



HOUSE USE ONLY

CHAIR:

WITH / WITHOUT

3rd SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
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BILL NO. 21

Planning Statutes Amendment Act

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

GOVERNMENT BILL

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Queen's Printer
Charlottetown, Prince Edward Island



PLANNING STATUTES AMENDMENT ACT

BILL NO. 21

2017

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

Planning Act

1. (1) The *Planning Act* R.S.P.E.I. 1988, Cap. P-8, is amended by this section.

(2) Section 1 of the Act is amended

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

(c) “**developer**” means a person who, directly or indirectly, is authorized to apply for approval of a development or subdivision or to enter into an agreement regarding a development or subdivision;

(b) by the repeal of clause (d) and the substitution of the following:

(d) “**development**” means

(i) site alteration, including but not limited to

(A) altering the grade of the land,

(B) removing vegetation from the land,

(C) excavating the land,

(D) depositing or stockpiling soil or other material on the land, and

(E) establishing a parking lot,

(ii) locating, placing, erecting, constructing, altering, repairing, removing, relocating, replacing, adding to or demolishing structures or buildings in, under, on or over the land,

(iii) placing temporary or permanent mobile uses or structures in, under, on or over the land, or

(iv) changing the use or intensity of use of a parcel of land or the use, intensity of use or size of a structure or building;

(3) The Act is amended by the addition of the following after section 7:

7.1 Land use policy regulations

- (1) The Lieutenant Governor in Council may make regulations with respect to land use policies adopted pursuant to clause 7(1)(a) and, in particular, may make regulations that
- (a) establish land use designations;
 - (b) establish the objectives, purpose and function of land use designations;
 - (c) refer to or otherwise specify maps or plans that corroborate the objectives, purpose and function of the land use designations;
 - (d) prescribe the geographical boundaries within which a land use designation applies;
 - (e) refer to or otherwise specify maps or plans that illustrate the geographical boundaries within which the land use designations apply;
 - (f) regulate development and land uses within the geographical boundaries shown on a referenced map or plan for a land use designation; and
 - (g) amend or revoke a land use designation in circumstances where the objectives, purpose and function it was established to fulfill no longer apply.

Consistency with official plan and bylaw

- (2) A council's official plan and bylaw
- (a) shall be, at a minimum, consistent with the regulations established under subsection (1); and
 - (b) may be more stringent than the applicable provisions of the regulations.

Protection paramount

- (3) In the event of an inconsistency or conflict between the regulations established under subsection (1) and a council's official plan and bylaw, the provisions that provide more protection for the matters specified in clause 7(1)(c) shall prevail.

(4) Section 8 of the Act is amended

(a) in subsection (1), by the addition of the following after clause (e):

- (e.1) with respect to development charges to compensate the Government or another person for an increase in a capital cost that results from a need to directly or indirectly service land that is to be developed or subdivided, or that will be incurred as a result of the effect of a development or subdivision on other areas and, in particular,
- (i) establishing eligible on-site and off-site costs, or portions of them, that a development charge may be levied to fund,
 - (ii) establishing rules to calculate a development charge for an eligible cost,
 - (iii) prescribing development charges,
 - (iv) establishing means of payment and schedules of payment of development charges,
 - (v) establishing the amount and type of security a developer may be required to provide to ensure the payment of development charges,
 - (vi) authorizing the Minister to negotiate and enter into development charge agreements with developers and other parties,

- (vii) regarding the registration of development charge agreements,
- (viii) any other matters necessary or desirable to effect a development charge agreement;

(b) by the addition of the following after subsection (3):

Agreements run with land

(3.1) A subdivision agreement, development charge agreement or development agreement between a developer and any other party and a council, or between a developer and any other party and the Minister, or a multipartite agreement involving developers, other parties, councils and the Minister, shall be registered in the office of the Registrar of Deeds for the county in which the land is situated, and a party to the agreement may enforce the provisions of the agreement against any other party to the agreement and against any or all subsequent owners or tenants of the land to which it applies.

(5) Subsection 20(1) of the Act is amended by the deletion of the words “clauses 8(a) to (q)” and the substitution of the words “clauses 8(1)(a) to (q)”.

(6) The Act is amended by the addition of the following after section 20:

20.1 Development charge bylaw

- (1) A council may make a development charge bylaw pursuant to subsection 20(1) for a purpose specified in clause 8(1)(e.1) if the development charge bylaw is based on
- (a) a background study ordered or commissioned by the council that meets the requirements of this section and the regulations and that establishes the need for the eligible costs of the specified facilities and services in the area to which the bylaw will apply;
 - (b) council’s consideration of the specified facilities and services in relation to the anticipated need for infrastructure growth; and
 - (c) council’s consideration of the estimated timing of the introduction or expansion of the specified facilities and services.

Standards respecting background study

- (2) The background study referred to in subsection (1) shall be developed in accordance with the regulations and based on evidence and assumptions
- (a) that are reasonable, correct and credible; and
 - (b) that were gathered and analyzed by a suitable and competent professional in compliance with generally accepted engineering principles.

Public notice

- (3) A council shall give public notice in accordance with the regulations before making, amending or repealing a development charge bylaw, indicating
- (a) its intention to make, amend or repeal the development charge bylaw;
 - (b) the location where and times at which the background study referred to in subsection (1) may be inspected;
 - (c) the location where and times at which the proposed bylaw or amending bylaw may be inspected; and

- (d) the deadline for submission of comments respecting the background study or the proposed bylaw.

Application of provisions

- (4) Subsections 19(2) and (3) do not apply to the making of a development charge bylaw by a council.

Filing requirement

- (5) Within 21 days of the day on which the bylaw was made, amended or repealed, the council shall file with the Minister
 - (a) a copy of the bylaw certified by the administrator and sealed with the municipal seal; and
 - (b) where the council made or amended a bylaw, a statutory declaration by the administrator that the council complied with the requirements of subsection (1).

Addition to register of bylaws

- (6) Where a development charge bylaw is made, amended or repealed by a council pursuant to this section, a sealed copy of the bylaw bearing the signature of the mayor and the chief administrative officer shall be entered into the register of bylaws retained by the municipality.

Commencement of development charge bylaw

- (7) A development charge bylaw or a bylaw amending or repealing it comes into force on the day it is passed or the day specified in the bylaw, whichever is later.

Duration of development charge bylaw

- (8) Unless it expires or is repealed earlier, a development charge bylaw expires five years after the day it comes into force.

New bylaw

- (9) Subsection (7) does not prevent a council from passing a new development charge bylaw.

20.2 Eligible costs

- (1) Where a council of a municipality makes a development charge bylaw referred to in section 20.1, the development charge shall be used only to pay for
 - (a) all or part of the on-site or off-site capital cost of
 - (i) new or expanded facilities and services for the supply and distribution of drinking water,
 - (ii) new or expanded facilities and services for the collection, treatment and disposal of waste water,
 - (iii) new or expanded facilities and services for the collection, treatment and disposal of sewage,
 - (iv) new or expanded facilities and services for the provision of storm water drainage, control and management,
 - (v) new or expanded facilities and services for the provision of transportation, including roads, traffic control, public transit, sidewalks and trails,
 - (vi) new or expanded facilities and services for electrical power generation, transmission and distribution,



- (vii) land required for or in connection with facilities and services described in subclauses (i) to (vi), or
- (viii) for any other purpose prescribed in the regulations; or
- (b) the costs associated with the preparation of the background study required under subsection 20.1(1).

Imposing development charges

- (2) Where a council imposes a development charge for a purpose listed in subsection (1), the charge shall be imposed only once, and shall be paid at the time when the development or subdivision of the land is approved unless
 - (a) the development charge bylaw includes provisions for the collection of the development charge in instalments; and
 - (b) the council has entered into a development charge agreement with the developer or any other party in accordance with subsection (3) that provides for the payment of development charges in instalments.

Contents of development charge agreement

- (3) A council may enter into a development charge agreement with a developer and any other party that
 - (a) provides for the payment of development charges in instalments;
 - (b) permits the developer or any other party to provide specified services or extended services in lieu of the payment of all or a part of the charges in accordance with the terms of the agreement;
 - (c) provides for the provision of security by the developer or any other party to ensure that the charges are paid when due; or
 - (d) provides for any other matter necessary or desirable to effect the agreement.

Reserve fund for specific purpose

- (4) All money received by the council under a bylaw made pursuant to this section shall be paid into a separate reserve fund established for the specific purpose for which it was collected as described in subsection (1), and the money in that reserve fund shall be expended by the council for the specific purpose for which it was collected and for no other purpose.

“Facilities and services”, clarified

- (5) In this section and section 20.1, “**facilities and services**” include structures, landscaping and earthworks.
- (7) **Section 21 of the Act is amended by the deletion of the word “building” and the substitution of the word “development”.**
- (8) **The Act is amended in the heading immediately preceding section 23 by the deletion of the word “ENFORCEMENT” and the substitution of the words “NOTICE AND ENFORCEMENT”.**
- (9) **The Act is amended by the deletion of the heading immediately preceding section 23.1.**
- (10) **Clauses 20.1(5)(a) and (b) of the Act are amended by the deletion of the word “administrator” and the substitution of the words “chief administrative officer”.**

- (11) **Clauses 25(b) and (c) of the Act are amended by the deletion of the word “administrator” and the substitution of the words “chief administrative officer”.**

An Act to Amend the Planning Act S.P.E.I. 2016, Cap. 47

2. (1) **This section amends the *Act to Amend the Planning Act S.P.E.I. 2016, Cap. 47*.**
- (2) **Section 10 of the Act is amended in the proposed new clause 14(2)(a)**
- (a) **by the deletion of the words “or chairperson”; and**
- (b) **by the deletion of the word “administrator” and the substitution of the words “chief administrative officer”.**
- (3) **Section 15 of the Act is amended in the proposed new subsections 19(2) and (3)**
- (a) **by the deletion of the words “or chairperson”; and**
- (b) **by the deletion of the words “the signature of the mayor or chairperson, the administrator” and the substitution of the words “the signatures of the mayor, the chief administrative officer”.**
- (4) **Section 15 of the Act is amended in the proposed new section 19 by the addition of the following after subsection (3):**

Exception

- (4) **Despite subsection (1), where copies of a proposed bylaw have been made available to the public at or prior to the meeting in which the proposed bylaw is to be read, the reading may consist of the recitation of the bylaw name and number and a brief description of its effect.**

Reading required

- (5) **Where copies of the proposed bylaw have not been made available to the public at or prior to the meeting, the entire proposed bylaw shall be read word by word at least once.**

Amendment

- (6) **A proposed bylaw may be amended after its first reading and, if it is amended, the amendment shall be read word by word at the meeting even if copies of the bylaw with the proposed amendment are made available to the public.**

Power to amend and repeal bylaw or resolution

- (7) **The power to make a bylaw or a resolution includes the power to amend or repeal the bylaw or amend or rescind the resolution.**

Rescission of previous bylaw readings

- (8) **The first and second readings of a proposed bylaw are rendered null if the proposed bylaw is not formally adopted within two years from the date of first reading.**



- 3. (1) Subject to subsection (2), this Act comes into force on assent.**
- (2) Subsections 1(10) and (11) come into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.**

EXPLANATORY NOTES

SECTION 1 amends the *Planning Act* R.S.P.E.I. 1988, Cap. P-8.

- Subsection (2) amends section 1 of the Act to substitute new definitions of “developer” and “development” for consistency with other amendments to the Act.
- Subsection (3) adds a new section 7.1 to the Act, to enhance the power to make regulations respecting land use policies adopted pursuant to clause 7(1)(a), and requires a council’s official plan and bylaw to be, at a minimum, consistent with the regulations. In the event of an inconsistency between the regulations and a council’s plan and bylaw, the provisions that provide more protection for the matters specified in clause 7(1)(c) shall prevail.
- Subsection (4) amends section 8 of the Act by adding a new clause (e.1) that authorizes the Lieutenant Governor in Council to make provincial planning regulations respecting development charges for the specified purposes that are applicable to any area except a municipality with an official plan and bylaws. The subsection also adds a new subsection 8(3.1) that provides that a subdivision or development agreement shall be registered in the office of the Registrar of Deeds for the county in which the land is situated, and the agreement runs with the land.
- Subsection (5) amends subsection 20(1) of the Act to correct an error in a cross reference.
- Subsection (6) amends the Act by adding new sections 20.1 and 20.2. Section 20.1 authorizes a council to make a development charge bylaw where the conditions set out in subsection (1) are met. The section goes on to require public notice of the making, amending or repealing of a development charge bylaw and clarifies the procedural requirements. The subsection also clarifies the commencement of a development charge bylaw and provides that it expires not later than five years after it comes into force. Section 20.2 establishes which capital costs of development are eligible costs for the purposes of a council’s development charge bylaw, and clarifies that the charge for an eligible cost may be imposed only once by the council, in the specified circumstances. Finally, the subsection specifies the use that a council may make of money received pursuant to a development charge bylaw, and authorizes a council to enter into development charge agreements with developers.
- Subsection (7) amends section 21 of the Act to change an incorrect reference to building permits to development permits.
- Subsections (8) and (9) amend the Act to correct an error in a heading added by a previous amendment.
- Subsection (10) amends clauses 20.1(5)(a) and (b) of the Act to change references to the “administrator” of a municipality to the “chief administrative officer”, for consistency with the new *Municipal Government Act*. The amendment will not come into force until it and the new Act are proclaimed.
- Subsection (11) amends clauses 25 (b) and (c) of the Act to change references to the “administrator” of a municipality to the “chief administrative officer”, for consistency with the new *Municipal Government Act*. The amendment will not come into force until it and the new Act are proclaimed.

SECTION 2 amends the *Act to Amend the Planning Act* S.P.E.I. 2016, Cap. 47.

- Subsection (2) amends section 10 of the Act in the proposed new clause 14(2)(a) to delete outdated references to the “chairperson” of a municipality, and to change references to the



“administrator” of a municipality to the “chief administrative officer”, for consistency with the new *Municipal Government Act*.

- Subsection (3) amends section 15 of the Act in the proposed new subsections 19(2) and (3) to delete outdated references to the “chairperson” of a municipality, and to change references to the “administrator” of a municipality to the “chief administrative officer”, for consistency with the new *Municipal Government Act*.
- Subsection (4) amends section 15 of the Act to add new subsections 19(4) to (8) that clarify the process a council is required to follow in passing a bylaw for the implementation of its official plan.

SECTION 3 provides for the commencement of the Act.

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Planning Statutes Amendment Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 30, 2017
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

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

GOVERNMENT BILL

2017
3rd SESSION, 65th GENERAL ASSEMBLY