



**MUNICIPALITY OF THE DISTRICT
OF WEST HANTS
SUBDIVISION BY-LAW**

Approved by Council:	May 13, 2008
Effective Date:	June 26, 2008
As Amended:	November 26, 2019

Municipality of the District of West Hants

SUBDIVISION BY-LAW

Approved by the Minister of Service Nova Scotia & Municipal Relations

**Effective June 26, 2008
As Amended November 26, 2019**

This CONSOLIDATED EDITION is prepared for convenience only. For complete reference, please consult the original documents. This CONSOLIDATED EDITION has the following history.

- 1) Amendments to Subdivision By-law, to include Future Streets Conceptual Plan, and supporting text; Part 5, Section 32, and Part 11, Section 54 - effective April 4, 2014.
- 2) Amend the text of the West Hants Subdivision By-law by deleting the existing section 11 and replacing it with a new Section 11 – effective November 26, 2019.

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Subdivision By-Law

PART 1: TITLE

1. This By-law may be cited as the West Hants Subdivision By-law and shall apply to the subdivision of all land within the Municipality of the District of West Hants hereinafter referred to as the "Municipality".

PART 2: INTERPRETATION

2. In this By-law, the word "shall" is mandatory and not permissive. Words used in the present tense shall include the future. Words used in the singular shall include the plural except where otherwise indicated, and words used in the plural number shall include the singular. Words used in the masculine gender shall include the feminine gender. All other words shall carry their customary meaning except those defined hereinafter.

PART 3: DEFINITIONS

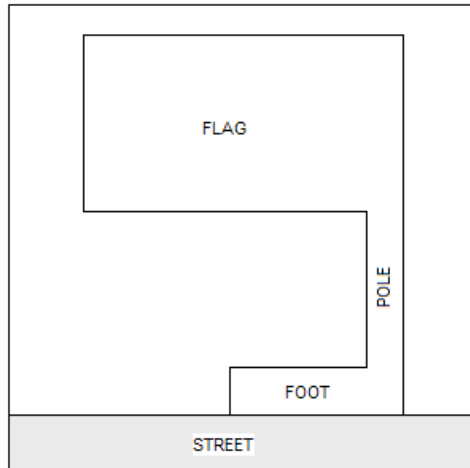
3. (a) **Act** means the *Municipal Government Act*, Chapter 18 of the Acts of 1998, and amendments thereto.
- (b) **Agreement** means a contract between the subdivider and the Municipality which describes the responsibilities of each party with respect to the subdivision and servicing of land.
- (c) **Area of land** means any existing lot or parcel as described by its boundaries, except in [Sections 21 and 23](#).
- (d) **Capital costs** means the cost of the oversized (e.g., trunk or transmission lines, collector roads) infrastructure systems needed to service the charge area. Capital costs may include necessary infrastructure external to the charge area. Cost estimates may be used. Costs may include design, construction, materials and cost escalators, interest during construction, financial costs, legal, surveying, administration and land costs.
- (e) **Central sanitary sewer system** (central sewer) means an assembly of pipes, conduits and appurtenances (including manholes and lift stations) owned by the Municipality, or the Town of Windsor, which carries sanitary sewer to a treatment plant.
- (f) **Central water distribution system** (central water) means an assembly of pipes, conduits and appurtenances which is designed to carry and distributes potable water for consumption and fire protection owned by the Municipality or the Town of Windsor.
- (g) **Charge area** means an area in which infrastructure charges are to be levied which has been designated by this by-law.
- (h) **Council** means the Municipal Council of the Municipality of the District of West Hants.
- (i) **Department of Environment** means the Nova Scotia Department of the Environment and Labour.
- (j) **Department of Transportation** means the Nova Scotia Department of Transportation and Public Works.
- (k) **Development officer** means that person appointed by Council pursuant to the *Municipal Government Act* and having the power and duty to administer this By-law.
- (l) **Drainage plan** means a detailed plan of storm water runoff and the courses and channels of it, including floodplains, for one or more parts of an area of drainage for all lands tributary to, or carrying drainage from, land that is proposed to be subdivided.
- (m) **Engineer** means the engineer of the Municipality and includes a person acting under the supervision and direction of the engineer.
- (n) **Equivalent value** means cash or facilities, services or other value in kind related to parks, playgrounds, and similar public purposes or any combination thereof,

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determined by the Municipality to be equal to the value of the land required to be transferred to the Municipality for parkland purposes.

- (o) **Flag lot** means a lot with a configuration that resembles a fully outstretched flag at the top of a flag pole and where the “pole” portion of the lot contains the required lot frontage; a lot with a “foot” at the end of the pole that meets the frontage requirement shall also be considered a flag lot (see Figure 1).

Figure 1 - Flag Lot



- (p) **Frontage** means the lot frontage and shall be measured the same as required in the *Land Use By-law*.
- (q) **Infrastructure charge** means a charge levied on a subdivider as a condition of subdivision approval within a charge area for the purpose of recovering capital costs associated with new or expanded infrastructure related to central water, wastewater and storm water systems, streets and intersections, traffic signs, signals and bus bays required to service the charge area, along with any costs associated with land acquisition, surveying, studies and legal services.
- (r) **Land Use By-law** means the *West Hants Land Use By-law*.
- (s) **Lot** means any parcel to be created by the filing of a plan of subdivision.
- (t) **Manual** means the *Municipal Services Specifications Manual* for the Municipality.
- (u) **Municipality** means the Municipality of the District of West Hants.
- (v) **Municipal Planning Strategy** means the *West Hants Municipal Planning Strategy*.
- (w) **Private road** means any road which:
- (i) is not public;
 - (ii) is shown on an approved plan of subdivision;
 - (iii) extends to and has access to a public street; and
 - (iv) where not totally located within the area of land being subdivided, has an easement for right-of-way and access that is assignable and perpetual and has been clearly granted by deed, registered in the registry of deeds.
- (x) **Professional engineer** means a registered member, in good standing, of the Association of Professional Engineers of Nova Scotia who holds appropriate professional liability insurance.
- (y) **Proposed lot** means any lot being proposed to be created by a plan, including a remainder lot.
- (z) **Province** means Her Majesty the Queen in right of the Province of Nova Scotia.

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- (aa) **Public street** includes any street or road owned and maintained by the Municipality or the province; and
 - (i) **municipal public street** means any street or road owned and maintained by the Municipality; and
 - (ii) **provincial public street** means any street or road owned and maintained by the Department of Transportation excluding designated controlled access highways pursuant to Section 21 of the *Public Highways Act*.
- (bb) **Remainder lot** means a lot for which subdivision approval is not requested or granted but which results from the approval of lots shown on a plan of subdivision.
- (cc) **Registry of Deeds** means the office of the Registrar of Deeds for the County of Hants.
- (dd) **Right-of-way easement** means an easement for right-of-way and access unrestricted in use extending to and having access to a public street, and where not totally located within the area of land proposed to be subdivided, the right-of-way easement shall be assignable and perpetual and clearly granted by deed or easement registered in the Registry of Deeds for this Municipality, or declared to exist for the benefit of the land proposed to be subdivided by order of a court of competent jurisdiction, and in either case the easement shall:
 - (i) if created or declared to have been created prior to August 6, 1984, have a minimum width of 3 metres (9.84 feet), or
 - (ii) if created or declared to have been created on or after August 6, 1984, have a minimum width of 6 metres (19.68 feet).
- (ee) **Sanitary sewer** means a pipe or conduit receiving and carrying liquid and water-carried wastes and to which storm, surface or groundwaters are not intentionally admitted;
- (ff) **Storm water system** means the courses and channels, including floodplains, which receive, carry and regulate flows in response to rain and snow including overland flows, sub-surface flows, groundwater flows and snow melt.
- (gg) **Subdivider** means the owner of the area of land proposed to be subdivided and includes anyone acting with the owner's written consent.
- (hh) **Subdivision** means the division of any area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels.
- (ii) **Surveyor** means a registered member, in good standing, of the Association of Nova Scotia Land Surveyors.

PART 4: GENERAL PROVISIONS

A - Procedure

- | | | |
|--------------------|-----------|--|
| Application form | 4. | Application for approval of a plan of subdivision shall be made to the Development Officer in the form specified in Schedule "A" of this By-law. |
| Comply with Act | 5. | The Development Officer shall comply with the notification and approval provisions of the Act. |
| Review by agencies | 6. | The Development Officer shall forward a copy of the preliminary, tentative or final plan of subdivision to: <ul style="list-style-type: none">(a) in areas not served by a central sewer, the Department of the Environment to determine compliance with the <i>On-site Sewage Disposal Systems Regulations</i>, except where the proposed lot<ul style="list-style-type: none">(i) is greater than 9,000 square metres (96,878.4 square feet), has a width of 76 metres (249.3 feet) or more, and the applicant has certified on the application that the proposed lot is not intended for a purpose requiring an on- |

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- site sewage disposal system; or
 - (ii) contains an on-site sewage disposal system and is being increased in size, provided all other proposed lots shown on the plan meet the requirements listed in [sub subsection \(i\)](#).
 - (b) in areas served by a central sewer, the authority having jurisdiction for central sewers;
 - (c) any authority having jurisdiction for public streets within 500 metres (1640.42 feet) of the limits of the proposed lots; and
 - (d) any other agency of the Province or the Municipality which the Development Officer deems necessary.
- 7.** The Development Officer shall forward a copy of the concept plan and any supplementary information to appropriate agencies in order to evaluate the concept plan in terms of:
- (a) the design's consideration of topography, natural features, and other site constraints and restrictions;
 - (b) the street layout, pedestrian routes, phasing sequence, and connections with existing and proposed transportation links on a local and regional scale;
 - (c) the feasibility of servicing with applicable services, and the effect of the development on existing municipal services and the provision of future municipal services where applicable;
 - (d) the new or expanded infrastructure which may be required by the subdivision;
 - (e) public open space; and
 - (f) any proposed community and commercial uses.
- 8.** A plan of subdivision that shows a proposed lot referred to in [subsection 49\(d\)](#) shall be forwarded to the Department of Environment for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system.
- 9.** Any agency which has been forwarded a copy of a plan of subdivision pursuant to [Sections 6, 7 or 8](#) shall forward a written report of their assessments or recommendations to the Development Officer.
- 10.** Approval of a plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of the Environment, the Department of Transportation or of any other agency of the Province or the Municipality unless the final plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province, including any applicable requirements contained in a land use by-law of the Municipality.
- 11.** The subdivider shall pay:
- (a) the fees contained in the Costs and Fees Act and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan. Where the Development Officer refuses to approve a final plan of subdivision these fees shall be returned to the subdivider; and
 - (b) any processing fees prescribed by Council from by policy. **(Amendment 19-05 Effective November 26, 2019)**
- | | | |
|--|------------|--|
| Vacant lots not intended for development | 8. | A plan of subdivision that shows a proposed lot referred to in subsection 49(d) shall be forwarded to the Department of Environment for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system. |
| Report by agencies | 9. | Any agency which has been forwarded a copy of a plan of subdivision pursuant to Sections 6, 7 or 8 shall forward a written report of their assessments or recommendations to the Development Officer. |
| Plan not to be refused based on agencies' report | 10. | Approval of a plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of the Environment, the Department of Transportation or of any other agency of the Province or the Municipality unless the final plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province, including any applicable requirements contained in a land use by-law of the Municipality. |
| Fees | 11. | The subdivider shall pay: <ul style="list-style-type: none">(a) the fees contained in the Costs and Fees Act and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan. Where the Development Officer refuses to approve a final plan of subdivision these fees shall be returned to the subdivider; and(b) any processing fees prescribed by Council from by policy. (Amendment 19-05 Effective November 26, 2019) |

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- Copy of approved plan to subdivider and surveyor
12. (a) The Development Officer shall forward a copy of the approved tentative or final plan of subdivision to the subdivider and the surveyor.
- (b) The Development Officer shall forward a copy of the approved concept plan to the subdivider.
- Subdivision that adds or consolidates
13. Before approving a final plan of subdivision that adds or consolidates parcels or areas of land in different ownerships, the Development Officer shall be provided with:
- (a) the executed deeds suitable for registering to effect the addition or consolidation;
- (b) the fees for registering the deeds;
- (c) the affidavit of value including particulars of any exemption, if any, pursuant to Part V of the Act;
- (d) where applicable, the deed transfer tax; and
- (e) all completed forms required under the *Land Registration Act* to record documents at the Registry of Deeds.
- Notice of refusal to agencies
14. Where the Development Officer refuses to approve a concept, tentative or final plan of subdivision, the Development Officer shall give notice of the refusal to all agencies which were forwarded a plan pursuant to [Sections 6, 7 or 8](#).
- Notice of refusal to subdivider
15. Where the Development Officer refuses to approve a concept, tentative or final plan of subdivision, the Development Officer shall inform the subdivider of the reasons for the refusal in writing and advise the subdivider of the appeal provisions of [Section 284](#) of the *Act*.
- Section 287(3) approval
16. A final plan of subdivision showing lots to be approved under circumstances described in [subsection 287\(3\)](#) of the *Act* by special note on the plan shall
- (a) identify such lots;
- (b) state the names of the grantor and the grantee of such lots; and
- (c) state the date, book and page number of the conveyance of such lots as recorded in the Registry of Deeds.

B - Lot Requirements

- Lots shall abut streets
17. All lots to be approved on a plan of subdivision shall abut:
- (a) a public street; or
- (b) a private road which was approved by the Engineer prior to the effective date of this By-law; or
- (c) in the General Resource zone of the *Land Use By-law*, a private road which meets the requirements of [Sections 33 and 34](#) of this By-law; and
- (d) notwithstanding [subsections \(a\), \(b\), and \(c\)](#), in any agricultural zone of the *Land Use By-law*, an existing public street, pursuant to Policy 8.3.1 of the *Municipal Planning Strategy*.
- K-class road for access
18. For the purposes of access only, a portion of a 'K' Class road, with the permission of the Department of Transportation and Public Works and subject to that department's up-grading policies, may be used, in conjunction with a private road, to gain access to a public road.

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- Land Use By-law **19.** Where a *Land Use By-law* is in effect:
- (a) all lots for which approval is requested and the remainder lot, if any, for which no approval is requested, shall meet the applicable requirements contained in such *Land Use By-law*;
 - (b) [Subsections 17\(b\) and \(c\) and Sections 20, 21, 23, 24 and 25](#) do not apply unless the *Land Use By-law* permits development on any lot created pursuant to these sections and the *Municipal Planning Strategy* provides for both the subdivision and development of such lots.
- Section 279 variance **20.** (a) Notwithstanding the lot area and frontage requirements of [subsection 19\(a\)](#), the Development Officer may approve a maximum of two lots, shown on a plan of subdivision, in accordance with Section 279 of the *Act*, provided all other requirements of this By-law are met.
- (b) [Subsection \(a\)](#) does not apply if the area requirements established by the Department of the Environment for the construction or installation of an on-site sewage disposal system are not met.
- Lots created on an island **21.** (a) For the purposes of this section, “water frontage” means the distance measured as a straight line between the two points where the side lot lines meet a watercourse, and “area of land” means any lot or parcel as described by its boundaries as they existed on August 6, 1984.
- (b) Notwithstanding [Section 17](#) and the lot frontage requirements of [subsection 19\(a\)](#), the Development Officer may approve the subdivision from an area of land where:
 - (i) the area of land is located on an island;
 - (ii) each lot to be approved has 6 metres (19.68 feet) or more water frontage on a navigable waterway;
 - (iii) the subdivider provides a parking area measuring not less than 3 x 6 metres (9.84 x 19.68 feet) for the exclusive use of each lot so subdivided and attached by deed to said lot;
 - (iv) the parking area is within 300 metres (984.25 feet) of the navigable waterway, lake, or ocean on which the lots shown on the plan of subdivision abut;
 - (v) the subdivider provides an easement for right-of-way and access, clearly granted by deed or easement and registered in the Registry of Deeds, having a minimum width of 15 metres (49.21 feet) extending from a public street or private road to the parking area and to the shoreline of the navigable watercourse where suitable boat launching facilities exist; and
 - (vi) the parking area and the boat launching facilities are clearly identified on the final plan of subdivision.
- Subdivision altering boundaries **22.** (a) Notwithstanding [Section 17](#) and the lot area and frontage requirements of [subsection 19\(a\)](#), the Development Officer may approve a subdivision altering the boundaries of two or more areas of land where:
 - (i) no additional lots are created; and
 - (ii) each resulting lot

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- (1) meets the minimum dimensions for lot frontage of the *Land Use By-law*; or
- (2) has not had its frontage, if any, reduced; and
- (iii) each resulting lot
 - (1) meets the minimum requirement for lot area of the *Land Use By-law*; or
 - (2) has not had its area reduced.
- (b) Where the proposed lot is not surveyed, the final plan of subdivision prepared pursuant to [subsection \(a\)](#) shall:
 - (i) be certified and stamped by a Nova Scotia Land Surveyor that the boundaries of the parcel or area of land proposed to be added to the existing area of land have been surveyed and shown as a heavy solid line, except the common boundary between the existing areas of land, which is surveyed and certified as being the common boundary and shown as a heavy broken line; and
 - (ii) notwithstanding [subsection 66\(a\)\(ii\)](#), other than the new boundaries which have been surveyed pursuant to [subsection \(b\)\(i\)](#), show the remaining boundaries of the resulting lot for which approval is requested described graphically as a lighter solid line; and
 - (iii) have the following notation, completed and signed by the surveyor, affixed to the plan adjacent to the certification required by the *Land Surveyors Act* and the regulations made thereunder:

“NOTE: The only boundaries shown on this plan which have been surveyed are the boundaries of _____.
The common boundary between the existing areas of land identified by _____ and _____, which is shown by a heavy broken line, is hereby certified as having been the common boundary.

The remaining boundaries of resulting Lot _____ shown on this plan are a graphic representation only and do not represent the accurate shape or position of the lot boundaries which are subject to a field survey.”

Lots on a right-of-way

23.

- (a) For purposes of this Section, “area of land” means any lot or parcel as described by its boundaries as they existed on August 6, 1984 notwithstanding that the area of land has been subdivided subsequent to August 6, 1984 resulting in the creation of additional lots meeting the requirements of [Section 17](#) and the lot frontage requirements of [subsection 19\(a\)](#).
- (b) One lot that does not meet the requirements of [Section 17](#) and the lot frontage requirements of [subsection 19\(a\)](#) may be created within an area of land, provided the lot is served by a right-of-way easement as defined in [subsection 3\(dd\)](#), and provided no such lot has already been subdivided within the area of land.
- (c) Notwithstanding the limitation to one lot contained in [subsection \(b\)](#), two lots may be created, including any remainder lot, where
 - (i) the area of land does not abut a public street or private

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- road, provided that each lot is served by a right-of-way easement as defined in [subsection 3\(dd\)](#); or
- (ii) the area of land has less than the frontage required by the Land Use By-law.
- Encroachments **24.** (a) Notwithstanding the lot area and frontage requirements of [subsection 19\(a\)](#), where a development component of a permanent nature such as a structure, driveway, well, or on-site sewage disposal system is encroaching in or upon an immediately adjacent area of land, the Development Officer may approve a plan of subdivision to the extent necessary and practical to remove the encroachment.
- (b) Where a lot created pursuant to [subsection \(a\)](#) is not surveyed, the provisions of [subsection 22\(b\)](#) shall apply.
- Main buildings on lot before Aug. 6, 1984 **25.** (a) For purposes of [subsection \(b\)](#), “main building” is a building which is not an accessory building to another building on the area of land.
- (b) Notwithstanding the lot area and frontage requirements of [subsection 17\(a\)](#), where an area of land contains more than one main building built or placed on the land prior to August 6, 1984, the Development Officer may approve a final plan of subdivision creating the same number of lots or fewer as there are main buildings provided that each proposed lot is served by a central sanitary sewer or meets the applicable requirements of the Department of Environment.
- Minimum lot width and depth **26.** Lots shall not be subdivided to create a width or depth of less than 6 metres (19.68 feet).
- Rear lot lines **27.** Wherever possible, the rear lot lines of a series of adjoining lots shall be continuous, not stepped or jogged.
- Side lot lines to be at right angles **28.** Wherever possible, side lot lines shall be substantially at right angles to a public street or private road, or radial to a curved public street or private road.
- Agricultural Priority Two (AR-2) zone **29.** (a) Subdivision occurring within the boundaries of the Agricultural Priority Two (AR-2) Zone of the *Land Use By-law* shall be limited to the approval of two (2) lots per area of land during a calendar year.
- (b) Notwithstanding subsection (a), this section shall not prevent the consolidation of two or more parcels within the boundaries of the AR-2 Zone.
- Flag lots **30.** Not more than three irregular shaped flag lots which rely on a shallow “foot” abutting the street to meet the lot frontage requirement shall be created within an area of land.

PART 5: PUBLIC STREETS AND PRIVATE ROADS

A - General

- Maximum four approaches **31.** There shall be not more than four public street or private road approaches, or any combination thereof, in an intersection.
- Streets in adjoining subdivisions **32.** (a) Where a public street or private road in an adjoining subdivision abuts the boundaries of a plan of subdivision submitted for approval, a public street or private road in the latter shall, if reasonably feasible, be laid

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out in prolongation of such public streets or private roads, unless it would be in violation of this By-law.

- (b) Where an area of land being subdivided abuts a vacant parcel, undeveloped remainder parcel or a parcel with a high likelihood of future infill development, redevelopment or intensification, the street layout of the proposed subdivision must provide for adequate future street and pedestrian connections to adjacent undeveloped or underdeveloped lands. (*Amendment WHSUB 13-01 Effective April 4, 2014*)
- (c) Where an area of land being subdivided includes or abuts land that contains a future street connection as identified on the Future Streets Conceptual Plan, the general layout of new streets in the proposed subdivision shall generally conform to the Future Streets Conceptual Plan. The location of such new streets is not required to be an exact match of the Future Streets Conceptual Plan, but must allow for, in the opinion of the Development Officer, the future continuation and completion of future street connections. (*Amendment WHSUB 13-01 Effective April 4, 2014*)

B - Private Roads

- 33.** (a) All proposed private roads shall be:
- | | |
|---------------------------|---|
| Shown on plan | (i) shown on a final plan of subdivision; |
| Design | (ii) designed in accordance with the design requirements for proposed municipal public streets as contained in the <i>Manual</i> and the requirements of this section, and the design approved by the Engineer; and |
| Construction requirements | (iii) constructed in accordance with the following requirements: |
- (1) roots, stumps, moss, sod, and all other organic material shall not be placed in roadway fills or allowed to remain under roadway fills;
 - (2) notwithstanding [subsection \(1\)](#), an undisturbed natural ground surface may be allowed to remain under a roadway fill only where such surface is covered by at least 1.5 metres (4.92 feet) of fill which does not contain any organic material;
 - (3) the minimum road surface top width shall be 7.3 metres (23.95 feet) and shall be contained entirely within the right-of-way;
 - (4) the minimum travel surface width shall be 5.5 metres (18.04 feet);
 - (5) the travel surface shall have a base course of crushed, screened, or pit run gravel to a minimum thickness of 150 millimetres (5.90 inches);
 - (6) the maximum road grade shall be six percent (6%), however, in difficult circumstances grades up to eight percent (8%) may be approved;
 - (7) ditches shall have a maximum road slope and a maximum backslope of 50 percent (50%);

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- (8) culverts shall be constructed of steel or concrete pipe, shall have a minimum diameter of 45 centimetres (17.72 inches), shall be buried a minimum of 50 centimetres (19.68 inches) below the road surface, and shall be placed substantially at 90 degrees to the roadway centerline;
- (9) all bridges shall be certified as having been constructed to Canadian Standards Association specifications “CAN/CSA-S6-00 Canadian Highway Bridge Design Code”; and
- (10) provision shall be made for surface drainage of the right-of-way through the use of culverts, ditches, and natural watercourses of appropriate capacity, and the subdivider shall be responsible for the effects of any downstream flow onto other properties.

- | | | |
|---|------------|--|
| Intersection to be approved | (b) | The intersection of a private road with a public street shall be approved by the authority having jurisdiction for the public street. |
| Width of right-of-way | (c) | The minimum width of the right-of-way of a proposed private road shown on a plan of subdivision shall be: <ul style="list-style-type: none"> (i) 20 metres (65.62 feet); or (ii) 15 metres (49.21 feet) where the entire roadway (slopes, ditches, and roadbed) can be built within the 15 metres (49.21 feet), and is approved by the Engineer. |
| Professional engineer's certificate of compliance | 34. | (a) Prior to approval of the final plan of subdivision by the Development Officer, the subdivider shall provide a certificate from a professional engineer which shows compliance with the design and construction requirements of Section 33 . |
| Accepted engineering practice | | (b) The specifications referred to in subsection 33(a) may be waived or varied by the Engineer in accordance with accepted engineering practice. |
| May be approved as separate lot | 35. | A private road may be approved as a separate lot on a plan of subdivision and is deemed to meet minimum lot area and lot frontage requirements of subsection 19(a) . |
| Private road boundary not lot boundary | 36. | (a) Where the boundary of a private road shown on a plan of subdivision is not intended to be a lot boundary, it shall be shown as a lighter solid line or a dashed line.

(b) No part of a private road shall be included in the calculation of lot area for the purposes of meeting the lot area requirements of subsection 19(a) . |

C - Public Streets

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|-----------------|------------|---|
| Shown on a plan | 37. | (a) All proposed municipal public streets shall be: |
| Design | | (i) shown on a final plan of subdivision; |
| Construction | | (ii) designed in accordance with the <i>Manual</i> and the requirements of this section; |
| Approval by | | (iii) constructed and paved in accordance with the <i>Manual</i> prior to approval of the final plan of subdivision by the Development Officer; and |

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engineer	(iv)	approved by the Engineer prior to approval of the final plan of subdivision by the Development Officer.
Accepted engineering practice	(b)	The specifications referred to in subsections (a)(ii) and (iii) may be waived or varied by the Engineer in accordance with accepted engineering practice.
Width of right-of-way	(c)	The minimum width of the right-of-way of a proposed municipal public street shown on a plan of subdivision shall be: (i) 20 metres (65.62 feet); or (ii) 15 metres (49.21 feet) where the entire roadway (slopes, ditches, and roadbed) can be built within the 15 metres (49.21 feet), and is approved by the Engineer.
Approval of intersection by DOT	(d)	Where a proposed municipal public street intersects a provincial public street, that intersection shall be approved by the Department of Transportation.
Lot access to be approved	(e)	A proposed lot which abuts a public street shall have adequate stopping sight distance approved by the authority having jurisdiction for the public street which will be accessed.
Existing street	(f)	Where a plan of subdivision shows a proposed lot abutting an existing public street, the Department of Transportation or the Municipality, as the case may be, shall verify that the street is a public street.
Right-of-way to adjacent property	(g)	A right-of-way access to adjacent property must be provided and conveyed to the Municipality. Where practical, these accesses shall be no greater than 400 metres (1,312.34 feet) apart, except where this requirement would prejudice the proper subdivision of the land proposed to be subdivided or the adjacent land.
Engineer's certificate of compliance	38.	Prior to approval of the final plan of subdivision by the Development Officer, the subdivider shall provide a certificate from a professional engineer which certifies that the public street has been constructed in compliance with the design and construction requirements of Section 37 .
Testing	39.	The subdivider shall be responsible for the following: (a) arranging for complete testing of the installation of a street at various stages as required by the <i>Manual</i> ; and (b) giving reasonable notice to the Engineer of the proposed test date, site, and time; and (c) allowing the Engineer to inspect the installation at any stage or to verify or confirm any required test.
Alternative to complete construction	40.	As an alternative to the complete construction and acceptance of a municipal public street as required by Sections 37, 38, 39 and 48 , the subdivider may, before approval of the final plan is given, enter into a written agreement with the Municipality in accordance with Part 7 , and post a performance surety in accordance with Part 8 .

PART 6: WATER AND SEWER SYSTEMS

Central sanitary sewer and water systems	41.	(a) Where a proposed subdivision is in the Falmouth or Three Mile Plains Growth Centres or the Joint Industrial designation, as defined in the West Hants Municipal Planning Strategy and Land Use By-law, and where a new public street is proposed, the subdivider shall, prior to approval of the final plan of subdivision by
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Subdivision By-Law

- the Development Officer:
- (i) construct a sanitary sewer system including collectors and laterals to the boundary of the proposed lots and connect to the existing central sanitary sewer system;
 - (ii) construct a water system including mains and laterals to the boundary of the proposed lots and connect to the central water system; and
 - (iii) all sanitary sewer systems and water systems required by subsections (a)(i) and (ii) shall be designed by a professional engineer and shall comply with the specifications contained in the *Manual*.
- Storm drainage
- (b) The subdivider shall install a storm water system in conformance with a drainage plan, properly designed by a professional engineer, to remove any surface drainage that may enter the area being subdivided or be generated within the proposed subdivision, and to adequately dispose of the waters so as not to negatively affect any downstream properties. All drainage plans and storm drainage systems shall comply with the specifications contained in the *Manual*.
- Accepted engineering practice
- (c) The specifications referred to in [subsections \(a\)\(iii\) and \(b\)](#) herein may be waived or varied by the Engineer in accordance with accepted engineering practice.
- PID 45031952 exemption
- 42.** Notwithstanding [subsection 41\(a\)\(i\)](#), the subdivision of the lands of Glooscap Developments Limited (PID 45031952) shall be permitted without the construction of a sanitary sewer system.
- Engineer's certificate of compliance
- 43.** Prior to approval of the final plan of subdivision by the Development Officer, the subdivider shall provide a certificate to the Development Officer from a professional engineer which certifies that the developer has complied with the design and construction requirements of [Sections 41\(a\)\(iii\), \(b\) and \(c\)](#).
- Testing of services
- 44.** The subdivider shall be responsible for the following:
- (a) arranging for complete testing of the installation of the water, sewer, and storm drainage systems at various stages as required by the *Manual*; and
 - (b) giving reasonable notice to the Engineer of the proposed test date, site, and time; and
 - (c) allowing the Engineer to inspect the installation at any stage or to verify or confirm any required test.
- Alternative to complete construction
- 45.** As an alternative to the complete construction and acceptance requirements for water, sewer and storm drainage systems, as contained in [Sections 41, 43, 44 and 48](#), the subdivider may, before endorsement of approval of the final plan is given, enter into a written agreement with the Municipality as provided for in [Part 7](#), and post a performance surety as provided for in [Part 8](#).

PART 7: SERVICING AGREEMENT

- Contents of agreement
- 46.** Where an agreement is entered into between the subdivider and the Municipality pursuant to [Sections 40 and 45](#), the agreement shall contain provisions satisfactory to the Municipality with respect to any or all of the

Subdivision By-Law

following:

- (a) the time within which any construction of streets and services shall be commenced and completed;
- (b) the phasing of any construction of streets and services;
- (c) the acceptance of any streets and services by the Municipality;
- (d) the provision and acceptance of easements and rights-of-way; and
- (e) any other matter related to the requirements of this By-law and the *Municipal Planning Strategy* and *Land Use By-law* relative to the subdivision and servicing of land.

PART 8: PERFORMANCE SURETY

47. Where a subdivider proposes to complete construction of any streets, sewer, or water services after receiving approval of any final plan of subdivision, the following shall be required:
- (a) the subdivider shall post a performance surety, satisfactory to the Municipality, in the amount of one hundred fifty percent (150%) of the estimated cost to complete the streets and services;
 - (b) the subdivider shall submit to the Development Officer for approval an estimate of costs to complete the construction of the streets and services and the Development Officer may revise the estimate if it is, in the opinion of the Engineer, inadequate, and the decision of the Engineer shall be final. Such estimates shall include all construction related costs including but not limited to professional engineering contract management and site supervision and inspection of all construction and work;
 - (c) the performance surety shall be posted before approval of any final plan of subdivision is given by the Development Officer;
 - (d) the performance surety shall be in favour of the Municipality and may be in the form of cash, certified cheque or letter of credit, or bond issued by a bank, surety, or guarantee company licensed by the Province of Nova Scotia and conditional on the execution and completion of the agreement in accordance with terms of the agreement and the requirements of this By-law and shall not be subject to cancellation, termination, or expiration during the period of time for completion of the work;
 - (e) where the performance surety is paid in cash or by certified cheque, the cheque will be cashed and all monies paid in cash will be held by the Municipality and returned without interest to the subdivider upon completion of the work;
 - (f) where the Engineer determines that the work is substantially complete, the Municipality may, in its sole discretion, return a portion of the performance surety, less any amount held back for deficiencies, prior to complete construction by the subdivider and acceptance by the Municipality; and
 - (g) where construction of the proposed streets and services does not commence within twelve (12) months of the date of approval of the final plan of subdivision and according to the approved time schedule, the subdivider shall forfeit the performance surety.

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PART 9: ACCEPTANCE REQUIREMENTS

- Prior to acceptance **48.** Within thirty (30) days following completion of any public streets and services and prior to acceptance by the Municipality of any streets and services, the subdivider shall:
- Maintenance bond (a) post a maintenance bond in accordance with the specifications of the *Manual*;
- Record drawings for services (b) provide the reproducible record drawings of engineering design showing all the actual constructed systems including sanitary sewers, water systems, and storm drainage;
- As built drawings for street (c) provide “as built” reproducible engineering design drawings for the street including plan and profile of streets drawn to the required scale and certified by a professional engineer;
- Manuals and test results (d) provide the results of all test reports, and all operating and procedural manuals for each central water or central sewer system, demonstrating that the required streets and systems have been constructed and are operating according to the standards set out in this By-law and the *Manual*;
- Plan of streets, drainage ROW, road reserves, easements (e) provide four (4) copies of the final plan of subdivision showing the municipal public streets and all drainage rights-of-way outlined in red, road reserves outlined in yellow, and easements outlined in green;
- Conveyance (f) provide deeds, easements, or bills of sale to the Municipality, free of encumbrances, for streets, rights-of-way, easements, and services. All conveyances of real property and easements shall be by warranty deed or warranty easement, conveyances of services shall be by warranty bill of sale, and the subdivider shall provide to the Municipality from his or her legal counsel a solicitor’s certificate of title certifying that all property conveyed is free from all encumbrances. In the event that the conveyance is not free from encumbrances, an unqualified undertaking from the subdivider’s solicitor to release the encumbrances may be accepted by the Municipality;
- Registration costs (g) pay all document registration and other costs associated with the requirements of this section; and
- Completed forms (e) all completed forms required under the *Land Registration Act* to record documents at the Registry of Deeds.

PART 10: PRELIMINARY PLANS OF SUBDIVISION (OPTIONAL)

A - Requirements

- Ten copies of plan **49.** (a) A person proposing to subdivide an area of land may submit to the Development Officer an application in the form specified in Schedule “A”, together with ten (10) copies of the preliminary plan of subdivision drawn to scale showing:
- (i) the name of the owner of the area of land being subdivided;
- (ii) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the Registry of Deeds for this Municipality;

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- (iii) the names of all owners of all properties abutting the area of land being subdivided;
- (iv) the unique parcel identifier (PID) of all areas of land being subdivided;
- (v) the civic number of main buildings on the area of land being subdivided;
- (vi) a location plan showing the approximate distance between the area of land being subdivided and the nearest prominent landmark;
- (vii) the shape, dimensions, and area of the proposed lots;
- (viii) each proposed lot identified by a number except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where available, and the letter;
- (ix) no duplication of lot identifiers;
- (x) the approximate location of railways and railway rights-of-way;
- (xi) the location of existing and proposed public streets and private roads;
- (xii) the name of existing and proposed public streets (and the public street number) and private roads, as issued pursuant to the civic addressing system;
- (xiii) the graphic representation of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated, or both, shown as broken lines;
- (xiv) the location of existing buildings within 10 metres (32.81 feet) of a property line;
- (xv) the general location of watercourses and wetlands;
- (xvi) the north point;
- (xvii) the scale; and
- (xviii) any other information which the Development Officer deems necessary to determine whether the preliminary plan conforms to this By-law.

DOE
requirements

- (b) Where the preliminary plan of subdivision is to be forwarded to the Department of Environment, the following additional information, if required by the Department of Environment, shall be part of, or included with, the preliminary plan:
 - (i) the lot layout including any existing and proposed building, on-site sewage disposal system, driveway, and water well;
 - (ii) the location of any watercourse, wetland, marine water body, and other features that may influence the design of the on-site sewage disposal system, including any ditch, road, driveway, or easement;
 - (iii) the surface slopes and directions;
 - (iv) the location of any test pit;

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- (v) the proposed on-site sewage disposal system, selected or designed;
 - (vi) an explanation of the extent, volume, and type of usage to which the on-site sewage disposal system will be subjected;
 - (vii) an assessment report of the lot respecting its suitability to support an on-site sewage disposal system including the results of a soil evaluation test;
 - (viii) any other information necessary to determine whether the subdivision meets the *On-site Sewage Disposal Systems Regulations*.
- Lots with an existing on-site system
- (c) For a proposed lot that is being divided from an existing area of land, contains an existing on-site sewage disposal system, and is more than 9,000 square metres (96,878.36 square feet) in area with a width of 76 metres (249.34 feet) or more, the lot layout including buildings, driveway, on-site sewage disposal system and well shall be provided.
- Lots not requiring an on-site system
- (d) For a proposed lot 9,000 square metres (96,878.36 square feet) or less in area or with a width of less than 76 metres (249.34 feet) that is being created for a purpose that will not require the construction of an on-site sewage disposal system, the certification section of the application form must be completed.

B - Procedure

- Processing **50.** The procedure for processing preliminary plans of subdivision is contained in PART 4: General Provisions.
- Report to applicant **51.** Upon receipt of all written reports from the review agencies which were forwarded a plan pursuant to [Sections 6 or 8](#), the Development Officer shall inform the applicant in writing of the results of the evaluation of the preliminary plan of subdivision.

PART 11: CONCEPT PLANS

A - Requirements

- Ten copies of plan **52.** Where an area of land is being subdivided in phases or will contain new public streets or private roads, a subdivider shall submit to the Development Officer ten (10) copies of a concept plan of the entire area of land.
- Contents **53.** Concept plans shall be at a scale sufficient for clarity of all particulars of the plan and shall show the following:
- (a) the words "Concept Plan" located in the title block, along with an estimated lot yield figure, based on the requirements of the *Land Use By-law* and the Department of the Environment, as applicable;
 - (b) name of the property owner(s) and names of all abutting land owners;
 - (c) the unique parcel identifier (PID) for all areas of land being subdivided;
 - (d) the proposed internal street system with connections to existing streets;

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- (e) the location of all watercourses and wetlands within and adjacent to the area of land, any prominent rock formation, wooded area, area subject to flooding and any other prominent natural feature which might affect the provision or layout of central sanitary sewer systems, storm water systems, central water distribution systems, or public streets and private roads;
- (f) the proposed location of public open space;
- (g) the location of existing development, if any;
- (h) the location of any municipal service boundary;
- (i) the proposed subdivision phasing sequence;
- (j) the north point;
- (k) contours at 5 metre (16.40 foot) intervals; and
- (l) any other information the Development Officer deems necessary to determine if the subdivision meets with municipal standards and accepted engineering practice as determined by the Engineer.

- Traffic study **54.** The concept plan shall be accompanied by a traffic impact study, prepared by a qualified traffic or transportation engineer registered with the Association of Professional Engineers of Nova Scotia in accordance with the Nova Scotia Department of Transportation and Public Works' Guide for the Preparation of Traffic Impact Studies. (*Amendment WHSUB 13-01 Effective April 4, 2014*)
- Approval lapses within 2 years **55.** Approval of a concept plan lapses if a complete application for tentative or final subdivision plan approval is not received within two (2) years of the date of approval of the concept plan.
- Approval for concept prior to tentative or final **56.** Where a concept plan is required under this By-law:
- (a) no tentative or final plan of subdivision shall be considered for approval unless the Development Officer has granted approval of the concept plan; and
 - (b) no tentative or final plan of subdivision shall be approved that is inconsistent with the approved concept plan.
- Tentative or final to be consistent with concept

B - Procedure

- Processing **57.** The procedure for processing preliminary plans of subdivision is contained in PART 4: General Provisions.
- Stamps **58.** The following information shall be stamped or written and completed by the Development Officer on any concept plan which is approved:
- (a) "This concept plan is approved. Such approval lapses if a tentative or final subdivision plan is not submitted for approval within two years of the date of approval of the concept plan."
 - (b) the date of the approval of the concept plan; and
 - (c) "This concept plan shall not be filed in the Registry of Deeds as no subdivision takes effect until a final plan of subdivision is approved by the Development Officer and filed in the Registry of Deeds."

PART 12: TENTATIVE PLANS OF SUBDIVISION

A - Requirements

- Ten copies of plan **59.** Where an area of land is being subdivided in phases or will contain new

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public streets or private roads, a person shall submit to the Development Officer ten (10) copies of a tentative plan of the proposed subdivision.

60. A person proposing to subdivide an area of land which does not involve phasing or new public streets or private roads may submit to the Development Officer ten (10) copies of the tentative plan of the proposed subdivision meeting the requirements of [Section 61](#) of this By-law.

Contents

- 61.** (a) Tentative plans of subdivision submitted to the Development Officer shall be:
- (i) drawn to a scale or scales sufficient for clarity of all particulars on the tentative plan of subdivision;
 - (ii) based on a deed description of the area of land to be subdivided, preferably but not necessarily as surveyed; and
 - (iii) folded to approximately 20 x 30 centimetres (8 x 12 inches) with the face of the folded print being the title block which is located in the lower right-hand corner of the tentative plan of subdivision.
- (b) Tentative plans of subdivision shall show the following:
- (i) the words "PLAN OF SUBDIVISION" located in the title block;
 - (ii) the words "TENTATIVE PLAN" located above the title block;
 - (iii) a clear space for stamping being a minimum of 225 square centimetres (36 square inches) with a minimum width of 8 centimetres (3 inches);
 - (iv) the name of the subdivision, if any, and the name of the owner of the area of land;
 - (v) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the Registry of Deeds for this Municipality;
 - (vi) the unique parcel identifier (PID) of all areas of land being subdivided;
 - (vii) the civic number of main buildings on the area of land being subdivided;
 - (viii) the names of all owners or the identifiers of all properties abutting the proposed subdivision;
 - (ix) a location map, drawn to a scale not smaller than 1:50,000 (such scale to be shown on the map), preferably with the same orientation as the area of land and, if possible, showing the location of the closest community to the area of land proposed to be subdivided;
 - (x) the shape, dimensions, and area of the proposed lots;
 - (xi) each proposed lot identified by a number, except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where applicable, and the letter;

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- (xii) no duplication of lot identifiers;
 - (xiii) the boundaries of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated, or both, shown as broken lines;
 - (xiv) the location of existing buildings within 10 metres (32.81 feet) of a property boundary;
 - (xv) the location of existing and proposed public streets and private roads;
 - (xvi) the name of existing and proposed public streets (and the public street number) and private roads, as issued pursuant to the civic addressing system;
 - (xvii) the width and location of railroads and railway rights-of-way;
 - (xviii) the general location of watercourses, wetlands, or prominent rock formations;
 - (xix) the width, location, and nature of any easements on or affecting the area of land proposed to be subdivided;
 - (xx) where applicable, a notation stating the lots are serviced by a central sewer and/or water system;
 - (xxi) the north point;
 - (xxii) the scale to which the plan of subdivision is drawn;
 - (xxiii) the date on which the plan of subdivision was drawn and the date of any revisions; and
 - (xxiv) any other information which the Development Officer deems necessary to determine whether or not the plan of subdivision conforms to this By-law.
- (c) Where the tentative plan of subdivision is to be forwarded to the Department of Environment, the plan shall meet the requirements of [subsections 49\(b\), \(c\) and \(d\)](#) and the proposed on-site sewage disposal system, selected or designed shall be identified.
- DOE requirements
- Requirements where lots front on proposed street
- 62.** In addition to meeting the requirements of [Section 61](#), where the proposed lots front on a proposed public street or proposed private road, a tentative plan of subdivision shall:
- (a) show a boundary survey of the area of land proposed to be subdivided, excluding the remainder lot, certified and stamped by a Nova Scotia Land Surveyor in the manner required by the *Land Surveyors Act* and its regulations;
 - (b) be accompanied by four (4) copies of a plan showing
 - (i) contours at 2 metre (6.56 foot) intervals, and drainage patterns;
 - (ii) the width and location of proposed public streets and private roads, and their intersection with existing public streets; and
 - (iii) the location of existing and proposed central sewer and water systems and proposed connections thereto; and
 - (c) be accompanied by four (4) copies of centerline profiles of proposed public streets or private roads;

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- (d) be accompanied by four (4) copies of a storm drainage plan applying acceptable engineering practices for the proper removal of surface drainage from the proposed subdivision and in compliance with [subsection 41\(b\)](#);
- (e) be accompanied by any other information which the Development Officer deems necessary to determine whether the plans referred to in [subsections 62\(b\), \(c\), and \(d\)](#) conform to this By-law.
- (f) Where plans or drawings or centerline profiles are prepared by or under the supervision of a professional engineer, they shall be signed and sealed by the professional engineer in accordance with the *Engineering Profession Act*.

B - Procedure

- Processing **63.** The procedure for processing tentative plans of subdivision is contained in PART 4: General Provisions.
- Stamps **64.** The following information shall be stamped or written and completed by the Development Officer on any tentative plan of subdivision which is approved together with any other information, including conditions, necessary for the tentative plan to proceed to the final plan stage:
- (a) “This tentative plan of subdivision is approved for Lots _____. Such approval lapses if the lots are not shown on a final plan of subdivision approved within two years of the date of the approval of the tentative plan.”;
 - (b) the date of the approval of the tentative plan; and
 - (c) “This tentative plan of subdivision shall not be filed in the Registry of Deeds as no subdivision takes effect until a final plan of subdivision is approved by the Development Officer and filed in the Registry of Deeds.”

PART 13: FINAL PLANS OF SUBDIVISION

A - Requirements

- Fourteen copies of plan **65.** (a) A subdivider proposing to subdivide an area of land shall submit an application in the form specified in Schedule “A” of this By-law together with fourteen (14) copies of the final plan of subdivision meeting the requirements of [Section 66](#) of this By-law to the Development Officer for approval.
- Bonds (b) A final plan of subdivision submitted for approval shall be accompanied by any security or bonds required to be posted under this By-law.
- Contents **66.** (a) Final plans of subdivision submitted to the Development Officer shall be:
- (i) drawn to a scale or scales sufficient for clarity of all particulars of the final plan of subdivision;
 - (ii) certified and stamped by a Nova Scotia Land Surveyor that the lots for which approval is requested and any proposed street and road have been surveyed in the manner required by the *Land Surveyors Act* and its regulations, except for a final plan of subdivision prepared pursuant to [subsection 22\(b\)](#) of this By-law; and

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- (iii) folded to approximately 20 x 30 centimetres (8 x 12 inches) with the face of the folded print being the title block which is located in the lower right-hand corner of the final plan of subdivision.
 - (b) Final plans of subdivision shall meet the requirements of subsections 61(b) and (c) and Section 62, except that:
 - (i) subsection 61(b)(ii) does not apply;
 - (ii) proposed streets and roads shall be surveyed; and
 - (iii) the geographical and mathematical location of all buildings within 3 metres (9.8 ft) of a proposed boundary shall be shown.
- Stopping sight distances **67.** For a proposed lot that will have access to a provincial public highway, the final plan of subdivision may be accompanied by or show stopping sight distances information in the form specified in [Schedule "E"](#) completed by a Nova Scotia Land Surveyor or the authority having jurisdiction.

B - Procedure

- Processing **68.** The procedure for processing final plans of subdivision is contained in PART 4: General Provisions.
- Stamps **69.** The following information shall be stamped or written and completed by the Development Officer on any final plan of subdivision which is approved:
- (a) "This final plan of subdivision is approved for Lots _____";
 - (b) where applicable,
 - (i) " _____ (is,are) suitable for the
(lot(s) approved and/or remainder)
construction or installation of an on-site sewage disposal system for _____ and any conditions
(proposed use)
which apply are contained in a report dated _____
and available from the Department of the Environment.", or
 - (ii) "IMPORTANT NOTICE
 _____ (has, have) been created for a
(lot(s) approved and/or remainder)
purpose which does not require an on-site sewage disposal system and will not be eligible for a permit to install a system unless the requirements of the Department of the Environment are met."; or
 - (iii) _____ (is,are) served by an existing
(lot(s) approved and/or remainder)
on-site system and should a replacement system become necessary in future, approval of the replacement system from the Department of the Environment is required".
 - (c) where applicable,
 - (i) a notation stating that access to the public street as shown has been approved for the lots created by this final plan and any conditions which apply are listed on the plan or are contained in a report dated _____, available

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- from the authority having jurisdiction for public streets;
- (ii) where a lot which abuts a public street does not have an approved access point along the street, a notation stating that direct access to the street is not permitted; and
- (iii) where there are private roads which are not to be owned and maintained by the Department of Transportation or the Municipality, the words “The following private roads are not owned or maintained by the Department of Transportation or the Municipality and are not entitled to any provincial or municipal services including grading, ditching, snow plowing, gravelling, school busing, and garbage collection:

Registry of Deeds

- _____”.
- _____”.
- 70.** Within seven days of approving the plan, the Development Officer shall forward to the Registry of Deeds:
- (a) five (5) approved copies of the final plan of subdivision and a notice of approval in the form specified in [Schedule “B”](#) of this By-law; and
 - (b) if applicable, the items required by [Section 13](#) of this By-law.

PART 14: PARKLAND DEDICATION

- 71.** Prior to approval by the Development Officer of the final plan of subdivision, the subdivider shall either:
- (a) transfer to the Municipality, free of encumbrances, for parks, playgrounds, and similar public purposes, an area of useable land within the area being subdivided equal to five percent (5%) of the area of the lots to be approved, as shown on the final plan of subdivision, exclusive of streets, easements, and the residue of the land of the subdivider; or
 - (b) provide to the Municipality a sum of money equivalent to five percent (5%) of the market value, as determined by an assessor, of the lots to be approved, as shown on the final plan of subdivision, exclusive of streets, easements, and the residue of the land of the subdivider; or
 - (c) where the Council agrees, provide to the Municipality equivalent value, in any combination as determined by the Municipality; or
 - (d) where the Council agrees, transfer to the Municipality, free of encumbrances, an area of useable land of equal value outside the area being subdivided but within the boundaries of the Municipality, in lieu of the land in the subdivision required to be transferred under [subsection 71\(a\)](#).
- 72.** Where the area of land being subdivided has frontage on the ocean, a river or a lake, any land transferred in accordance with [subsection 71\(a\)](#) shall include either useable land with frontage on the ocean, river or lake or land suitable for public access to the ocean, river or lake.
- 73.** (a) For the purposes of [Sections 71 and 72](#), useable land shall be defined as land that:
- (i) has an average slope over the entire parcel of not more than fifteen percent (15%), provided that any part of the

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- parcel with a slope of fifteen percent (15%) or more shall not exceed one-quarter ($\frac{1}{4}$) of the area of the entire parcel;
- (ii) consists of a parcel having an area of one-half ($\frac{1}{2}$) acre or more;
 - (iii) is serviced by central water and sewer systems, or is capable of supporting an on-site sewage disposal system, unless the parcel is intended for recreational purposes, such as linear walking or hiking trails, which do not require an on-site sewage disposal system or services;
 - (iv) is not a clearing and grubbing disposal area;
 - (v) is not swampland or subject to flooding;
 - (vi) is not an electrical transmission corridor; and
 - (vii) where applicable, is able to meet the requirements for lot area and lot frontage contained in the *Land Use By-law*.
- Useable land criteria may be waived (b) The criteria in [subsection 73\(a\)](#) may be waived if the land to be transferred is considered unique by the Development Officer in that the parcel is:
- (i) land suitable for preservation as an interpretive natural reserve area based on the opinion of a qualified professional;
 - (ii) land of significant historical or archeological value to the Municipality;
 - (iii) land adjacent to parkland or open space owned by the Municipality;
 - (iv) land deemed by the Recreation Director for the Municipality to be required for recreational purposes; or
 - (v) land located in the Water Supply (W) zone.
- Land to be accessible (c) Any land to be conveyed to the Municipality other than that meeting the requirements of [subsection 73\(b\)](#) shall about a public road or private road. Land to be conveyed to the Municipality pursuant to the requirements of [subsection 73\(b\)](#) shall be accessible by a public street or private road or by a public easement a minimum of 15.24 metres (50 feet) in width and providing a connection to a public road.
- Bond **74.** (a) The subdivider may, with the approval of the Council, provide a bond or other security acceptable to the Council for the conveyance to the Municipality of land in a future phase of the subdivision rather than conveying land from the approved phase of the subdivision or equivalent value.
- Agreement (b) Where Council approves the use of a bond or other security under [subsection \(a\)](#), the subdivider shall enter into a written agreement with the Municipality, which agreement may contain provisions satisfactory to the Municipality with respect to the time within which any land or equivalent value shall be transferred to the Municipality, the land which may be used to satisfy the requirements of this Part, and any other matter related to the parkland dedication requirements of this By-law.
- Certification of title **75.** Any conveyance of land to the Municipality under this Part shall be by warranty deed, and the subdivider shall provide to the Municipality from

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his or her legal counsel a solicitor's certificate of title certifying that all property conveyed is free from all encumbrances. In the event that the conveyance is not free from encumbrances, an unqualified undertaking from the subdivider's solicitor to release the encumbrances may be accepted by the Municipality.

- Subdivider responsible for costs
Section 70 shall not apply
- 76.** The subdivider shall be responsible for all document registration and other costs associated with the requirements of this Part.
- 77.** [Section 71](#) shall not apply:
- (a) to the consolidation or resubdivision of land where no additional lots are created; or
 - (b) where the lot being created has a dwelling situate thereon that was completed on or before January 1, 1979, and the remainder of the land owned by the subdivider also has a dwelling situate thereon that was completed prior to July 1, 1978.

PART 15: INFRASTRUCTURE CHARGES

- Approval of lots in a charge area
- 78.** Before a final plan of subdivision is approved in a charge area as shown on Map A, the subdivider shall pay an infrastructure charge to Council in accordance with Schedule 1 attached to this By-law.
- Payment of charges
- 79.** Final subdivision approval shall not be granted unless the infrastructure charge established under this By-law is paid or the subdivider has entered into an agreement with the Municipality deferring the payment of the infrastructure charge.
- Infrastructure charges agreement
- 80.** The Municipality and the subdivider may enter into an infrastructure charges agreement which may contain reasonable provisions with respect to any or all of the following:
- (a) the payment of infrastructure charges in installments;
 - (b) the provision of security to ensure that the infrastructure charges are paid when due; or
 - (c) any other matter necessary or desirable to effect the agreement.
- Additional costs to the Municipality
- 81.** Infrastructure charges shall not be payable if an infrastructure charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on the Municipality.
- Use of charges
- 82.** A charge paid pursuant to this By-law shall only be used for the purpose for which it has been collected.
- Lien of property
- 83.** A charge imposed pursuant to the By-law constitutes a lien upon the property with respect to which the charge has been levied in the same manner and with the same effect as rates and taxes under the *Assessment Act*.

PART 16: REPEAL OF A PLAN OF SUBDIVISION

- Repeal of any or all lots approved
- 84.** Where a plan of subdivision has been approved, the approval may be repealed for any or all of the lots created by the plan of subdivision.
- Application
- 85.** Any person requesting the appeal of a plan of subdivision shall submit to the Development Officer an application in the form specified in [Schedule "C"](#).
- Notification & approval
- 86.** The notification and approval provisions of the *Act* which apply to the approval of a plan of subdivision shall also apply to a repeal.

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- 87.** Notwithstanding [Section 86](#), the notification and approval provisions of the Act do not apply to a repeal respecting a plan of subdivision or instrument of subdivision to consolidate two or more parcels for which no deed to effect the consolidation has been registered in the Registry of Deeds or Land Registration Office, provided that the applicant certifies that to the applicant's knowledge no deed to effect the consolidation exists.
- Application to review agencies **88.** When the Development Officer is satisfied that an application for repeal is complete, the Development Officer may forward a copy to any agency who provided an assessment or recommendations on the original plan of subdivision.
- Buildings on subject lands **89.** Where buildings have been erected on the subject lands after the date of the subdivision approval sought to be repealed, no repeal shall be granted which would cause these buildings to be in violation of any building code regulations, land use by-law, or sewage disposal regulations unless the violation can be rectified by the approval of a new plan of subdivision filed at the Registry of Deeds on the same day as the repeal is filed.
- Sections do not apply **90.** [Sections 4 to 83](#) inclusive of this By-law do not apply to the repeal of a plan of subdivision.
- Repeal to Registry of Deeds
Copy to subdivider, review agencies **91.** The Development Officer shall forward to the Registry of Deeds the repeal in the form specified in [Schedule "D"](#).
- 92.** The Development Officer shall forward a copy of the repeal referred to in [Section 91](#) to:
- (a) the subdivider; and
 - (b) any agency who provided an assessment or recommendations on the original plan of subdivision.
- Fees **93.** (a) At the time of application for the repeal of a subdivision, the subdivider shall submit to the Development Officer:
- (i) the fees contained in the Costs and Fees Act, and its regulations for registering a repeal of a plan of subdivision; and
 - (ii) a processing fee of \$50.00 per final application for repeal of a subdivision.
- (b) Where the Development Officer refuses to repeal a subdivision, the Development Officer shall return the fees referred to in [subsection \(a\)\(i\)](#) to the subdivider.
- Notice of refusal to review agencies **94.** Where the Development Officer refuses to repeal a plan of subdivision, the Development Officer shall give notice of the refusal to the subdivider and to all agencies which were forwarded the application for repeal pursuant to [Section 87](#).

PART 17: REPEAL OF BY-LAW

- Previous by-law repealed **95.** The Subdivision By-law approved by the Municipality of the District of West Hants on [March 14, 2000](#) and any amendments thereto is repealed.

Schedule "B"

**NOTICE OF APPROVAL
IN ACCORDANCE WITH SECTION 285(1)(3) OF
THE MUNICIPAL GOVERNMENT ACT**

Name of Owner(s): _____

West Hants Plan #: _____

Name of Subdivision: _____

Location: _____

Date of Approval: _____ For: _____

Surveyor: _____ Date of Plan: _____

Dated this _____ day of _____, _____.

Development Officer

Plan of subdivision filed in the Registry of Deeds as Plan # _____

Dated this _____ day of _____, _____.

This plan of subdivision also contains information regarding the lots approved on the plan with respect to one or more of the following:

1. The lot's eligibility for on-site sewage disposal systems.
2. The availability of public sewer and water systems.
3. Information indicating whether or not the lots abut a public street or highway.

Schedule "C"

APPLICATION FOR REPEAL OF A SUBDIVISION

Plan of Subdivision

File Number: _____

APPLICANT INFORMATION

Name of Land Owner(s): _____ Phone: _____

Address of Land Owner(s): _____ Postal Code: _____

Documents to be returned to: _____

Correspondence to be directed to _____

INFORMATION ON THE SUBDIVISION SOUGHT TO BE REPEALED

Name of applicant for subdivision approval: _____

Location: _____ Municipality: _____

The subdivision was approved on the _____ day of _____,

and is filed in the Registry of Deeds at _____ in the Municipality of

_____ the County of _____ As # _____

Lot(s) # _____ was/were approved and

repeal is sought for approval of Lot(s) # _____.

Registration fee submitted.

CERTIFICATION OF FACTS (Reasons For Repeal)
(If more space is required, attach additional sheet)

OWNER'S CERTIFICATE

I certify that the information in this application is true and complete, that I am applying for repeal of this subdivision with full knowledge and consent of all persons with legal interest, including mortgagees, in the lands affected by the repeal and that these persons have co-signed this application.

Signature of owner/agent _____

Date _____

Co-Signer _____

Date _____

Schedule "D"

REPEAL OF A SUBDIVISION

Plan of Subdivision 9

Name of Owner(s): _____

Name of Subdivision: _____

Location: _____

Date of Approval of the Subdivision: _____

Being Registration #: _____ at the Registry of Deeds.

THIS SUBDIVISION IS REPEALED

Entire Plan or Only Lots #: _____

Dated at _____ in the _____, Province of Nova

Scotia, this _____ day of _____, _____.

Development Officer

Please note: Any lots or parcel created by this repeal may not be eligible for development.

