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# 1. Scope

## 1.1. Title

This Bylaw shall be known and may be cited as the Community of Malpeque Bay Zoning and Subdivision Control (Development) 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 Malpeque Bay 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 Malpeque Bay, 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, Resort Commercial, Industrial, Institutional and Special Permit uses.

## 1.7. Units of Measure

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

## **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) place, dump any fill or other material over 10 cubic metres in a residential zone;  
or
- 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 twenty four 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 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. See Appendix A “Permit Application Form”.
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. See Appendix B “Fee Schedule”.
3. 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. Every application for a development permit shall be accompanied by a sketch or site plan, drawn to an appropriate scale and showing:
  - a) the shape and dimensions of the lot to be used;
  - b) the distance from the lot boundaries, dimension, and height of the building or structure proposed to be erected;
  - c) 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;
  - d) the proposed location and dimension of any parking space, loading space, driveway, and landscaped area;
  - e) the proposed use of the lot and any building or structure; and,
  - f) any other information the Development Officer deems necessary to determine whether or not the proposed development conforms to the requirements of this Bylaw.
2. 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.
3. 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.

**2.10. Effective Date**

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

### 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
Coastal Zone	CZ
Residential Zone	RZ
Parks and Conservation Zone	PZ

#### 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.

##### FLOATING ZONES

General Commercial	GC
Resort Commercial	RC
Industrial	MZ
Institutional	IZ



## 4. Interpretation

### 4.1. Symbols

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

### 4.2. Definitions

The definitions used in this Bylaw are provided in Schedule "B".

### 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.
- 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 appropriate Use Zone Table may be permitted in that Use 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 appropriate Use Zone Tables shall not be permitted in that Use 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 land uses. The primary goal of promoting long term viability of farming 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;
  - b) be built closer than 0.9 m. (3') 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 four (4) 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

Where a non-residential use abuts a residential use along a side and/or rear lot line, a strip of not less than 4.5 m in width along the said side and/or rear lot shall be established.

### 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

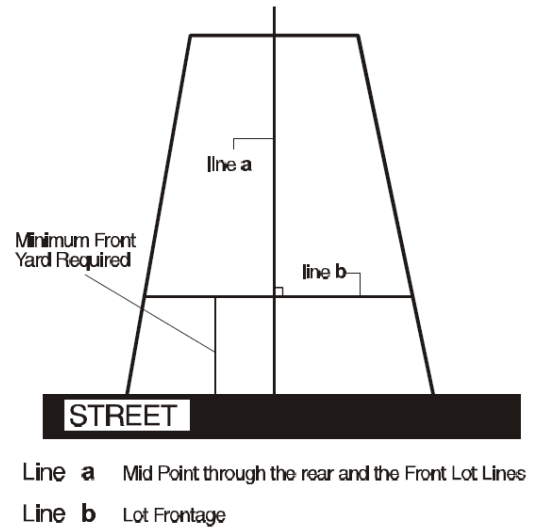
Lot frontage shall be measured as the distance between the side lot lines where they meet the front lot line.

Lot frontage for a lot with an irregular shape shall be measured as the distance between the side lot lines drawn at a 90-degree angle from a line drawn from the midpoint of the

rear lot line to the midpoint of the front lot line and at a point equal to the required front yard.

### 5.7. 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 30 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.



### 5.8. 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.

### 5.9. 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.

### 5.10. 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.

### 5.11. 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.

### 5.12. Nonconforming Uses

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. Any use of land or building or structure constructed, or being

constructed, on or before the effective date of this Bylaw that does not conform to the requirements of this Bylaw shall be subject to the provisions of the Planning Act respecting non-conforming uses and structures.

**5.13. One Main Building on a Lot**

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

**5.14. 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 the Planning Act, section 44 Table 3 Parking Standards).

**5.15. Public and Private Utilities**

Notwithstanding anything else in this Bylaw, 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.

**5.16. 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.

**5.17. 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.

**5.18. 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.

**5.19. 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.

**5.20. Watercourse Separation Distance**

With the exception of marine uses, water and sewage treatment uses, no structure shall be located closer than 22.9 m. (75 ft.) from a watercourse, wetland, beach or sand dune.

**5.21. Yard Requirements Concerning Natural Hazard 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 hazard such as, but not limited to, a marsh, the bank of a watercourse, or a slope greater than 15 percent.

## 6. General Provisions for Agricultural, Residential and Coastal Zones

### 6.1. Home Occupation

Where a property is used for a home based business or occupation, the following shall apply:

- a) the dwelling shall be occupied as a residence by the principal operator and the external appearance of the dwelling shall not be changed by the business use;
- b) there shall be no more than two non-resident assistants employed in the business or profession or the domestic and household arts carried on;
- c) outdoor storage shall be screened or located in the rear yard;
- d) adequate off-street parking, in accordance with this Bylaw, separate from that required for the dwelling, shall be provided;
- e) accessory buildings may be used for home occupations;
- f) premise signs shall be restricted to a maximum of 0.3 square metres (465 sq. in.); and
- g) no mechanical equipment shall be used except what is reasonably consistent with the use of the dwelling.

### 6.2. List of Home Occupation Uses

A home occupation 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) convenience store
- i) auto body repair shop/ small engine repair shop
- j) agricultural/forestry or fishing gear manufacturing, servicing and repair

## 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, resource use and conservation (parks and open space)
Accessory buildings incidental to the main use of land
Accessory buildings for human habitation, in connection with farm operation
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

#### 7.1.3. Standards

<b>Lot Area (min)</b>	As per section 23.(1) of the Planning Act See Schedule "C"
<b>Frontage (min)</b>	30.5 m (100 ft)
<b>Building Line Set Back (min)</b>	15.0 m (50 ft)
<b>Side Yard width (min)</b>	4.5 m (15 ft)
<b>Rear Yard (min)</b>	7.5 m (25 ft)
<b>Height (max)</b>	10.5 m (35 ft)
<b>Flanking Yard</b>	15.0 m (50 ft)
<b>Provincial Minimum Lot Standards</b>	See Schedule "C"

### 7.2. Right to Farm

The Right to Farm is hereby recognized to exist within the Community of Malpeque Bay. Agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odours, dust, and fumes associated with normally accepted agricultural practices. The benefits and protections of this by-law are



intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices, rules and regulations set aside to govern the agriculture industry within the province of Prince Edward Island.

### 7.3. 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.
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. Coastal Zone (CZ)

Agricultural activities, together with forestry and resource uses will continue to be the dominant form of land use economic activities in this zone. Scenic viewscales will be respected. Low density residential development will be permitted within the Coastal Zone. Low density residential development will be defined as having 4 units or less per acre.

### 8.1. General Requirements

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

#### 8.1.1. Permitted Uses

Single family dwellings
Two-unit dwellings to four-unit dwellings
Accessory Buildings
Agricultural resource
Farm Gate Outlets
Fish, Forestry, Processing or Distribution Facilities
Conservation and parks
Home Occupations

#### 8.1.2. Special Permit Uses

Wind Generators for domestic use
Commercial or Resort Commercial uses
Institutional uses
Industrial uses

#### 8.1.3. Standards

<b><i>Lot Area (min)</i></b>	As per section 23.(1) of the Planning Act See Schedule "C"
<b><i>Flanking Yard</i></b>	15.0 m (50 ft)
<b><i>Frontage (min)</i></b>	30.5 m (100 ft)
<b><i>Building Line Set Back (min)</i></b>	15.0 m (50 ft)
<b><i>Side Yard width (min)</i></b>	4.5 m (15 ft)
<b><i>Rear Yard (min)</i></b>	7.5 m (25 ft)
<b><i>Height (max)</i></b>	10.5 m (35 ft)



## 9. Residential Zone (RZ)

### 9.1. 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.

#### 9.1.1. Permitted Uses

Single dwellings
Two unit dwellings to four unit dwellings
Parks and playgrounds
Accessory Buildings
Private Garages
Small scale agricultural uses
Home occupations

#### 9.1.2. Special Permit Uses

Wind Generators for domestic use
Institutional uses

#### 9.1.3. Standards

<b><i>Lot Area (min)</i></b>	As per section 23.(1) of the Planning Act See Schedule "C"
<b><i>Lot Area (max)</i></b>	0.81 ha (2.0 acres)
<b><i>Frontage (min)</i></b>	30.5 m (100 ft)
<b><i>Building Line Set Back (min)</i></b>	9.0 m (30 ft)
<b><i>Side Yard width (min)</i></b>	4.5 m (15 ft)
<b><i>Rear Yard (min)</i></b>	9 m (30 ft)
<b><i>Flanking Yard</i></b>	9 m (30 ft)
<b><i>Height (max)</i></b>	10.5 m (35 ft)

# 10. Parks and Conservation Zone (PZ)

## 10.1. General Requirements

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.

### 10.1.1. Permitted Uses

Parks, Playgrounds and Gardens
Cropping and Pasturing type activities
Sport fields
Natural Areas
Conservation
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. Cabot Park will be zoned as Parks and Conservation.

### 10.1.2. Special Permit Uses

Golf Courses
Campgrounds

## 10.2. 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.

# 11. General Commercial Floating Zone (CZ)

## 11.1. General Requirements

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

### 11.1.1. Permitted Uses

Any business or commercial retail enterprise excluding shopping malls
Office
Restaurant
Personal service shop

### 11.1.2. 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>	9.0 m (30 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 See Schedule "C"

## 11.2. Special Requirement Open Storage

No open storage shall be permitted in the CZ zone.

# 12. Resort Commercial Floating Zone (RC)

## 12.1. General Requirements

All buildings and parts thereof erected, placed or altered or any land used in an RC zone shall conform with the provisions of this section. Resort development will only be permitted within the Coastal Area.

### 12.1.1. Permitted Uses

Single Family Dwelling
Two Unit Dwellings
Tourist Accommodation Facility
Campground
Accessory Building
Private Garage
Business Office
Restaurants
Personal service shop
Convenience Shop
Parks and Playgrounds

### 12.1.2. 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>	9.0 m (30 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 See Schedule "C"

## 12.2. More than One Main Use

More than one main use will be permitted on any lot within the Resort Commercial Floating Zone, provided that all other requirements of this Bylaw are met.

# 13. Industrial Floating Zone

## 13.1. 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.

### 13.1.1. Permitted Uses

Agricultural Industries
Manufacturing, assembling, storage, or processing plant except those listed in Appendix C of this Bylaw
Commercial uses accessory to the main use
Marine Related Industries
Fishery
Forestry related industries
Research facilities
Service industries
Trucking Depots
Utilities
Wholesale and warehouse facilities

### 13.1.2. 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>	9.0 m (30 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 See Schedule "C"

## 13.2. 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.



# 14. Institutional Floating Zone

## 14.1. General Requirements

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

### 14.1.1. Permitted Uses

Art Galleries, Libraries, Museums and Cultural Centres
Churches, Community Halls and Cemeteries
Community Service Clubs and Organizations
Emergency Service Facilities (fire halls)
Accessory Building
Private Garage
Nursing Homes and Senior Citizen Housing
Medical Clinics
Schools and Sports Facilities
Convenience Shop
Parks and Playgrounds

### 14.1.2. 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>	9.0 m (30 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 See Schedule "C"

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

Where the yard of a lot located in the Institutional Zone abuts a residential zone the following standards apply:

- The institutional use shall be setback from the abutting lot line a minimum of 50.0 m; and
- 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.

#### **14.3. 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.

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

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

# 15. Zoning and Official Plan Amendments

## 15.1. 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.

## 15.2. Amendment 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 and heritage resources.
  - i) Impact on Municipal finances and budgets.

- j) Other matters as specified in this Bylaw.
  - 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. Subject to section 13.2 (3), Council shall hold a public meeting to solicit input from residents on the proposed amendment 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).
  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.

### **15.3. 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.

# 16. General Provisions for Subdividing Land

## 16.1. 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.

## 16.2. 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.

## 16.3. Permission to Subdivide

1. 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.

## 16.4. 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.
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.

## 16.5. Special Requirements

1. Special Requirements for road standards
  - a) No development for any year round residential use shall be permitted on a lot or parcel served by a private road.
  - b) Notwithstanding subsection (1) Council may permit development on a lot served by a private road, if the private road serves less than 6 lots.
  - c) All roads serving 6 or more lots shall be public roads.
  - d) All roads shall conform to Provincial regulations and standards.
2. Special Requirements Agricultural Zone
  - a) Within an Agricultural Reserve (AZ) Zone, no person shall be permitted to subdivide from any existing parcel of land more than five (5) 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 intensive 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 Coastal Zone
  - a) Where a subdivision is located along a coastal area or watercourse, the subdivision shall include the following:
  - b) where adjacent to a beach or a sand dune, a buffer having a minimum width of 20 metres, measured from the top of the bank adjacent to the beach or watercourse or from the inland boundary of the sand dune;
  - c) 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;
  - d) 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;
  - e) beach and watercourse accesses shall measure at least 5 metres in width.
4. Special Requirements Special Planning Area within the Coastal Zone
  - a) The Princetown Point – Stanley Bridge Special Planning Area as shown in Appendix D, Map 1 is designated by the Province of Prince Edward Island as a Special Planning Area. The portion of this Special Planning Area that falls within the boundaries of the Community of Malpeque Bay is subject to the zoning, rules and regulations of the Municipality. In addition, this area is subject to the Special Regulations – Princetown Point – Stanley Bridge Special Planning Area regulations of the Planning Act, as outlined in Appendix D.

## **16.6. 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.
7. The total number of lots approved in any one phase of a subdivision shall not exceed 20.

## **16.7. 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. a) 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.
  - b) 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.

#### **16.8. Servicing**

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

#### **16.9. Subdivision Agreement**

1. 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.

#### **16.10. 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;
  - 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
  - d) local utilities, as required.

**16.11. 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.

**16.12. 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.

**16.13. 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.

## 17. Penalties

A person who violates any provision of this Bylaw is guilty of an offence and liable on summary conviction.

- a) The provisions of this Bylaw may be enforced by Council via injunction.

# 18. Repeal

## 18.1. EFFECTIVE DATE

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

## 18.2. REPEAL

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