







Rural Municipality of North Shore [DRAFT] Land Use Bylaw (2020)



- 1. Introduction 2
- 2. Zones and the Zoning Map..... 4
- 3. Administration 5
- 4. General Provisions for Development 15
- 5. Agricultural Zone (A) 25
- 6. Residential Zone (R) 27
- 7. Multi-Unit Zone (R3) 30
- 8. Commercial Zone (C)..... 32
- 2. Tourism Commercial Zone (TC)..... 33
- 9. Industrial Zone (I) 35
- 10. Institutional Zone (IS) 37
- 11. Parks and Recreation Zone (PR) 38
- 12. Environmental Conservation Zone (EC) 39
- 13. General Provisions for Subdivisions 40
- APPENDIX A: ZONING MAP 46
- APPENDIX B: DEFINITIONS 47
- APPENDIX B. FEE SCHEDULE 51
- APPENDIX C. PROVINCE-WIDE MINIMUM SUBDIVISION AND DEVELOPMENT STANDARDS REGULATIONS,
PLANNING ACT 52

1. INTRODUCTION

1.1 TITLE

- (1) This Bylaw shall be known and cited as the Rural Municipality of North Shore Land Use Bylaw (2020), or the Bylaw.

1.2 PURPOSE

- (1) The purpose of this Bylaw is to implement the policies of the Rural Municipality of North Shore Official Plan (2020) and to establish a fair and systematic means of development control for the Municipality.

1.3 AUTHORITY FROM THE PROVINCE OF PRINCE EDWARD ISLAND

- (1) 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”.

1.4 AREA DEFINED

- (1) The Bylaw applies to the geographical area within which the Rural Municipality of North Shore has jurisdiction.

1.5 SCOPE

- (1) 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 subdivided, consolidated or used in the Municipality, except in conformity with this Bylaw and subject to the provisions contained herein.

1.6 AUTHORITY OF DEVELOPMENT OFFICER

- (1) Council may appoint one or more individuals to act as a Development Officer whose duties shall be to administer the Bylaw.

1.7 THE DEVELOPMENT OFFICER SHALL NOT BE A MEMBER OF COUNCIL.

- (1) Notwithstanding the foregoing, the Development Officer shall have the authority to approve or deny subdivision applications and development permits in accordance with the Bylaw except for those applications that require Council’s approval as per this Bylaw.
- (2) Where the Development Officer is unable to determine whether the proposed development conforms to the regulations in the Bylaw, the Development Officer may forward the application to Planning Board, and the Planning Board shall make a recommendation to Council on the disposition of the application.

1.8 INTERPRETATION

- (1) In this Bylaw, words used in the present tense include the future tense; words in the singular number include the plural; words in the plural include the singular; the word

"used" includes "arranged, designed or intended to be used"; the word "may" is permissive and not mandatory; and the word "shall" is mandatory and not permissive.

- (2) All official measurements are in metric. Where imperial measurements are provided they are for information purposes only.

1.9 PERMITTED USES

- (1) In this Bylaw any use not listed as a permitted use in a zone is prohibited in that zone unless otherwise indicated.
- (2) 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 excludes any similar use.

1.10 EFFECTIVE DATE

- (1) This Bylaw shall come into force effective _____, 2020.

1.11 REPEAL

- (1) Any prior bylaws covering the lands or structures contained within the current boundaries of the Rural Municipality of North Shore are hereby repealed.

2. ZONES AND THE ZONING MAP

2.1 ZONES

- (1) For the purpose of this Bylaw, the properties within the Municipality are designated with a zone. Each zone may be referred to by the appropriate symbols.

	Zone	Symbol
a.	Right of Way	ROW
b.	Agricultural	A
c.	Residential	R
d.	Multi-Unit Residential	R3
e.	Tourism Establishment	TE
f.	Commercial	C
g.	Institutional	IS
h.	Industrial	I
h.	Parks and Recreation	PR
i.	Environmental Conservation	EC

2.2 ZONING MAP

- (1) Schedule A to this Bylaw shall be a map showing the boundaries of each zone.
- (2) Revisions or amendments to the Zoning Map shall be recorded by the Municipality, and the Zoning Map shall be updated accordingly.

2.3 INTERPRETATION OF ZONE BOUNDARIES

- (1) Boundaries between zones shall be determined as follows:
- Where a zone boundary is indicated as following a street or highway, the boundary shall be the centerline of such street or highway;
 - Where a zone boundary is indicated as following lot lines, the boundary shall be such lot lines;
 - Where a zone boundary is indicated as following the limits of the municipality, the limits shall be the boundary; and
 - Where none of the above provisions apply, the zone boundary shall be scaled from the high resolution version of the Zoning Map lodged with the municipality.

3. ADMINISTRATION

3.1 FEES FOR APPLICATIONS

- (1) Council shall collect fees for permit applications and related services as outlined in the Fee Schedule, included as an Appendix to this Bylaw, and as enabled by the *Planning Act*.
- (2) The value of administration and application fees shall be set from time to time by a resolution of Council and may be amended by resolution as per the *Municipal Government Act*.

3.2 APPLICATIONS

- (1) The following types of applications shall be administered in accordance with this Bylaw:
 - a. development permit
 - b. variance
 - c. bylaw and/or official plan amendment
 - d. subdivision
- (2) An application submitted in accordance with this Bylaw shall be:
 - a. Completed on the applicable form as prescribed by Council, and shall be submitted with all additional information and fees, as required, to the Municipal Office;
 - b. Signed by the property owner or the property owner's authorized agent; and
 - c. Accompanied by an application fee in accordance with the fee schedule established by Council.
- (3) An application is considered incomplete, and a decision shall not be rendered on such an application, until such time as all required information is submitted, including the:
 - a. Signed application form;
 - b. Non-refundable administrative fee, the application fee and any other required fees;
 - c. Site plans, drawings and other representations of the proposed development, as required;
 - d. Approval(s) from other governments and/or agencies, as required; and
 - e. Additional information, as required.
- (4) An incomplete application shall be considered null and void if the applicant does not submit the required information or does not make payment in full on the application, within 6 months of submitting the initial application form.
- (5) An application submitted in accordance with this Bylaw shall constitute authorization for inspection of the structure or land in question, by an officer or agent of the Municipality for the purpose of ensuring compliance with the provisions of this Bylaw.

3.3 COMPLIANCE WITH OTHER REGULATIONS

- (1) An approval for an application under this Bylaw, does not exempt a person from complying with the requirements of any other bylaw of the municipality or from obtaining any license, permission, permit, authority, or other approval required by any other bylaw of the municipality or any statute, regulation, or other enactment of the provincial government or the Government of Canada.
- (2) Where the provisions of this Bylaw conflict with those of another bylaw of the municipality, or with a statute regulation, or other enactment of the provincial government or the Government of Canada, the highest, strictest or most stringent provision shall prevail.

3.4 DEVELOPMENT PERMITS

- (1) A development permit is required to:
 - a. change the use of a lot or structure;
 - b. commence a development;
 - c. construct, place, move or demolish a structure;
 - d. make structural alterations to a structure;
 - e. make a connection to a central water supply or sewerage disposal system;
 - f. install underground a septic tank, a fuel tank, a foundation wall or the like;
 - g. construct a driveway; or
 - h. place or dump fill or other material over 10 m³
- (2) Notwithstanding the foregoing, a development permit is not required to:
 - a. lay paving materials for patios or sidewalks;
 - b. construct a fence of 1.2 m in height or less;
 - c. install a clothesline, pole, radio or television antennae;
 - d. make a garden or prepare land for a crop;
 - e. make landscaping improvements;
 - f. construct or place an ornamental structure;
 - g. construct or place an accessory building of less than 10 m²;
 - h. conduct routine maintenance on a structure; or
 - i. undertake interior renovations that do not result in a change to the exterior of the building, the number of dwelling units within the building, or the use of the building.
- (3) When a development does not require a development permit, the applicable requirements of this Bylaw shall still be met.
- (4) An application for a development permit shall be rejected if:
 - a. The proposed development does not conform to this Bylaw or other bylaws or applicable provincial legislation;

- b. The proposed method of water supply and/or waste disposal is not appropriate;
 - c. The proposed access is not deemed safe;
 - d. The proposed access uses a private road or adjacent property and has not been established by way of a legal, registered right-of-way;
 - e. The impact of the proposed development would be detrimental to the environment by reason of noise, dust, drainage, infilling or excavation which affects environmentally sensitive or residential areas;
 - f. The proposed development would be detrimental to the convenience, health or safety of the occupants or residents of the development and/or in the vicinity or the general public.
- (5) An approved development permit is valid for up to 12 months from the date of approval and if work has not commenced within that period, the development permit shall be considered null and void.
- (6) The applicant shall post the approved permit on the lot subject to the development in a manner that is visible to the public.
- (7) Council may grant an extension on an approved development permit for up to six (6) months from the date of expiry, if the applicant requests the extension prior to the date of expiry. After such time, an application for a new development permit must be submitted.
- (8) Council may revoke a development permit where information provided for the application is found to be inaccurate.

3.5 ADDITIONAL INFORMATION REQUIRED FOR A DEVELOPMENT PERMIT

- (1) A development permit application shall be accompanied by a site plan, drawn to scale and showing the following information:
- a. The boundaries of the property involved, including dimensions;
 - b. All existing roads and right-of-ways on and adjacent to the property;
 - c. The location of existing and proposed driveways, including the distance from the centre of the driveway to the nearest property
 - d. The distance from the proposed structure to all property boundaries;
 - e. The location and exterior dimensions of the proposed structure;
 - f. The location and exterior dimensions of all existing structures on the property;
 - g. The distance from the proposed structure to the centre of any roads;
 - h. The distance from the proposed structure to any existing structures;
 - i. The distance from the proposed structure to a wetland, watercourse, sand dune, or the top of the bank adjacent a wetland or watercourse and the location of the environmental buffer zone as defined in the Watercourse and Wetland Protection Regulations prescribed under the *Environmental Protection Act*, R.S.P.E.I. 1988, c. E-9.

- j. The distance from the proposed structure to any existing or proposed well and sewerage system (including tank and field tile)
 - k. The distance between any existing or proposed well and sewerage systems,
 - l. The proposed use of the lot and any building or structure;
 - m. All other information as required to demonstrate compliance with the requirements of this Bylaw, including but not limited to parking and landscaped buffers; and
 - n. Any other information deemed necessary to determine whether or not the proposed development conforms to the requirements of this Bylaw.
- (2) A development permit application shall be accompanied by a stormwater management plan, prepared by a licensed engineer or qualified landscape architect, drawn to scale and showing the following information:
- a. Existing and proposed grade elevations relative to the adjoining property(s) and the public right of way;
 - b. Stormwater management design features (i.e., swale, berm etc.) and the proposed direction of flow for the surface water runoff, which shall not cause damage or water runoff onto adjacent lots.
 - c. The finished floor or foundation elevation of existing structures on the lot and of existing structures on adjacent lots located within 15 m (49 ft.) of the adjoining lot line;
 - d. The proposed surface, finished floor or foundation elevation of the proposed structure.
- (3) A stormwater management plan is not required for the following types of developments, as long as the development does not involve an alteration or change to the existing grade of the land located within the minimum side or rear yard setbacks of the lot:
- a. A development that conforms with a preapproved stormwater management plan as prepared for the subdivision approval of the lot;
 - b. A development of a structure with a building footprint less than 65 m² and a proposed setback of more than 15.3 m from any lot line or existing structure;
 - c. A development that will result in a total lot coverage of less than 10%;
 - d. A development of a structure that has a building footprint less than 20 m² (215 ft²);
 - e. A development of a structure that will be built on raised sono-tubes or piles and will not affect the natural and existing flow for drainage under the structure;
 - f. The replacement of a structure with a similar structure of the same size and in the same general location, provided no changes are being made to the grade of the lot under or around the structure.
- (4) The information submitted on the required site plan and stormwater management plan may be submitted on a single combined plan if all necessary information can be presented on a single plan and the plan has been prepared by the appropriate licensed/qualified professional(s).

- (5) Where the location of an existing structure with respect to a boundary is necessary to determine the compliance of an application with this Bylaw, a survey plan may be requested in accordance with the *Land Surveyors Act*, R.S.P.E.I. 1988, c. L.-3.1.
- (6) The applicant may be required to submit additional information related to the development in order to determine if the proposed development is in compliance with this Bylaw.
- (7) Following the approval of a development permit, should there be a change in any of the information submitted for the permit approval, the applicant shall submit the proposed changes by way of written description or revised drawings and representations for review by the municipality, and the municipality shall determine if the proposed changes warrant a new development permit application.

3.6 VARIANCES

- (1) When a development permit application cannot be approved because the proposed development does not meet the minimum regulations of this Bylaw, the applicant may apply for a variance and seek approval from Council to reduce the minimum setback requirement(s) for a front, rear, side and/or flankage yard; and/or to reduce the minimum regulation pertaining to lot area, lot coverage, lot frontage and/or building height.
- (2) Subdivision applications are not eligible for variances, unless otherwise specified in this Bylaw.
- (3) A review of a variance application shall not commence until all required information has been submitted, including the signed variance application form; applicable fee(s); and any additional information as required to consider the requested variance.
- (4) An applicant shall be provided an opportunity to present their proposal for a variance to the Planning Board.
- (5) Minor variance applications, which deviate by less than 10% from the provisions of this Bylaw shall be reviewed by Planning Board, and Planning Board may make a recommendation to Council to support the application if the variance is consistent with the policies and objectives of the *Official Plan*, the general intent and purpose of this Bylaw, and provided that:
 - a. The lot in question has peculiar physical conditions, including but not limited to a small lot size, irregular lot shape, or exceptional topographical conditions, which make it impractical to develop in strict conformity with Bylaw standards;
 - b. Strict application of all Bylaw standards would impose undue hardship on the applicant by excluding them from the same rights and privileges for reasonable use of their lot as enjoyed by other persons in the same zone;
 - c. The variance is of the least magnitude required to enable reasonable use of the lot; or
 - d. The proposed variance would not impact unduly on the enjoyment of adjacent properties, or on the essential character of the surrounding neighbourhood.
- (6) Major variance applications, which deviate by 10% or more from the provisions of this Bylaw, shall not be heard by Planning Board until:

- a. Written notice of the variance application and proposed development has been delivered, by ordinary mail or hand delivery, explaining the details of the proposed application, to all owners within 150 m of the boundaries of the subject lot;
 - b. The municipality will accept written comments on the application for fourteen (14) calendar days from the date of the notice, and anyone who has received the notice will also be provided an opportunity to present their comments or concerns to the Planning Board.
- (7) Planning Board shall consider applications for a major variance having considered the criteria for a minor variance, the input received from the public, and the policies and objectives of the *Official Plan* and shall make a recommendation on the application to Council.
 - (8) No variance shall be granted where the difficulty experienced is the result of intentional or negligent conduct of the applicant or the owner, or where the difficulty cannot be remedied reasonably in some other manner;
 - (9) Council may approve, reject or approve with conditions a variance application, and authorization for a variance shall be documented and recorded in writing.
 - (10) If a variance is approved or approved with conditions, the variance approval shall be noted on the applicable development permit and any conditions of the approval shall also be stated on the development permit or within a development agreement.

3.7 CONDITIONAL APPROVALS AND DEVELOPMENT AGREEMENTS

- (1) A development permit application may be approved subject to conditions, such conditions shall be directly related to the regulations in this Bylaw and shall be consistent with the policies of the *Official Plan* and/or other bylaws of the Municipality, and shall be described on the development permit.
- (2) When a development permit has been approved subject to a variance approval, the applicant may be required to enter into a development agreement with the Municipality, and the development agreement may describe negotiated conditions pertaining to the development, and the development agreement shall be a contract binding on both parties.
- (3) A development permit issued subject to a development agreement shall reference the signed agreement as a condition of the permit.
- (4) A development agreement shall be registered in accordance with the *Registry Act*, R.S.P.E.I. 1988, c. R-11.
- (5) Fees associated with the preparation, registration and enforcement of the development agreement shall be paid by the *owner*.
- (6) Failure to comply with a development agreement shall constitute an offense of this Bylaw.

3.8 BYLAW AND OFFICIAL PLAN AMENDMENTS

- (1) Any change to either the text or the Zoning Map of this Bylaw shall be considered a Bylaw amendment and shall be consistent with the policies and objectives of the Official Plan and the Future Land Use Map.
- (2) The Official Plan and/or Future Land Use Map may be amended to enable a Bylaw amendment, and such Bylaw and Official Plan amendments may be heard concurrently, provided that:
 - a. Applications for both amendments are posted on the same public and written notices;, and
 - b. The Official Plan amendment precedes the Bylaw amendment.
- (3) The review of a Bylaw and/or Official Plan amendment application shall not commence until all required information has been submitted, including the signed application; applicable fee(s); and, additional information as required to consider the requested amendment.
- (4) A Bylaw and/or Official Plan amendment application shall include such information as may be required for the purpose of adequately assessing the proposal, which may include:
 - a. A written description of the propose amendment(s), and the applicable Official Plan policies and objectives that support the amendment(s), or a description of the section(s) of the Official Plan to be amended to enable the Bylaw amendment(s).
 - b. A general development concept plan showing details such as proposed land uses, subdivisions, building locations, means of servicing, access and parking;
 - c. A detailed development concept plan showing details such as site development details, proposed building elevation drawings, landscape and stormwater management plan details, access and parking;
 - d. A written description of the potential development impacts on existing infrastructure and/or the environment; or
 - e. For text amendments, a written description of the implications of the proposed change and a map identifying all properties impacted by the proposed change, if applicable.
- (5) The Municipality may initiate a Bylaw and/or Official Plan amendment by preparing a report and all other necessary information, consistent with that of an external application.
- (6) Planning Board shall consider the following general criteria when reviewing applications for Bylaw and/or Official Plan 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. Adequacy of existing or proposed water, sewer, road, storm water and electrical services, and parklands for accommodating the development, and any projected infrastructure requirements;
 - f. Impacts from the development on pedestrian/vehicular access and safety, and on public safety generally;
 - g. Compatibility of the development with agricultural, environmental, scenic and heritage resources;
 - h. Impact on Municipal finances and budgets;
 - i. Other matters as specified in this Bylaw; and
 - j. Other matters as considered relevant.
- (7) Planning Board shall review a Bylaw and/or Official Plan amendment request and provide a recommendation to Council to proceed to a public meeting to consider the application further; reject the application; or, to request additional information on the application.
 - (8) Council shall consider Planning Board's recommendation and shall make a decision on whether the application is consistent with the Official Plan, and shall decide if the application may proceed to a public meeting; to reject the application; or, to request additional information on the application.
 - (9) Council may agree to proceed to a public meeting subject to conditions, modifications or additional information, and may request that the application be reviewed by Planning Board again once the changes or additional information has been submitted, prior to making a decision on proceeding to the public meeting.
 - (10) Council has the right to reject 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, not including the non-refundable administration fee.
 - (11) If Council has agreed to consider the Bylaw and/or Official Plan amendment subject to conditions, modifications or additional information that may be required, no public meeting will be scheduled until such conditions have been met or the additional information has been submitted.
 - (12) Prior to holding a public meeting to solicit input from the public on the proposed application:
 - a. Written notice of the application shall be delivered, by ordinary mail or hand delivery, explaining the details of the proposed application, to all owners within 150 m of the boundaries of the subject lot, if applicable (map amendments);
 - b. The date, time and place of the public meeting, together with the general terms of the application shall be posted at least 7 clear days prior to the public meeting in a newspaper circulating in the area; by placing a sign on the land subject to the rezoning (if applicable); and by any other means available to the municipality;
 - c. The municipality will accept written comments on the application for fourteen (14) calendar days from the date of the written notice and meeting advertisement.

- (13) At the public meeting for a Bylaw and/or Official Plan amendment application:
 - a. Council shall preside at the meeting;
 - b. The applicant or their authorized agent shall present the proposed amendment and shall answer any questions presented to them; and
 - c. Council shall hear the comments and opinions of any other person who wishes to be heard.
- (14) Following the public meeting, Planning Board shall consider the feedback received from the public by way of written responses, and comments made at the public meeting. The applicant may be provided another opportunity to present to Planning Board to answer any further questions that may have arisen at or following the public meeting. Planning Board shall make a recommendation to Council on the application.
- (15) Council shall consider the recommendation of Planning Board and shall determine if the proposed Bylaw and/or Official Plan amendment application is approved or rejected. The decision shall be made by resolution and the applicant shall be notified in writing of the decision.
- (16) Bylaw and Official Plan amendments approved by Council also require approval by the Minister responsible for administering the *Planning Act* or any successive legislation. No development permits or subdivision applications related to the amendment(s) shall be approved by the Municipality, until the approval from the Minister has been granted for the necessary amendments.

3.9 RECONSIDERATION AND APPEALS

- (1) A aggrieved person or an applicant who is dissatisfied with a development permit or Bylaw amendment application that has been approved, not approved or approved subject to conditions under this Bylaw, and feels that the decision is unjustified may seek a reconsideration of the application, and Council may review, rescind, change or vary any order or decision provided that:
 - a. New material facts or evidence not available at the time of the initial decision has been presented;
 - b. A material change in circumstances has occurred since the initial decision; or
 - c. There is clear doubt as to the correctness of the initial decision.
- (2) An aggrieved person or an applicant wishing to request a reconsideration shall submit a written request describing the reason, and shall include any supplementary information necessary to reconsider the application, within twenty-one (21) calendar days of the initial decision.
- (3) Council shall hear a request for reconsideration and shall give all interested persons an opportunity to be heard and shall make a determination on the reconsideration.
- (4) A person who is dissatisfied with the administration of the by-law by Council may appeal certain decisions to the Island Regulatory and Appeals Commission in accordance with the Planning Act.

- (5) Council shall not consider a reconsideration if, at the same time, there is an appeal filed with the Island Regulatory and Appeals Commission; but they may proceed with the reconsideration if the applicant has submitted a request to hold the appeal in abeyance, and the Commission has agreed in writing to hold their appeal until the appellant has exhausted the recourse of reconsideration with the Municipality.

3.10 VIOLATIONS AND PENALTIES

- (1) A person who violates a provision of this Bylaw is guilty of an offence and liable on summary conviction to the penalties set form in the *Planning Act*.
- (2) The Municipality is entitled to enforce this Bylaw and restrain any breach of this Bylaw in accordance with the *Planning Act*.

DRAFT