

# **Peggy's Cove Commission Act**

CHAPTER 339 OF THE REVISED STATUTES, 1989

*as amended by*

1994-95, c. 14; 2024, c. 3, s. 106



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CHAPTER 339 OF THE REVISED STATUTES, 1989  
amended 1994-95, c. 14; 2024, c. 3, s. 106

**An Act to Create a Peggy’s Cove  
Preservation Area and to Establish  
a Peggy’s Cove Commission**

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(The table of contents is not part of the statute)

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**Short title**

**1** This Act may be cited as the *Peggy’s Cove Commission Act*. R.S., c. 339, s. 1.

**Interpretation**

**2** In this Act, unless the context otherwise requires,

- (a) “Area” means the Peggy’s Cove Preservation Area;
- (b) “Commission” means the Peggy’s Cove Commission;
- (c) “Minister” means the Minister responsible for the Nova Scotia Economic Renewal Agency, including Tourism Nova Scotia and the Nova Scotia Marketing Agency. R.S., c. 339, s. 2; 1994-95, c. 14, s. 1.

**Peggy’s Cove Preservation Area**

**3 (1)** The Governor in Council may designate an area, which includes Peggy’s Cove in the Municipality of the County of Halifax, as the Peggy’s Cove Preservation Area, and while the designation is in effect the provisions relating to the erection, use, occupancy, construction, alteration, repair, destruction or demolition of buildings contained in a by-law, municipal planning strategy or a

land-use by-law or in the *Municipal Act*, the *Planning Act* or any Act do not apply to the Area.

(2) A copy of the order designating the Area shall be published in the Royal Gazette.

(3) The Minister, with the approval of the Governor in Council, may purchase, expropriate or otherwise acquire land within the Area.

(4) Any land which the Minister deems necessary to acquire within the Area shall be deemed to be land required for a public purpose within the meaning of the *Expropriation Act*. R.S., c. 339, s. 3.

#### **Peggy's Cove Commission**

4 (1) The Peggy's Cove Commission consists of

(a) the municipal councillor for the polling district that includes Peggy's Cove;

(b) one representative of the Nova Scotia Economic Renewal Agency;

(c) the Provincial Director of Planning for the Province; and

(d) not more than four additional members appointed by the Governor in Council, three of whom shall be residents of the Area.

(2) Each member of the Commission appointed by the Governor in Council holds office for such term as is prescribed by his appointment.

(3) A member of the Commission who is a member by virtue of his position or office ceases to be a member when he ceases to hold that position or office.

(3A) A vacancy or vacancies on the Commission among the members appointed under clause (1)(d) does not impair the authority of the remaining members to act as members of the Commission or the authority of the Commission to exercise its powers under this Act.

(4) The Governor in Council may designate one member of the Commission to be Chairman and one member to be Vice-chairman.

(5) The remuneration, if any, of the members of the Commission shall be as determined by the Governor in Council.

(6) For administrative purposes, the Commission is deemed to be part of the Nova Scotia Economic Renewal Agency. R.S., c. 339, s. 4; 1994-95, c. 14, s. 2; 2024, c. 3, s. 106.

#### **Personnel**

5 All or any employees required by the Commission to perform its functions shall be appointed in accordance with the *Civil Service Act*. R.S., c. 339, s. 5.

**Annual estimate**

6 In January of each year the Commission shall submit to the Minister estimates of its expenditures for the next fiscal year. R.S., c. 339, s. 6.

**Purpose and by-laws**

7 (1) The purpose of the Commission is to preserve the unique scenic beauty, character and atmosphere of the Area for the enjoyment of both residents and visitors.

(2) The Commission may make by-laws, the provisions of which may be shown in plan form,

(a) designating districts of the Area within which it is lawful to erect, construct, alter, reconstruct, repair or maintain designated types of buildings or to carry on designated businesses, trades or callings;

(b) designating districts of the Area within which it is unlawful to erect, construct, alter, reconstruct, repair or maintain designated types of buildings or to carry on designated businesses, trades or callings;

(c) designating the purposes for which buildings may not be used, occupied, erected, constructed, altered, reconstructed or repaired, or land used, or designating the class of use which only is permitted;

(d) controlling the architectural design, character or appearance of any or all buildings proposed to be erected within the Area;

(e) regulating the erection, construction, alteration or repair of buildings within the Area, including the location, foundation, material to be used, construction of chimneys, sewage, plumbing, heating, roofing, windows and doors and all other matters and things necessary, expedient or desirable to guard against fire, to provide for the safety and health of the occupants and of the public generally and to improve the general appearance of the Area, and prohibiting the erection, construction, alteration or repair of buildings contrary to the said by-laws and providing for the demolition or removal of the buildings which may be erected, constructed, altered or repaired contrary to the said by-laws;

(f) regulating and licensing camps, parks, tracts or areas of land, and any facilities maintained, offered or used for camping or trailers, including all buildings used or intended to be used as part of the equipment thereof;

(g) providing for and authorizing the appointment of a building inspector and requiring any person to obtain a permit from the building inspector before erecting, constructing, altering, or repairing any building, or changing the use or occupancy thereof, within the Area;

(h) in respect of any other matter or thing deemed necessary by the Commission to the carrying out of its purpose. R.S., c. 339, s. 7; 1994-95, c. 14, s. 3.

**Approval of by-law**

**8** (1) Every by-law made by the Commission under the authority of this Act, or the amendment or repeal of a by-law, is subject to the approval of the Minister, and when so approved has the force of law.

(2) Notwithstanding the approval of a by-law as aforesaid, the Minister may subsequently revoke his approval of the same or a part thereof, and after such revocation such by-law or the part in respect of which approval is revoked, as the case may be, is deemed to be repealed.

(3) Two copies of every by-law made by the Commission under the provisions of this Act, or the amendment or repeal of a by-law, shall be transmitted to the Minister. R.S., c. 339, s. 8.

**Notice of proposed by-law or amendment**

**9** (1) The Commission, before making, amending or repealing a by-law, shall give notice of its intention so to do by advertisement inserted at least once a week for two successive weeks in a newspaper circulating in the Area, the first of such notices to be published at least three clear weeks before the date fixed for the hearing of objections.

(2) The notice shall state

(a) a place where, and the hours during which, the by-law may be inspected by any interested person; and

(b) the time and place set for hearing by the Commission of objections to the by-law.

(3) The Commission shall make suitable provision for inspection of the proposed by-law by interested persons and shall, before making, amending, or repealing the by-law, consider all objections thereto made at such hearing. R.S., c. 339, s. 9.

**Accompanying documents**

**10** The application to the Minister for his approval of a by-law, or the amendment or repeal of a by-law, shall be accompanied by

(a) proof of compliance with the requirements of Section 9; and

(b) a report of all objections to the by-law submitted to the Commission by interested persons. R.S., c. 339, s. 10.

**Filing of by-law**

**11** A by-law made by the Commission and approved by the Minister shall be filed in the office of the Registrar of Deeds for the Registration District of the County of Halifax. R.S., c. 339, s. 11.

**Appeal from refusal of building permit**

**12** (1) Any person dissatisfied with the refusal of the building inspector to issue a permit may appeal to the Commission, and the Commission may confirm the refusal of the building inspector or may order the building inspector to issue a permit.

(2) The building inspector, if so ordered by the Commission, shall issue a permit. R.S., c. 339, s. 12.

**By-law deemed made when filed**

13 (1) For the purposes of this Section, a by-law is deemed to be made by the Commission when it is filed in the office of the Registrar of Deeds pursuant to Section 11.

(2) Any building lawfully under construction at the time when a by-law is made by the Commission is, for the purpose of that by-law, deemed to be a building existing at the time of the making of the by-law.

(3) The lawful use of premises existing at the date of the making of the by-law by the Commission, although such use does not conform to the provisions of the by-law, may be continued, but, if such non-conforming use is discontinued, any future use of those premises shall be in conformity with the provisions of the by-law.

(4) The lawful use of a building existing at the time of the making of a by-law by the Commission, although such use does not conform to the provisions of the by-law, may be extended throughout the building, but no structural alterations except those required by statute or by-law shall be made therein while such use continues.

(5) Where no structural alterations are made in a building of a non-conforming use, such use may be changed to a use of similar character, with the consent of the Commission.

(6) A change of tenants or occupants of any premises or building shall not be deemed to affect the use of the premises or building within the meaning of this Section.

(7) If any building, that is by this Act deemed to be a building existing at the time of the making of a by-law of the Commission, is damaged or destroyed by fire or other causes to an extent of more than fifty per cent of the value of the building above its foundations and if at the time of its damage or destruction the use thereof is not in conformity with the provisions of the by-law, the non-conforming use shall not be continued in respect of the building upon its repair, rebuilding or reconstruction without the approval of the Commission. R.S., c. 339, s. 13.

**Offence and penalty**

14 Every person who violates a provision of the by-laws is guilty of an offence against this Act and liable upon summary conviction to a penalty of not more than fifty dollars, and in default of payment to imprisonment for a term of not more than twenty-five days. R.S., c. 339, s. 14.

**Right of action**

15 (1) In the event of any contravention of or failure to comply with the provisions of this Act or a by-law made pursuant to this Act, the Commission may bring, in the Trial Division of the Supreme Court, an action or other legal proceeding in respect thereof for any or all of the remedies provided by this Section.

(2) The Court or a judge thereof may hear and determine the same at any time, and in addition to any other remedy or relief, may

(a) make orders, restraining the continuance or repetition of such contravention or failure and the new or further contravention or failure in respect of the same land, building or structure;

(b) make orders directing the removal or destruction of the building or structure, or the part thereof, that is in contravention of or fails to comply with the by-laws and authorizing the Commission or its agents, if any such order is not complied with, to enter upon the land and premises with necessary workers and equipment and to remove and destroy the building or structure or part thereof at the expense of the owner;

(c) make such further order as to the recovery of the expense of any such removal and destruction, and to enforce the by-law, and as to costs as the Court or a judge deems proper,

and any such order may be interlocutory, interim or final.

(3) In the event of a new or continuing offence by the same person against the by-law after such action or other legal proceeding has been commenced, it is not necessary to bring any other action or proceeding but the action or proceeding already begun and any pleading therein may be amended from time to time and at any time before final judgment so as to include such new or continuing offences, and the Court or judge shall hear, deal with and determine the whole matter of such violations.

(4) Where the owner of any building or structure in respect of which any such contravention or failure to comply is taking place or has taken place cannot be found, the Commission may post or cause to be posted upon such building or structure a notice of such contravention or failure to comply and of the intention to take action or proceedings in respect thereof and after the expiration of ten days from the first day of such posting an action or proceeding in respect thereof may be had and taken *ex parte* and the last person appearing in the records of the office of the Registrar of Deeds for the Registration District of the County of Halifax, as the owner thereof, may be named as the defendant. R.S., c. 339, s. 15.

#### **Certified copy as evidence**

16 The production in any court of a by-law made under the provisions of this Act purporting to be certified under the hand of the Chairman or Vice-chairman of the Commission to be a true copy of a by-law made by the Commission and approved by the Minister, without proof of the official character of the said Chairman or the said Vice-chairman, as the case may be, shall be received in evidence and be sufficient evidence of such by-law. R.S., c. 339, s. 16.

#### **Conflict**

17 In the event of conflict between this Act, or a by-law made pursuant to this Act, and any other Act or by-law, this Act or the by-law made pursuant to it shall prevail. R.S., c. 339, s. 17.