

November 3, 2023

CONSULTATION DRAFT

AN ACT TO AMEND THE PLANNING ACT (NO. 2)

BILL NO.

2023

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. The *Planning Act* R.S.P.E.I. 1988, Cap. P-8, is amended by the addition of the following immediately after the heading “PART V – APPEALS”:

27.1 Definition

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

- (a) the applicant;
- (b) the Minister;
- (c) a municipality affected by the decision;
- (d) an individual who in good faith believes the decision will adversely affect the reasonable enjoyment of the individual’s property or property occupied by the individual;
- (e) an incorporated organization, the objects of which include promoting or protecting
 - (i) the quality of life of persons residing in the neighbourhood affected by the decision,
 - (ii) the natural environment in the community affected by the decision, or
 - (ii) features, structures or sites having significant cultural or recreational value in the community affected by the decision; or
- (f) an organization, the majority of whose members are individuals referred to in clause (d).

2. (1) Subsection 28(1) of the Act is repealed and the following substituted:

28. Appeals from decisions of Minister

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

(2) Subsection 28(1.1) of the Act is repealed and the following substituted:

Appeals from decisions of council

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

(3) Subsection 28(1.4) of the Act is amended by the deletion of the words “where a person is dissatisfied by the decision of a council of a municipality to adopt an amendment to a bylaw,”.

(4) Subsection 28(7) of the Act is repealed and the following substituted:

Procedure

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

(5) Section 28 of the Act is amended by the addition of the following after subsection (11):

Regulations respecting appeals

- (12) The Lieutenant Governor in Council may make regulations in respect of appeals commenced under this Part.

EXPLANATORY NOTES

SECTION 1 amends the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, to add a definition of “aggrieved person” at the beginning of Part V – Appeals.

SECTION 2 amends section 28(1) and (1.1) of the Act to limit appeals that may be brought under those subsections to appeals by an aggrieved person, as defined. The section also amends subsection 28(1.4) of the Act, for consistency with the previous changes. The section amends subsection 28(7) to state that the Commission, in determining its procedure respecting appeals, is subject to the regulations and also to the rules of natural justice. The section also adds a new subsection 28(12) to authorize the Lieutenant Governor in Council to make regulations respecting appeals.