ten percent of the required minimum open space.
  - viii) Council may conduct a public hearing to consider public opinion on the design of the subdivision.
  - ix) Council shall establish evaluation criteria for the layout of lots and open space.

#### **14.6. Procedure**

1. Any person seeking Council's approval of a subdivision shall first make application for preliminary approval, and shall be required to submit, along with the application in the form approved by Council, five (5) copies of a preliminary subdivision plan drawn to scale showing:
  - a) the true shape and dimensions of every lot;
  - b) the location of every existing building or structure on the parcel;
  - c) existing and proposed services and utilities;
  - d) proposed widths and locations of all streets;

- e) location of land proposed for recreation and public open space use; and
  - f) the existing use of the land and all immediately adjacent properties, showing buildings, fields, streams, rivers, swamps, wooded areas and areas subject to flooding or erosion.
2. Council may also require the applicant to provide additional information required to assist it in evaluating a proposed subdivision, including, but not limited to:
    - a) a soil test conducted in a manner acceptable to the staff of the Minister responsible for Environment;
    - b) contours and spot elevations; and
    - c) traffic surveys.
  3. Council may refuse to approve a subdivision which is unsuitable under the provisions of this Bylaw. In formulating its decision, Council may consult with Government officials and private consultants and may conduct a public hearing to consider public opinion, in accordance with the procedures established in section 13.2;
  4. Council shall evaluate any proposed subdivision to determine whether appropriate street design standards and lot configurations have been used to promote the development of safe, convenient and pleasant neighbourhoods;
  5. Approval in principle for any proposed subdivision shall not be construed as final approval of such subdivision for legal conveyance or for land registration purposes;
  6. Approval in principle shall be effective for a period of 24 months, or such additional time as may be authorized by Council; and
  7. The total number of lots approved in any one phase of a subdivision shall not exceed 20.

#### **14.7. Parkland Dedication**

1. Council may require, for the purpose of developing parkland, that up to 10% of the lands being subdivided be conveyed to the Community. The physical condition and location of parkland shall be determined by Council.
2. Council may consider developing a land bank, and, in lieu of the conveyance required in Section 1 above, Council may consider accepting an equal area of land, different from the lands being subdivided.
3. In lieu of the conveyance required in Section 1 above, the Community may require the payment of money to the value of land otherwise required to be conveyed, or a combination of land and money. In such cases, the Community will require full payment prior to the issuance of any building permit for the development.
  - a) The value of the land will be determined by:
    - i) an appraisal by a qualified appraiser, conducted to the satisfaction of the Municipal Council, with all costs associated with the appraisal to be borne by the owner of the lot; or
    - ii) the actual sale price of the lot, if accompanied by a letter from a qualified realtor expressing the opinion that the sale price represents current market

value, and if the sale occurred within a period of six (6) months prior to the issuance of the building permit or the development or redevelopment.

#### **14.8. Servicing**

Council may require that new subdivision be provided with central water and sewer systems as a condition of subdivision approval.

#### **14.9. Subdivision Agreement**

Council may require an applicant to enter into a subdivision agreement as a condition of subdivision approval. The subdivision agreement may cover any matters as required by Council and may include, but not be limited to the following:

- a) the design and construction costs of sidewalks, water supply, sanitary and storm sewers, roads, and street lighting;
- b) the dedication of land for recreation and public open space purposes, or payment of a fee in lieu of land;
- c) the building of roads to provincial standards and deeding of roads to the Department of Transportation and Public Works;
- d) the posting of a financial guarantee satisfactory to Council;
- e) the provision of a controlled landscape plan and storm water management plan to facilitate the drainage of water and to guard against flooding of lots within the subdivision and adjacent properties;
- f) the provision of such services, facilities or actions as are necessary to ensure the satisfactory development of the subdivision;
- g) the provision for the phasing of the subdivision; and
- h) the preservation and enhancement of surface water drainage systems.

#### **14.10. Final Approval**

1. Final subdivision approval shall be granted by the Community only after the applicant has:
  - a) complied fully with all applicable requirements of this section and any subdivision agreement between the applicant and the Community;
  - b) submitted seven (7) copies of a final survey plan showing all lots pinned and certified by a surveyor registered to practice in the province; and
  - c) completed an agreement with the provincial Department of Transportation and Public Works respecting road construction and the roads have been accepted as public;
2. The Community may grant final approval to part of a subdivision which is proposed to be developed in phases;
3. The Community shall give notice of final approval of a subdivision in writing, and shall place its seal on the seven copies of the survey plan and shall return one copy to the subdivider;
4. The Community shall file copies of the final survey plan with:

- a) the Registrar of Deeds;
- b) the Department responsible for Transportation;
- c) Council files; and
- d) local utilities, as required.

#### **14.11. Severances and Consolidations**

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

#### **14.12. Building Permits**

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

#### **14.13. Rescinding or Altering Approval**

An existing approved subdivision or portion thereof may be rescinded or altered by the Council if:

- a) The subdivision has been carried out contrary to the application, the conditions of approval, or these regulations; or
- b) The subdivision owner has confirmed in writing that the sale of lots is no longer intended, and has requested that approval be rescinded.



## 15. Penalties

1. Every person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction
  - a) on a first conviction, to a fine not exceeding \$2,000;
  - b) on a subsequent conviction, to a fine of not more than \$400 for each day upon which the contravention has continued after the day on which he was first convicted.
2. Any prosecution for an offence under Subsection (1) may be instituted within one year after the time when the contravention occurred. 1988, c.4, s.26; 1994, c.46, s.5 {eff.} July 14/94.
3. The Judge presiding on any prosecution under this Bylaw may fix the costs of prosecution to be paid by the person found guilty hereunder.
4. The Community is entitled to all of the enforcement remedies set forth in Section 24 of the Planning Act R.S.P.E.I. 1988, Cap. P-8

# 16. Repeal

## 16.1. EFFECTIVE DATE

This Bylaw shall come into force effective \_\_\_\_\_.

## 16.2. REPEAL

Any prior Bylaws covering the lands contained within the current boundaries of the Community of Eastern Kings are hereby repealed.