



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PLANNING ACT

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For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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PLANNING ACT

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PLANNING ACT CHAPTER P-8

INTERPRETATION

1. Definitions

In this Act

- (a) “**Commission**” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11;
- (b) “**council**” means the council of a municipality;
- (c) “**developer**” means the owner of lands on which development is proposed;
- (d) “**development**” means the carrying out of any building operation, including excavation in preparation for building, on, over or under land, or the making of a material change in the use or the intensity of the use of any land, buildings or premises, and includes the placing of structures on, over or under land;
- (e) “**development agreement**” means an agreement between a developer and a council, or between a developer and the Minister, or a tripartite agreement between a developer, a council and the Minister, respecting the terms and conditions under which a development may be carried out;
- (f) “**Minister**” means the Minister of Communities, Land and Environment;
- (g) “**municipality**” has the same meaning as in the *Municipalities Act* R.S.P.E.I. 1988, Cap. M-13 and includes the City of Charlottetown and the City of Summerside and the Towns of Stratford and Cornwall;
- (h) “**official plan**” means a plan for a municipality adopted under Part III;
- (i) “**planning board**” means a planning board or joint planning board appointed under Part III;
- (j) “**resident**” in relation to a municipality, means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of the municipality;
- (k) “**subdivision**” means
 - (i) the division of a parcel of land to create two or more new parcels of land,
 - (ii) the consolidation of two or more contiguous parcels of land to create a new parcel of land, or
 - (iii) the attachment of a part of a parcel of land to another parcel of land contiguous to that part to create a new parcel of land,by means of a plan of subdivision, a plan of survey, an agreement, a deed or any other instrument, including a caveat, that transfers or creates an estate or interest in

the new parcels of land created by the division, or in the new parcel of land created by the consolidation or the attachment, as the case may be;

- (l) “**subdivision agreement**” means an agreement between a council and a developer whereby the developer undertakes to provide basic services in order to develop a plan of subdivision. *1988, c.4, s.1; 1991, c.18, s.22; 1993, c.29, s.4; 1994, c.46, s.1 {eff.} March 31, 1995; 1995, c.29, s.1 {eff.} Oct. 14/95; 1997,c.20,s.3; 2000,c.5,s.3; 2009,c.73,s.2; 2010,c.31,s.3; 2012,c.17,s.2; 2014,c.40,s.1; 2015,c.28,s.3.*

OBJECTS

2. Objects

The objects of this Act are

- (a) to provide for efficient planning at the provincial and municipal level;
- (b) to encourage the orderly and efficient development of public services;
- (c) to protect the unique environment of the province;
- (d) to provide effective means for resolving conflicts respecting land use;
- (e) to provide the opportunity for public participation in the planning process. *1988, c.4, s.2.*

PART I — LAND USE COMMISSION

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

PART II — PROVINCIAL PLANNING

6. Role of Minister

The Minister shall

- (a) advise the Lieutenant Governor in Council on provincial land use and development policy;
 - (b) perform the functions conferred on him by this Act and the regulations;
 - (c) generally, administer and enforce this Act and the regulations,
- and may
- (d) provide planning advisory services;
 - (e) promote co-operation between municipalities with respect to inter-municipal or regional planning issues;
 - (f) promote public participation in the development of policies;
 - (g) establish organizations and groups which he may consult respecting the exercise of his functions;
 - (h) delegate any of his functions under this Act or the regulations. *1988, c.4, s.6.*

7. Role of cabinet

- (1) The Lieutenant Governor in Council may



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

Modification of official plan and bylaws to conform with regulations

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

Procedure

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

Declaration nullifying municipal bylaws

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

Effect of order

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

8. Provincial planning regulations

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

general

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

areas

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

zoning

- (c) with respect to land use zones, and in particular
 - (i) establishing and prescribing the geographical boundaries of zones,

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

subdivision

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

development and services

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

building standards

- (f) with respect to building standards and in particular
 - (i) adopting all or part of the *National Building Code*,
 - (ii) establishing standards for the prevention and suppression of fires,
 - (iii) establishing and prescribing architectural control standards;

permits

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



- (vii) providing for and authorizing the lawful inspection and entry therein of properties that are the subject of permits;

environment protection

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

scenic heritage roads

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

access to highways

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

mobile homes

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

special planning areas

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

parking areas

- (m) with respect to vehicular parking and in particular
 - (i) regulating the allocation of space for parking and loading areas in each lot of a subdivision,
 - (ii) requiring the setting aside of land in a subdivision, building or development site for vehicular parking and loading including space for public transportation services;

summer cottages

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

fees

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

land identification program

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

enforcement

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

Municipal plan

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

Restrictions on zoning for public purposes

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

Subdivision agreement, effects of covenants

- (3) Where pursuant to this Act or any regulation made under subsection (1) an agreement respecting a subdivision of land is made by and between a developer and the Minister which provides for the incorporation of a company to hold and manage an area of land or facilities for the common benefit of the owners from time to time of land within the subdivision affected by the agreement, any covenants made pursuant to that agreement between the developer and the owners of land within the subdivision and expressed to run with the land shall run with the land and be binding upon any subsequent owner thereof notwithstanding that such covenant is positive in nature.

Registration in registry office

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



Prohibitions

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

Cancellation of land identification agreement

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

8.1 Regulations, special planning areas

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

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

PART III — MUNICIPAL PLANNING**9. Responsibility of council**

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

Consistency with provincial policies, etc.

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

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

Planning board

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

Duties and powers of planning board

- (3) The planning board has the following powers and duties:
- (a) to investigate and survey the physical, social and economic conditions in relation to the development of the municipality;

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

Constitution

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

Term of office

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

Notice to Minister

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

Remuneration

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

Powers

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

INTERIM PLANNING POLICY

10. Interim planning policy

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

Refusal pending adoption of bylaws

- (2) The council or the Minister, as the case may be, may refuse to hear applications for subdivision approvals, development permits or building permits from the date of receipt by



the council of the proposed interim planning policy until the bylaws giving effect to the policy come into force.

Notice

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

Minutes of meeting

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

Bylaws

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

Suspension of provincial regulations

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

Duration

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

Application

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

OFFICIAL PLAN

11. Opportunity for public input

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

Public meeting

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

- (d) that residents and other interested persons are invited to attend and make representations concerning the plan or review.

Minutes of meeting

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

12. Official plan

An official plan shall include

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

13. Approval by planning board

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

14. Adoption of plan

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

Procedure

- (2) Following the adoption of the official plan by the council, the plan
- (a) shall continue to be available for public inspection at the office of the municipality;
 - (b) shall be submitted to the Minister for approval accompanied by a copy of the notice given under subsection 11(2) and a copy of the minutes of the public meeting. *1988, c.4, s.14; 1994, c.46, s.4 {eff.} Sept. 1/94.*

15. Procedure following Minister approval

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

Bylaws, conformity with plan

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



15.1 Review

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

Declaration nullifying municipal bylaws

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

Effect of order

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

MUNICIPAL PLANNING BYLAWS

16. Municipal planning bylaws

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

17. Approval of Minister

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

18. Notice of meeting

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

Bylaw amendment requiring official plan amendment

- (2) Where a bylaw amendment requires an amendment to the official plan pursuant to subsection 15(2), the council may consider the official plan amendment concurrently with the bylaw and shall
 - (a) indicate in general terms, in the notice published under clause (1)(b), the nature of the proposed plan amendment; and
 - (b) give the planning board an opportunity to comment on the plan amendment prior to adoption of the amendment. *1988, c.4, s.18.*

19. Procedure

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

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

20. Bylaws

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

Development officer

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

RETURNS

21. Statistical return

The council of a municipality shall forward to the Minister an annual statistical return showing all subdivision plans approved and building permits issued in the municipality. *1988, c.4, s.21.*

JOINT PLANNING BOARD

22. Joint planning boards

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

Application

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



PART IV — ENFORCEMENT

23. Definition

In this Part “appropriate authority” means the Minister or a council, as the case may be. 1988, c.4, s.23.

PART III.1 — NOTICE OF DECISIONS

23.1 Notice of decision of Minister or council

(1) Where

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

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

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

Contents of notice

(2) A notice of a decision that is required to be posted under subsection (1) shall contain

- (a) a description of the land that is the subject of the decision;
- (b) a description of the nature of the application in respect of which the decision is made;
- (c) the date of the decision;
- (d) the date on which the right to appeal the decision under section 28 expires; and
- (e) the phone number of a person or an office at which the public may obtain more information about the decision. 2006, c.15, s.1.

24. Enforcement

- (1) Any bylaw or regulation made pursuant to the powers conferred by this Act or a bylaw made under Part I of the *Charlottetown Area Municipalities Act* R.S.P.E.I. 1988, Cap. M-4.1, or the *City of Summerside Act* R.S.P.E.I. 1988, Cap. S-9.1 relating to planning matters may be enforced and the breach thereof may be restrained by application at the instance of the appropriate authority to the Supreme Court.

Remedies

- (2) In any proceeding commenced under subsection (1), the Supreme Court or a judge thereof may grant one or more of the following:
- (a) a declaration that an act engaged in or about to be engaged in by a person is or will be a breach of any bylaw or regulation or provision of this Act;

- (b) an injunction restraining any person from breaching or continuing to breach any such bylaw, regulation or provision;
- (c) an order directing any person to comply with the requirements of any such bylaw, regulation or provision and directing that compliance be carried out under the supervision of a named person;
- (d) such other order as the court or judge may determine.

Absence of approval

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

25. Evidentiary provisions

In any prosecution for an offence under this Act

- (a) *prima facie* proof that a permit or license under this Act or the regulations has or has not been issued may be made by a certificate purporting to be signed by the executive director of the Commission or by an officer of the Department of Communities, Land and Environment and, where the name in the certificate is the same as the name of the person charged with the offence, it shall be *prima facie* proof that he is the person named in the certificate;
- (b) *prima facie* proof of the boundaries of any municipality may be made by a certificate purporting to be signed by the administrator setting out the legal description of the boundaries;
- (c) proof that a municipality is or is not incorporated may be made by a certificate purporting to be signed by the administrator specifying in the case of incorporation the date of incorporation. *1988, c.4, s.25; 1993, c.29, s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2009,c.73,s.2; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3.*

26. Offence and penalty

- (1) Every person who contravenes any provision of this Act or any bylaw or regulation made under this Act 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.

Limitation period

- (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.*

27. Production of permit

- (1) Where any building or structure is being constructed or other activity performed for which a permit is required under any bylaw or regulation made pursuant to this Act, a person authorized by the Minister or the council may require the person constructing the building or structure or performing the activity to show to him the permit therefor and on failure to do so within one day thereafter, that person is guilty of an offence.



Power of entry

- (2) For the purposes of subsection (1), a person authorized by the Minister or the council may enter upon any lands upon which the building or structure is being constructed or the activity performed. *1988, c.4, s.27.*

PART V — APPEALS**28. Appeals from decisions of Minister**

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

may appeal the decision to the Commission by filing with the Commission a notice of appeal.

Appeals from decisions of council

- (1.1) Subject to subsections (1.2) to (1.4), any person who is dissatisfied by a decision of the council of a municipality
- (a) that is made in respect of an application by the person, or any other person, under a bylaw for
 - (i) a building, development or occupancy permit,
 - (ii) a preliminary approval of a subdivision,
 - (iii) a final approval of a subdivision; or
 - (b) to adopt an amendment to a bylaw, including
 - (i) an amendment to a zoning map established in a bylaw, or
 - (ii) an amendment to the text of a bylaw,

may appeal the decision to the Commission by filing with the Commission a notice of appeal.

“bylaw”

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

Notice of appeal and time for filing

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

Council decision that requires Minister’s approval

- (1.4) For greater certainty, where a person is dissatisfied by the decision of a council of a municipality to adopt an amendment to a bylaw, the 21-day period for filing a notice of appeal under this section commences on the date that the council gave final reading to the amendment to the bylaw.

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

- (2) Where the Lieutenant Governor in Council has by order declared that
- (a) a development for which approval is required under the *Environmental Protection Act* has met all the requirements of that Act and written approval has been given; and
 - (b) the right of appeal to the Commission in respect of that development should be curtailed,

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

Reasons to be tabled

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

Exceptions

- (4) No appeal lies from a decision of the council or the Minister respecting
- (a) the final approval of a subdivision where the grounds for the appeal are matters that could have been heard and determined at the stage of preliminary approval of the subdivision; or
 - (b) the final approval of a subdivision or development permit within a resort development, where the grounds for the appeal are matters that could have been heard and determined at the stage of preliminary approval of that subdivision or development. *2001, c.47, s.1.*

Notice

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

Service upon council or Minister

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

Procedure

- (7) Subject to adherence to the rules of natural justice, the Commission shall determine its own procedure.

Order

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

Reasons

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

Implementation

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

Action by Commission

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



person, may act in the name of the council or the Minister to implement the order. 1995, c.29, s.8 (eff.) Oct. 14/95; 2006, c.15, s.2.

PART VI — MAJOR DEVELOPMENT

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

PART VII — MAJOR RETAIL DEVELOPMENT

Sections 40 to 43 repealed by 1991, c.30, s.5 (eff.) May 16/91.

PART VIII — GENERAL

44. Transitional

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

45. Agreements re land identification program

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

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

46. Existing official plans and bylaws

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

Idem

- (2) Where an area under the jurisdiction of the Minister for development control purposes becomes a part of a new municipality referred to in subsection (1), the regulations made under the *Planning Act* shall, unless earlier revoked or replaced by the council of the new municipality created under the *Charlottetown Area Municipalities Act* or the *City of Summerside Act*, remain in effect for a period of up to three years and shall be deemed to have been adopted or made by the council of the new municipality. 1994, c.46, s.6 (eff.) Mar.31/95; 1998, c.76, s.1.

47. Transitional

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

Existing decision of Commission

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

