

HOUSE USE ONLY

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BILL NO. 25

An Act to Amend the Planning Act

Honourable Robert J. Mitchell
Minister of Communities, Land and Environment

GOVERNMENT BILL

MICHAEL D. FAGAN
Queen's Printer
Charlottetown, Prince Edward Island

An Act to Amend the Planning Act

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

1. Section 1 of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, is amended

(a) by the repeal of clause (a) and the substitution of the following:

(a) “bylaw” means a bylaw relating to land use, subdivision, zoning, development control, signage or any other matter that is made by a council pursuant to this Act for the purpose of implementing an official plan, and includes an interim planning bylaw made to implement an interim planning policy in accordance with this Act;

(a.1) “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) by the addition of the following after clause (h):

(h.1) “planning authority” means the Minister or a council declared by the Minister under section 9 to be a planning authority for the purposes of the Act, as the context requires;

(c) by the addition of the following after clause (j):

(j.1) “resource lands” means lands that support or have the potential to support uses such as agriculture, forestry, aquaculture, excavation, fishing and energy production;

(j.2) “secondary plan” means a planning strategy that is part of a council’s official plan but that applies to a specific area or areas within the municipality;

(d) in clause (1), by the deletion of the period and the substitution of a semicolon; and

(e) by the addition of the following after clause (l):

(m) “variance” means an authorized relaxation from the standards imposed by provincial planning regulations made under subsection 8(1) or section 8.1 or a bylaw made under section 15, within the

limits permitted by the planning authority, with respect to lot size or dimensions, setbacks, area or the height or size of a structure.

2. Section 6 of the Act is amended

(a) in clause (b), by the deletion of the word “him” and the substitution of the words “the Minister”;

(b) in clause (g),

(i) by the deletion of the word “he” and the substitution of the words “the Minister”, and

(ii) by the deletion of the word “his” and the substitution of the words “the Minister’s”; and

(c) in clause (h), by the deletion of the word “his” and the substitution of the words “the Minister’s”.

3. Section 7 of the Act is repealed and the following substituted:

Regulations

- 7. (1) The Lieutenant Governor in Council may make regulations**
- (a) establishing provincial land use policies;**
 - (b) establishing minimum requirements applicable to official plans adopted and bylaws made pursuant to this Act, including but not limited to**
 - (i) minimum requirements respecting the content, development, administration and implementation of interim planning policies and bylaws, official plans and bylaws and secondary plans and reviews of official plans and bylaws,**
 - (ii) minimum procedural requirements, including procedures for public consultation and notice,**
 - (iii) minimum requirements related to the content, development and administration of planning tools, including but not limited to development agreements and variances, and**
 - (iv) standards for educational qualifications, training and certification applicable to persons responsible for the administration or implementation of a document referred to in subclause (i);**
 - (c) establishing minimum development standards, including but not limited to standards respecting**
 - (i) public health and safety,**
 - (ii) protection of the natural environment and resource lands,**
 - (iii) identification, preservation and protection of landscape features, including but not limited to viewscales, and**
 - (iv) sound planning, engineering and environmental principles;**
 - (d) establishing minimum requirements related to the administration and implementation of regulations made pursuant to subsection 8(1)**

and section 8.1, including minimum standards for educational qualifications, training and certification applicable to persons responsible for the administration or implementation of the regulations made under subsection 8(1) and section 8.1.

(2) Where regulations have been made pursuant to clause (1)(a) or (b), the council of a municipality with an official plan or bylaws made under this Act shall, within two years of the date of publication of the regulations in the Gazette, or during the next five-year review undertaken pursuant to section 15.1, whichever occurs first, make any amendments that are required to bring the official plan and bylaws into conformity with the regulations.

Modification of
official plan,
bylaws to conform
to regulations

(3) 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 any amendments to the official plan and bylaws that are necessary to ensure that the requirements imposed by the official plan and bylaws are not less stringent than those imposed by the provisions of the regulations made pursuant to clause (1)(c) or section 8.1.

Idem

(4) Notwithstanding the time period specified in subsection (2), where regulations have been made pursuant to subsection (1), a council shall, in administering or amending its official plan and bylaws, do so in a manner that is consistent with the provincial land use policies and other requirements established in the regulations.

Exception

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

Procedure

(6) Where a council fails to comply with subsection (2) or (3), the Minister may, by order,

Revocation of
declaration

(a) revoke the declaration made by the Minister under subsection 9(1) that the council is the planning authority for its municipality and declare the official plan or bylaws made by that council to be null and void; or

(b) specify any part or parts of an official plan or bylaws made by that council that are null and void, and which provisions of the regulations made pursuant to subsection 7(1) and section 8.1 apply in their stead.

(7) Where an order is made under clause (6)(a),

Effect of order

(a) the regulations made under subsection 7(1), subsection 8(1) and section 8.1, apply in the municipality in which the council has jurisdiction;

(b) the Minister has exclusive jurisdiction in the municipality with respect to subdivision approvals, development permits and other approvals under the regulations;

(c) the council is prohibited from receiving any new applications for an approval or permit referred to in clause (b), but any approval or permit issued by the council before the date of the order is valid if it complied with the official plan and bylaws in force at the time of issue; and

(d) notwithstanding the Minister's order under clause (6)(a), any application pending before the council on the date of the order for

- (i) a building, development or occupancy permit,
- (ii) a preliminary approval of a subdivision, or
- (iii) a final approval of a subdivision

may be dealt with by the council in accordance with its official plan and bylaws, subject to the regulations made pursuant to subsection 7(1) and section 8.1, but the application expires 24 months after the issuance of the order, and a preliminary approval issued before or after the order expires 24 months after its issuance unless it has been extended prior to its expiry by the council for one further period not exceeding 24 months.

Expiry of permit

(8) Where an order is made under clause (6)(a), a permit issued by a council, whether prior to the Minister's order or pursuant to an application dealt with by the council under subclause (7)(d)(i), expires in accordance with the expiry date specified in the permit or, if no expiry date is specified in the permit, 24 months after the date on which it was issued.

Authority of council

(9) Until an application or preliminary approval expires under clause (7)(d), or a permit expires in accordance with subsection (8), the council shall retain authority for administration and enforcement of the bylaw as it pertains to the application, preliminary approval or permit, in accordance with the regulations made pursuant to subsection 7(1) and section 8.1.

4. Clause 8(1)(c) of the Act is amended

(a) in subclause (iv), by the deletion of the semicolon and the substitution of a comma; and

(b) by the addition of the following after subclause (iv):

- (v) establishing and regulating areas as resource lands or coastal areas;

5. Section 9 of the Act is repealed and the following substituted:

Declaration –
planning authority

9. (1) Subject to subsection (4), the Minister may, by order, on the request of a council of a municipality that meets the requirements of

subsection (4) and has appointed a planning board pursuant to subsection 9.2(1), declare that the council is the planning authority within the area under its jurisdiction.

(2) The Minister may, in an order made under subsection (1), impose any terms or conditions the Minister considers appropriate on the council's exercise of its authority.

Terms or conditions

(3) The Minister shall, in an order made under subsection (1), specify the date on which the order takes effect.

Effective date

(4) A council is eligible to be declared a planning authority under subsection (1) if the council

Eligibility

(a) has complied with subsection 9.2(1); and

(b) has either

(i) adopted an official plan and made a bylaw in respect of it, or

(ii) adopted an interim planning policy and made an interim planning bylaw in respect of it.

(5) Subject to subsection (6), the Minister shall, by order, revoke the declaration made under subsection (1) that a council is the planning authority for its municipality if the council is without an official plan and bylaw for a period longer than one month.

Revocation of authority

(6) The Minister may

Extension

(a) where the Minister considers it appropriate, issue a written notice to a council authorizing the council to continue as a planning authority without an official plan and bylaw for a specified period that is longer than the period set out in subsection (5); and

(b) impose in the written notice referred to in clause (a) any terms or conditions on the council's continuance as a planning authority that the Minister considers appropriate.

(7) The Minister shall, in an order made under subsection (5), specify the date on which the order takes effect.

Effective date

(8) An order of the Minister for the purposes of this section shall be published in the Gazette.

Publication

9.1 (1) The council of a municipality that has been declared a planning authority under section 9, or that has an existing official plan adopted under this Act or a previous *Planning Act*, is responsible for administration and enforcement of its interim planning policy and bylaw and official plan and bylaw within the boundaries of the municipality.

Responsibility of council

(2) Where regulations respecting

(a) provincial land use and development policies pursuant to clause 7(1)(a);

Consistency with provincial policies, etc.

(b) minimum requirements pursuant to clause 7(1)(b); or
 (c) minimum development standards pursuant to clause 7(1)(c),
 have been made, the interim planning policy and bylaw and official plan and bylaw of a council shall, subject to the time periods specified in subsections 7(2) and (3), be consistent with them.

Planning board

9.2 (1) The council of a municipality that
 (a) proposes to become a planning authority shall appoint a planning board to prepare an interim planning policy and bylaw or an official plan and bylaw and undertake related duties under subsection (3) prior to making a request under subsection 9(1); or
 (b) is a planning authority but does not have a planning board on the coming into force of this section, shall appoint a planning board within three months.

Membership

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

Duties and powers of planning board

(3) A planning board has the following powers and duties:
 (a) to study, investigate and survey physical, social and economic conditions and matters relevant to the preparation, amendment or implementation of an official plan or secondary plan in relation to the development of the municipality;
 (b) to recommend to the council for its adoption, when appropriate, an interim planning policy and interim bylaw;
 (c) to prepare and recommend to council for its adoption a proposed official plan or amendments to an existing official plan;
 (d) to prepare and recommend to the council bylaws in respect of the official plan or amendments to existing bylaws;
 (e) to prepare and recommend to the council any secondary plans the planning board considers appropriate;
 (f) to hold public hearings;
 (g) when requested by the council to do so, to prepare estimates of the cost of any public work, improvement or other project;
 (h) to perform other duties of a planning nature that may be requested by the council.

Term of office

(4) A member of a planning board holds office until the member resigns or the member's successor is appointed.

Notice to Minister

(5) The council shall notify the Minister of its appointment of a planning board and provide the Minister with the names of its members and, in the event of a change in the membership of the board, shall notify the Minister accordingly.

(6) A planning board that meets the requirements of this section may use and be known by another name, if that name does not tend to mislead or misrepresent its powers and duties. Name

(7) A council may determine the remuneration and expenses to be provided to the members of the planning board. Remuneration

(8) For the purposes of assisting a planning board to carry out its functions under clauses (3)(a) to (h), a council may Powers of council

- (a) employ staff;
- (b) engage consultants; and
- (c) incur expenditures.

6. Section 10 of the Act is repealed and the following substituted:

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

(2) The planning board shall, before recommending to council the adoption of an interim planning policy, hold at least one public hearing, notice of which is published in accordance with the regulations, in order to give residents and other interested persons an opportunity to make representations in respect of the proposed policy. Public hearing

(3) The planning board shall make and retain a record of the proceedings at the public hearing and, in particular, of the objections and representations made by residents and other interested persons. Record

(4) Where the council is the planning authority in the municipality, the council may, on receipt of a proposed interim planning policy from the planning board, determine by resolution at a public meeting of council to refuse to hear applications for Refusal pending adoption of bylaw

- (a) a building, development or occupancy permit;
- (b) a preliminary approval of a subdivision;
- (c) a final approval of a subdivision; or
- (d) an amendment to a bylaw

during the period from a date which shall be no earlier than the date of publication of notice referred to in subsection (6) until the date on which a bylaw giving effect to the interim planning policy comes into force.

(5) Where the Minister is the planning authority in the municipality, the council shall, immediately on receipt of a proposed interim planning policy from the planning board, determine by resolution at a public meeting of council to notify the Minister in writing, and may determine by resolution at a public meeting of council to request that the Minister refuse to hear applications for Request by council

- (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 made pursuant to subsection 8(1) or section 8.1,

during the period from a date which shall be no earlier than the date of publication of notice referred to in subsection (6) until the date on which a bylaw giving effect to the interim planning policy comes into force.

Notice to public

(6) The council or the Minister, as the case may be, may on publication of a notice in accordance with the regulations and, in the case of the Minister, in the Gazette, refuse to hear applications for matters referred to in clauses (4)(a) to (d) and (5)(a) to (e), respectively, from the date of the publication of the notice as required by the regulations until a bylaw giving effect to the interim planning policy comes into force.

Council's options

(7) A council may, by resolution approved by a majority vote of the members present and voting at a public meeting of the council,

- (a) adopt the interim planning policy;
- (b) adopt the interim planning policy with modifications;
- (c) refer the interim planning policy back to the planning board with its recommendations; or
- (d) reject the interim planning policy.

Bylaws

(8) Within 90 days of adopting the interim planning policy, the council

- (a) shall file the interim planning policy with the Minister; and
- (b) may make an interim planning bylaw to give effect to the interim planning policy.

Failure to make bylaw

(9) If a council fails to make a bylaw under clause (8)(b) within 90 days, the council or the Minister, as the case may be, shall

- (a) resume status as the planning authority for the municipality; and
- (b) resume hearing applications in respect of the matters referred to in subsection (4) or (5), as the case may be.

Approval by Minister

10.1 (1) After making an interim planning bylaw in accordance with the requirements of sections 18 and 19, a council shall

- (a) submit the interim planning bylaw to the Minister for approval, together with any relevant supporting information; and
- (b) where the council is not already a planning authority, request that the Minister declare the council a planning authority.

Effective date and duration

(2) An interim planning bylaw

(a) takes effect on the date on which it is approved by the Minister;
and

(b) remains in effect for a period of twelve months from the date referred to in clause (a), unless it is extended prior to its expiry by order of the Minister for one further period not to exceed six months.

(3) Where the council was the planning authority prior to the adoption of the interim planning bylaw, a bylaw giving effect to an interim planning policy does not apply in respect of any decision under a bylaw for

Application to existing applications

- (a) a building, development or occupancy permit;
- (b) a preliminary approval of a subdivision; or
- (c) a final approval of a subdivision

for which application has been made prior to the date of publication of the notice under subsection 10(6).

(4) Where the Minister was the planning authority prior to the request made under clause (1)(b), a bylaw giving effect to an interim planning policy does not apply in respect of any

Effect of bylaw

- (a) development permit;
- (b) preliminary approval of a subdivision or a resort development;
- (c) final approval of a subdivision;
- (d) approval of a change of use; or
- (e) other authorization or approval that the Minister may grant or issue under the regulations

for which application has been made prior to the date of publication of the notice under subsection 10(6).

(5) Any application made to the council or the Minister, as the case may be, and any preliminary approval issued prior to the date of publication of the notice under subsection 10(6) expires 24 months after the adoption of an interim planning bylaw unless

Expiry of prior applications, etc.

- (a) the interim planning bylaw has expired and no bylaw has been adopted pursuant to section 16;
- (b) an existing preliminary approval made under a previous bylaw of the council has been extended prior to its expiry by the council for one further period not exceeding 24 months; or
- (c) an existing preliminary approval under the regulations made under subsection 8(1) and section 8.1 has been extended prior to its expiry by the Minister for one further period not exceeding 24 months.

(6) A council may amend its interim planning policy or interim planning bylaw in accordance with the procedures for the adoption of the interim planning policy or the making of the interim planning bylaw.

Amendment

Deemed repeal	(7) Notwithstanding the term provided in subsection (10), an interim planning policy adopted and interim planning bylaw made by a council pursuant to this section are deemed to be repealed on approval of a bylaw made by that council pursuant to section 19.
Revocation on expiry	(8) Where an interim planning bylaw made by a council pursuant to this section expires in accordance with clause (2)(b) and the council has not made a bylaw pursuant to section 19, the Minister shall, by order, revoke the declaration made under subsection 9(1) that the council is the planning authority for its municipality.
Effect of expiry	(9) Where an interim planning bylaw expires under subsection (2) or is repealed under subsection (7), any application for a decision under the interim planning bylaw for <ul style="list-style-type: none"> (a) a building, development or occupancy permit; (b) a preliminary approval of a subdivision; or (c) a final approval of a subdivision expires 24 months after the expiry or repeal of an interim planning bylaw, and a preliminary approval issued under the interim planning bylaw of the council expires 24 months after its issuance unless it has been extended prior to its expiry by the council for one further period not exceeding 24 months.
Expiry of permit	(10) Where an interim planning bylaw expires pursuant to subsection (2), a permit issued by a council, whether prior to the expiry of the bylaw or pursuant to an application dealt with by the council under clause (9)(a), expires in accordance with its terms as specified in the permit or, where no expiry date is specified in the permit, 24 months after the date on which it was issued.
Authority of council	(11) Until an application for a decision or preliminary approval expires under subsection (9), or a permit expires in accordance with subsection (10), the council shall retain authority for administration and enforcement of the interim planning policy and interim bylaw as it pertains to the application or permit.
7. Subsections 11(1) and (2) of the Act are repealed and the following substituted:	
Opportunity for public input	11. (1) Before recommending to the council the adoption of an official plan or an amendment to it, the planning board shall give an opportunity to residents and other interested persons to make representations.
Public hearing	(2) The planning board shall hold at least one public hearing, notice of which is published in accordance with the regulations, indicating

- (a) in general terms, the content of the official plan or the amendment to the official plan and the proposed implementing bylaws;
- (b) the date, place and time of the hearing;
- (c) the location at which copies of the proposed official plan or the amendment to the official plan and the 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 amendment.

8. Section 12 of the Act is amended

(a) in clause (c), by the deletion of the period and the substitution of the words “; and”; and

(b) by the addition of the following after clause (c):

- (d) any provisions required to make the official plan consistent with the regulations made under subsection 7(1) and section 8.1.

9. Section 13 of the Act is repealed and the following substituted:

13. Where an official plan or an amendment to an official plan has been approved by a vote of the majority of the members of the planning board present and voting at a meeting at which quorum is present, the planning board shall recommend to the council the adoption of the official plan or amendment to it. Approval by
planning board

10. Section 14 of the Act is repealed and the following substituted:

14. (1) An official plan or an amendment to an official plan is adopted if a resolution to that effect is approved by a vote of the majority of the members of council present and voting at a public meeting of council. Adoption of plan

(2) Following the adoption of the official plan or amendment to it by the council, the official plan or amendment Procedure

- (a) shall be signed by the mayor or chairperson and the administrator and sealed with the corporate seal of the municipality;
- (b) shall be submitted to the Minister for approval, accompanied by a copy of the notices given under subsection 11(2), a copy of the minutes of the public hearing, and any other information the Minister may require; and
- (c) when approved, shall be available for public inspection at the office of the municipality.

11. Section 15 of the Act is repealed and the following substituted:

Effect of Minister's approval	<p>15. (1) Following the approval of an official plan or amendment to it by the Minister,</p> <ul style="list-style-type: none"> (a) the official plan becomes the official plan for the municipality; (b) the official plan is binding on the council, the Minister and all other persons within the municipality; and (c) notice that the Minister has approved the official plan for the municipality shall be published by the Minister in the Gazette.
Application of regulations	<p>(2) Notwithstanding clause (1)(a), until the bylaw implementing the official plan comes into effect, the regulations made under subsection 7(1), subsection 8(1) or section 8.1 continue to apply in the municipality in which the council has jurisdiction.</p>
	<p>12. Section 15.1 of the Act is repealed and the following substituted:</p>
Review	<p>15.1 (1) Subject to the regulations, the council of a municipality shall ensure that its planning board reviews its official plan and bylaws at intervals of not more than five years.</p>
Opportunity for representations	<p>(2) Before making any recommendation to the council with respect to confirmation or amendment of the official plan or bylaw or adoption of a new official plan and bylaw, the planning board shall give an opportunity to residents and other interested persons to make representations.</p>
Public hearing	<p>(3) The planning board shall hold at least one public hearing, notice of which is published in accordance with the regulations, indicating</p> <ul style="list-style-type: none"> (a) in general terms, the nature of the review of the official plan and bylaw; (b) the date, place and time of the hearing; (c) the location at which copies of the proposed amendments to the official plan or new official plan and proposed amendment to the bylaw or new bylaw or documents relating to the review may be inspected during office hours; and (d) that residents and other interested persons are invited to attend and make representations concerning the review of the official plan and bylaw.
Duty of council	<p>(4) On the conclusion of the review period specified in the regulations, the council shall, on the recommendation of the planning board,</p> <ul style="list-style-type: none"> (a) by resolution, confirm the official plan and bylaw; (b) amend the official plan by resolution and amend the bylaw in the manner set out in sections 18 and 19; or (c) adopt a new official plan by resolution and make or amend the bylaw in the manner set out in sections 18 and 19.

(5) The council of a municipality shall, at a minimum, update its official plan with respect to the requirements set out in section 12 at least once every 10 years. Update official plan

(6) Where a council fails to comply with subsections (1) to (5), the Minister may, by order, Failure to comply

- (a) declare the official plan or bylaws made by that council to be null and void, and revoke the order made under subsection 9(1) that the council is the planning authority for its municipality; or
- (b) specify any part of an official plan or bylaws made by that council that is null and void, and which provisions of the regulations made pursuant to subsection 7(1) and section 8.1 apply instead.

(7) Where an order is made under clause (6)(a), Effect of order

- (a) the regulations made under subsection 7(1), subsection 8(1) and section 8.1 apply in the municipality in which the council has jurisdiction;
- (b) the Minister has exclusive jurisdiction in the municipality with respect to subdivision approvals, development permits and other approvals under the regulations;
- (c) the council is prohibited from receiving any new applications for an approval or permit referred to in clause (b), but any approval or permit issued by the council before the date of the order is valid if it complied with the official plan and bylaws in force at the time of issue; and
- (d) notwithstanding the Minister's order under clause (6)(a), any application pending before the council on the date of the order for
 - (i) a building, development or occupancy permit,
 - (ii) a preliminary approval of a subdivision, or
 - (iii) a final approval of a subdivision
 may be dealt with by the council in accordance with its official plan and bylaws, subject to the regulations made pursuant to subsection 7(1) and section 8.1, but the application expires 24 months after the issuance of the order, and a preliminary approval issued before or after the order expires 24 months after its issuance unless it has been extended prior to its expiry by the council for one further period not exceeding 24 months.

(8) Where an order is made under clause (6)(a), a permit issued by a council, whether prior to the Minister's order or pursuant to an application dealt with by the council under subclause (7)(d)(i), expires in accordance with the expiry date specified in the permit or, if no expiry date is specified in the permit, 24 months after the date on which it was issued. Expiry of permit

(9) Until an application for a decision or preliminary approval expires under clause (7)(d), or a permit expires in accordance with subsection (8), the council shall retain authority for administration and enforcement Authority of council

of the bylaw as it pertains to the application, in accordance with the regulations made pursuant to subsection 7(1) and section 8.1.

Effect of order	(10) Where an order is made under clause (6)(b), the provisions of the regulations made pursuant to subsection 7(1) and section 8.1 as specified in the order are binding on the council in administering and enforcing its official plan and bylaw.
Regulations	(11) The Lieutenant Governor in Council may make regulations respecting the period of the review of an official plan and bylaws for the purposes of subsection (1), including specifying a minimum or maximum period of time for the review.
Powers of planning authority	15.2 (1) The council of a municipality that has been declared a planning authority under section 8.2 may <ul style="list-style-type: none"> (a) amend its official plan; and (b) where the official plan so provides, authorize the preparation of one or more secondary plans in accordance with the regulations.
Application of Part	(2) The provisions of sections 11 to 15 apply to amendments to official plans and the preparation, adoption and amendment of a secondary plan by a council.
Effect of Minister's approval	(3) Following the approval of a secondary plan by the Minister in accordance with subsection 14(2), the secondary plan is binding on the council, the Minister and all other persons within the municipality.
Conformity with plan	(4) A secondary plan made pursuant to subsection (1) shall conform to the official plan and, in the event of any conflict or inconsistency, the official plan prevails to the extent of the conflict or inconsistency.
Required amendment to official plan	(5) Where an amendment to a secondary plan requires an amendment to the official plan pursuant to subsection (4), the planning board may consider the official plan amendment concurrently with the secondary plan and shall indicate, in general terms, in the notice for the public hearing, the nature of the proposed amendment to the official plan.
13. Section 16 of the Act is repealed and the following substituted:	
Duty of planning board	16. (1) Within 60 days of the approval by the Minister of a council's official plan, the planning board shall prepare a bylaw for the implementation of the official plan in accordance with the requirements of section 18 and shall recommend it to the council.
Duty of council	(2) Within 60 days of the planning board's recommendation under subsection (1), council shall make the bylaw.

(3) The bylaw made pursuant to subsection (2) shall conform to the official plan, and in the event of any conflict or inconsistency, the official plan prevails to the extent of the conflict or inconsistency.

Conformity with plan

14. Section 18 of the Act is repealed and the following substituted:

18. (1) Before recommending to the council the making or amending of any bylaw, the planning board shall give an opportunity to residents and other interested persons to make representations.

Opportunity for representations

(2) The planning board shall hold at least one public hearing, notice of which shall be published in accordance with the regulations, indicating

- (a) in general terms, the content of the bylaw or bylaw amendment;
- (b) the date, place and time of the hearing;
- (c) the location at which copies of the proposed bylaw or bylaw amendment may be inspected during office hours; and
- (d) that residents and other interested persons are invited to attend and make representations concerning the bylaw or bylaw amendment.

Public hearing

(3) The planning board shall create and retain a record of the proceedings at the public hearing and, in particular, of the objections and representations made by residents and other interested persons.

Record

(4) The planning board shall recommend to the council the making of the bylaw or amendment if it has been approved by a vote of the majority of the members of the planning board present and voting at a meeting at which quorum is present.

Recommendation to council

(5) Where a bylaw amendment requires an amendment to the official plan pursuant to subsection 16(3), the planning board may consider the official plan amendment concurrently with the bylaw amendment and shall indicate, in general terms, in the notice referred to in subsection (2), the nature of the proposed amendment to the official plan.

Required amendment to official plan

15. Section 19 of the Act is repealed and the following substituted:

19. (1) A bylaw shall be made in accordance with the follow procedure:

- (a) the bylaw shall be read and formally approved by a majority of members of council present and voting on two occasions at public meetings of the council held on different days;
- (b) after being read a second time, the bylaw shall be formally passed by resolution of the council;
- (c) the minutes of the meeting shall record the name of the bylaw and the fact that it is passed.

Bylaw procedure

(2) After a bylaw is formally passed a copy of the bylaw bearing the signature of the mayor or chairperson and the administrator and sealed

Approval by Minister

with the corporate seal of the municipality shall be submitted to the Minister for approval, accompanied by

- (a) a copy of the notice given under subsection 18(2);
- (b) a copy of the minutes of the public hearing;
- (c) any other information required by the Minister; and
- (d) where the council is not already a planning authority, a request that the council be declared a planning authority under subsection 9(1).

Entered into register (3) Following the approval of the bylaw by the Minister, a copy of the bylaw bearing the signature of the mayor or chairperson, the administrator and the Minister shall be entered into the register of bylaws retained by the administrator.

16. The Act is amended by the addition of the following after section 19:

Effect of order **19.1** (1) On the issuing of an order of the Minister under subsection 9(1) declaring that a council of a municipality is a planning authority, the Minister ceases to be the planning authority for that municipality.

Exception (2) Notwithstanding subsection (1), where the boundaries of a municipality that is a planning authority are extended to bring in an area not previously covered by an official plan and bylaw, the Minister shall remain the planning authority for that area until such time as an interim planning policy and interim bylaw are adopted pursuant to section 10 or the official plan and bylaw are amended to extend to that area.

Expiry (3) Subject to subsection (4), any application made to the Minister and any preliminary approval issued prior to the declaration made under subsection (1) shall expire 24 months after the making of the bylaw.

Exception (4) A preliminary approval referred to in subsection (3) may be extended prior to its expiry by the Minister for one further period that does not exceed 24 months.

Amendment of bylaw **19.2** A council may amend a bylaw in accordance with the process established in sections 17, 18 and 19 for the making of a bylaw.

17. Subsection 20(2) of the Act is repealed and the following substituted:

Development officer (2) Subject to any requirements respecting certification and training standards established in regulations made under clause 7(1)(b), a council may appoint a development officer to administer and enforce the bylaws for the council.

(3) Subject to the regulations, where the official plan in effect in a municipality contains policies relating to granting variances, the council of the municipality may provide for the granting of variances in the bylaw. Variances

(4) A council may, in accordance with the regulations, delegate its authority to grant variances to a person or entity. Delegation

(5) Subject to the regulations, where the official plan in effect in a municipality contains policies relating to development agreements, as a condition of amending a bylaw, granting a variance or approving a conditional use, a council may require the owner of the affected property to enter into a development agreement with the council, in respect of the affected property and any contiguous land owned or leased by the owner, that deals with one or more of the following matters: Development agreements

- (a) the use of the land and any existing or proposed building;
- (b) the timing of construction of any proposed building;
- (c) the siting and design, including exterior materials, of any proposed building or structure, and the establishment and enforcement of architectural control standards;
- (d) the provision of parking;
- (e) landscaping, the provision of open space, fencing and screening;
- (f) the construction or maintenance, which may be fully or partly at the owner's expense, of works, including but not limited to sewer and water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, traffic control, access and connections to existing services;
- (g) grading or alteration in elevation or contour of the land, stockpiling of materials and provision for the disposal of storm and surface water;
- (h) the payment of a sum of money to the council in lieu of carrying out the requirements under clause (f) to be used for any of the purposes referred to in that clause;
- (i) any other matter related to development specified in the regulations.

18. Clause 25(a) of the Act is amended by the deletion of the word “he” and the substitution of the words “that person”.

19. Clause 26(1)(b) of the Act is amended by the deletion of the word “he” and the substitution of the words “the person”.

20. Subsection 27(1) of the Act is amended by the deletion of the word “him” and the substitution of the words “the authorized person”.

21. (1) Clause 28(1)(e) of the Act is repealed and the following substituted:

(e) any other authorization or approval that the Minister may grant or issue under the regulations made pursuant to subsection 8(1) or section 8.1,

(2) Subclause 28(1.1)(a)(iii) of the Act is repealed and the following substituted:

(iii) a final approval of a subdivision, or

(iv) any other authorization or approval that may be granted or issued under the bylaw; or

22. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

EXPLANATORY NOTES

SECTION 1 amends section 1 of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, to add definitions of terms to be used in the amendments to the Act.

SECTION 2 amends section 6 of the Act to replace the masculine pronouns with gender-neutral terminology.

SECTION 3 repeals section 7 of the Act and substitutes a new section 7 that authorizes the Lieutenant Governor in Council to make regulations respecting an expanded list of matters, including minimum requirements for development, administration and implementation of interim planning policies and bylaws, official plans and bylaws and secondary plans and related matters, minimum procedural requirements, minimum development standards and minimum requirements related to administration and implementation and the educational qualification, training and certification applicable to specified persons. The section also clarifies the relationship between an official plan and bylaw and the regulations, and establishes the consequences in the event that a council fails to amend its official plan to conform to the regulations.

SECTION 4 amends clause 8(1)(c) of the Act to add a new subclause (v) that authorizes the Lieutenant Governor in Council to make regulations establishing and regulating areas as resource lands or coastal areas.

SECTION 5 repeals section 9 of the Act and substitutes new sections 9, 9.1 and 9.2. Section 9 authorizes the Minister to declare that a council of a municipality that has met specified requirements is the planning authority for the municipality. Section 9.1 establishes that a council that has been declared a planning authority is responsible for the administration of its official plan and bylaw in the municipality. Section 9.2 provides that a council that is or proposes to become a planning authority shall appoint a planning board to carry out the duties specified in subsection 9.2(3), including but not limited to the preparation of an interim planning policy or official plan and associated bylaw for the council.

SECTION 6 repeals section 10 of the Act and substitutes new sections 10 and 10.1 that establish the process to be followed by a planning board in recommending to a council an interim planning policy, and the council in adopting it. Section 10.1 establishes the process relating to the recommendation by the planning board of the interim planning bylaw to the council, and the council's process in adopting it.

SECTION 7 repeals subsections 11(1) and (2) of the Act and substitutes new subsection 11(1) that requires a planning board to hold a public hearing in respect of an official plan or amendment to it prior to recommending its adoption to the council, and a new subsection (2) that sets out the requirements for notice of the public hearing.

SECTION 8 amends section 12 of the Act to add to the list of things that an official plan must include a requirement that the official plan must contain any provisions that are necessary to make it consistent with the regulations made under subsection 7(1) and section 8.1.

SECTION 9 repeals section 13 of the Act and substitutes a new section 13 to clarify the process for the planning board to follow in approving an official plan or amendment to it and recommending its adoption to the council.

SECTION 10 repeals section 14 of the Act and substitutes a new section 14 to clarify the process by which a council shall adopt an official plan or amendment to it.

SECTION 11 repeals section 15 of the Act and substitutes a new section 15 to clarify the effect of the approval of an official plan or amendment to it by the Minister.

SECTION 12 repeals section 15.1 of the Act and substitutes a new section 15.1 and 15.2. The new section 15.1 clarifies the obligation of a council to ensure that its official plan and bylaw are reviewed by its planning board at least once every five years. In the course of the review, the planning board is required to hold at least one public hearing. In addition, the council is required to update its official plan with respect to the matters listed in section 12 at least once every ten years. If a council fails to comply with the section, the Minister may revoke the declaration that the council is the planning authority for the municipality and declare its official plan null and void. Alternatively, the Minister may permit the council to continue as the planning authority but nullify part of the official plan and bylaw and specify that provisions of the regulations made under subsection 7(1), subsection 8(1) and section 8.1 apply instead. The new section 15.2 authorizes a council that is a planning authority to amend its official plan and to prepare, adopt and amend secondary plans, if the official plan provides for that.

SECTION 13 repeals section 16 of the Act and substitutes a new section 16 that establishes the process for the planning board to prepare the

bylaw for the implementation of the official plan and recommend it to the council.

SECTION 14 repeals section 18 of the Act and substitutes a new section 18 that clarifies the requirement for the planning board to hold at least one public hearing in respect of the bylaw or amendment prior to recommending it to the council. The section also provides that where a bylaw amendment requires an amendment to the official plan, the planning board may consider that amendment concurrently with the bylaw.

SECTION 15 repeals section 19 of the Act and substitutes a new section 19 that expands and clarifies the process for a council to follow in making a bylaw for the purposes of the Act.

SECTION 16 amends the Act by adding a new section 19.1 and 19.2. Section 19.1 clarifies the effect of a declaration by the Minister under subsection 9(1) that a council is the planning authority for its municipality, and provides an exception in a case where a council annexes an area not previously covered by an official plan and bylaw. In that case, the Minister remains the planning authority for that area until the council either adopts an interim planning policy and bylaw for that area, or amends its official plan and bylaw to extend to that area. The new section 19.2 authorizes a council to amend its bylaw by the same process set out in sections 17, 18 and 19 for making the bylaw.

SECTION 17 repeals subsection 20(2) to clarify the circumstances in which a council may appoint a development officer to administer its bylaws. The section also adds new subsections (3) to (5) to establish a process for granting variances and permitting development agreements, including requiring a development agreement to be signed with an affected owner as a condition of amending a bylaw, granting a variance or approving a conditional use. Subsection 20(5) sets out the matters to be dealt with in a development agreement.

SECTION 18 amends clause 25(a) of the Act to replace the masculine pronoun with gender-neutral terminology.

SECTION 19 amends clause 26(1)(b) of the Act to replace the masculine pronoun with gender-neutral terminology.

SECTION 20 amends subsection 27(1) of the Act to replace the masculine pronoun with gender-neutral terminology.

SECTION 21 repeals clause 28(1)(e) of the Act and substitutes a new clause (e) that clarifies that the regulations referred to are those made pursuant to subsection 8(1) or section 8.1. The section also amends clause 28(1.1)(a) of the Act to add a new subclause (iv)) that adds a decision in respect of any other authorization or approval that may be granted or issued under a bylaw as a matter that may be appealed to the Commission.

SECTION 22 provides for the commencement of the Act.

BILL NO. 25

An Act to Amend the Planning Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	April 26, 2016
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable H. Frank Lewis, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Clerk

Honourable Robert J. Mitchell
Minister of Communities, Land and Environment

GOVERNMENT BILL
