

**MUNICIPALITY OF YARMOUTH**  
**SUBDIVISION BY-LAW**  
**S-0810-20**

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## **Part 1 Title**

- 1.1** This By-law may be cited as the *Subdivision* By-law for the Municipality of the District of Yarmouth which shall apply to all lands within the Municipality.

## **Part 2 Interpretation**

- 2.1** 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. All other words shall carry their customary meaning except those defined hereinafter.
- 2.2** Where there is a conflict between the requirements of this By-law and those of any other By-law or Regulations the most restrictive requirement shall apply.

## **Part 3 Definitions**

- 3.1** **Act** means the Municipal Government Act, Chapter 18 of the Statutes of Nova Scotia.
- 3.2** **Agreement** means a written contract entered into between the subdivider and the Municipality relating to the construction, conveyance and the posting of bonds for municipal public roads, *sanitary sewer* and *water systems* as outlined in this By-law.
- 3.3** **Area of Land** means any existing lot or parcel as described by its boundaries.
- 3.4** **CAO** means the Chief Administrative Officer of the Municipality of the District of Yarmouth.
- 3.5** **Council** means the *Council* of the Municipality of the District of Yarmouth.
- 3.6** **Department of the Environment** means the Nova Scotia Department of the Environment.
- 3.7** **Department of Transportation** means the Nova Scotia Department of Transportation and Infrastructure Renewal.
- 3.8** **Development Officer** means that person, appointed by the *Council* pursuant to the *Act* and having the power and duty to administer this By-Law.
- 3.9** **Engineer** means the *engineer* of the Municipality of the District Yarmouth and includes a person acting under the supervision and direction of the *engineer*.
- 3.10** **Flag lot** means a lot with a configuration that resembles an outstretched flag at the top of a flag pole with the pole extending from a *public road* or a *private road*.

3. 11 **Frontage** shall be measured the same as set out in the *Land Use By-Law*.
3. 12 **Homeowners association or Lot Owners Association** is an organization in a *subdivision*, planned community that makes and enforces rules for the properties and their residents.
3. 13 **Land Use By-law** means the *Land Use By-law* for the Municipality of the District of Yarmouth.
3. 14 **Lot** means any parcel created by the filing of a plan of *subdivision* or the registering of an instrument of *subdivision*.
3. 15 **Lot Lines** means *lot lines* as defined in the *Land Use By-law*.
3. 16 **Manual** means the Municipal Design Specifications *Manual* for the Municipality of the District of Yarmouth.
3. 17 **Minister** means the Minister of the Department of Municipal Affairs and Housing.
3. 18 **Municipality** means the Municipality of the District of Yarmouth.
3. 19 **Municipal Planning Strategy** means the *Municipal Planning Strategy* for the Municipality of the District of Yarmouth.
3. 20 **Municipal Sewer** means a sewer controlled by the Municipality.
3. 21 **Private Road** means any road which is not public shown on a plan of *subdivision* which:
- a) Extends to and has access to a *public road* or existing *private road* and where not totally located within the *area of land* being subdivided, the *private road* shall have an easement for *right-of-way* and access which has been clearly granted by deed, registered in the *Registry of Deeds* for the County of Yarmouth; and
  - b) Includes any *private road* approved by the *Department of Transportation* and shown on an approved plan of *subdivision* prior to the first day of August, 1987 and filed in the *Registry of Deeds*;
3. 22 **Professional Engineer** means a registered member, in good standing, of the Association of Professional Engineers of Nova Scotia (Engineers Nova Scotia) or; one who is licensed to practice in the *Province* of Nova Scotia.
3. 23 **Property Valuation Services Corporation (PVSC)** is mandated under the Nova Scotia Assessment Act to assess every property in Nova Scotia.

- 3.24 Proposed Lot** means any lot being proposed to be created by a plan or instrument of *subdivision*, including a remainder lot;
- 3.25 Province** means Her Majesty the Queen in right of the *Province* of Nova Scotia.
- 3.26 Public Road** includes any road owned and maintained by the *Municipality* or the *Province*; and
- a) *Municipal Public Road* means any road owned and maintained by the *Municipality*;
  - b) *Provincial Public Road* means any road owned and maintained by the *Department of Transportation* excluding designated controlled access highways pursuant to *Section 20* of the **Public Highways Act**.
- 3.26 Registry of Deeds** means the office of the Registrar of Deeds for the County of Yarmouth.
- 3.27 Right-of-way** means an easement for a *right-of-way* and access extending to and having access to a *public road* or *water frontage*.
- 3.28 Sanitary Sewer** means a *sewer* receiving and carrying liquid and water carried waste and to which storm, surface and groundwater are not intentionally admitted.
- 3.29 Sewer** means a pipe or conduit for carrying sewage, groundwater or surface runoff, and includes all *sewer drains*, storm sewers, clearwater sewers, storm drain and combined sewers vested in, or under the control of the *Municipality*.
- 3.30 Subdivider** means the owner of the *area of land* proposed to be subdivided and includes anyone acting with the owner's written consent.
- 3.31 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.
- 3.32 Surveyor** means a registered member, in good standing, of the Association of Nova Scotia Land *Surveyors*.
- 3.33 Travel Surface** is the durable surface material laid down on a road or street intended to sustain vehicular or foot traffic as compared to the width of the roadway surface which may include shoulders.
- 3.34 Water Frontage** shall be measured the same as set out in the *Land Use By-law*.
- 3.35 Water System** means the source, structures, pipes, hydrants, meters, devices and related equipment used, or intended to be used, for the collection, transportation, pumping or treatment of water, and which are vested in or under the control of the **Town of Yarmouth Water Utility**.

## Part 4 Procedure for Approval of Plans or Instruments of Subdivision

### 4.1 General

- 4.1.1** Application for approval of a plan or instrument of *subdivision* shall be made to the *Development Officer* in the form specified in Schedule "A" of this By-law.
- 4.1.2** The *Development Officer* shall comply with the notification and approval provisions of the *Act*.
- 4.1.3** A copy of the plan or instrument of *subdivision* shall be forwarded to:
- a) in areas not served by a *municipal sewer*, the *Department of the Environment* to determine compliance with the On-Site Sewage Disposal Systems Regulations except where the *proposed lot*:
    - i) is greater than 9,000 square metres (96,878.4 square feet),
    - ii) has a width of 76 metres (249.3 feet) or more, and
    - iii) the applicant has certified on the application that the *proposed lot* is not intended for a purpose requiring an on-site sewage disposal system.
    - iv) 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 subclause (a); or
- 4.1.4** in areas served by a *municipal sewer* system, the authority having jurisdiction for central sewer.
- 4.1.5** the authority having jurisdiction for *public roads*; and
- 4.1.6** any other agency of the *Province* or the *Municipality* which the *Development Officer* deems necessary.
- 4.1.7** A plan or instrument of *subdivision* that shows a *proposed lot* referred to in *Sections 8.2.5, 9.2.6 or 10.2.2, 11.2.6 or 12.2.7* 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.
- 4.1.8** Any agency which has been forwarded a copy of the plan or instrument of *subdivision* pursuant to *Section 4.1.3* shall forward a written report of their assessments or recommendations to the *Development Officer*.

**4.1.9** Approval of a plan or instrument 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 any other agency of the *Province* or the *Municipality* unless the plan or instrument 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 for lot area and lot *frontage* contained in the *Land Use By-law*.

#### **4.2 Approval of Tentative and Final Plans and Instrument of *Subdivision***

**4.2.1** The *Development Officer* shall:

**4.2.2** Forward a copy of the approved tentative plan of *subdivision* to the applicant and the *surveyor*.

**4.2.3** Forward an endorsed copy of the final plan or instrument of *subdivision* to the applicant and the *surveyor*.

#### **4.3 Refusal to Approve Tentative and Final Plans and Instruments of *Subdivision***

**4.3.1** Where the Development Office refuses to approve a tentative plan, final plan, or instrument of *subdivision*, the *Development Officer* shall:

**4.3.2** notify the applicant pursuant to *Section 277(3)* of the *Act*, give reasons for refusal and advise the applicant of the appeal provisions of *Section 284* of the *Act*; and

**4.3.3** give notice of the refusal to all agencies which were forwarded a plan or instrument of *subdivision* pursuant to *Section 4.1.3*

#### **4.4 Other Conveyances Executed Before Approval of Final Plans or Instruments of *Subdivision***

**4.4.1** A final plan or instrument of *subdivision* showing lots to be approved pursuant to *Section 287(3)* of the *Act* by special note on the final plan or instrument 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*.

## **4.5 Fees**

- 4.5.1** At the time of final application, the *subdivider* shall submit to the *Development Officer* the fees contained in the **Costs and Fees Act** and regulations made thereunder, for
- 4.5.1.1** filing the endorsed final plan of *subdivision* or an amendment to a plan of *subdivision*, and registering a notice of approval of the plan,
  - 4.5.1.2** registering an instrument of *subdivision* or an amendment to an instrument of *subdivision*; or
  - 4.5.1.3** registering a repeal of a plan or instrument of *subdivision*; and
  - 4.5.1.4** applicable processing fees have been paid in accordance with the Fees Policy of the *Municipality* per final application for *subdivision* approval or per application to amend or repeal a plan or instrument of *subdivision* made payable by cheque or money order to the *Municipality* or in a form acceptable to the *Municipality*.
- 4.5.2** Where the *Development Officer* refuses to approve, amend or repeal a final plan or instrument of *subdivision*, the *Development Officer* shall return the fees referred to in *Section 4.5.1* to the *subdivider*.



## Part 5 General Provisions

### 5.1 Lots Frontage and Access Requirements

**5.1.1** In accordance with the zoning provisions established in the *Land Use By-law* lots shall abut and front upon a *public road* or *private road*; or

**5.1.1.1** are to be served by an existing *right-of-way* or where a new *right-of-way* is created, it shall have a minimum width of 20 feet where:

- a) a maximum of one lot is created within an *area of land* which abuts a *public road* or *private road*; or
- b) a maximum of four lots are created, excluding the remainder, within an *area of land* which does not abut a *public road* or *private road*. If a fifth lot is proposed to be created then all lots must have access by a *public road* or a *private road* constructed within the specifications in this By-law and the *Manual*.

**5.1.1.2** For Lots created under *Section 5.1.1.1* the *Subdivider* shall include restrictive covenants which benefit and burden each Lot comprising part of the *Subdivision* and which shall include that the owner of each Lot is to become a member of a Homeowner's Association and to abide by its' by-laws if the *subdivision* fronts upon a *private road*.

**5.1.1.3** have *water frontage* of a minimum width of 20 feet or are served by a *right-of-way* of a minimum width of 20 feet to *water frontage* where:

- a) a maximum of two lots are created, both approved or one approved and one a remainder, within an *area of land* which is landlocked and the lots are not to be accessed other than by water; or
- b) the lots are created on an island that does not contain public roads, *private roads* or rights-of-way.

**5.5.1.4** the lots abut and front upon the Breakwater Wharf Road in the Residential Hamlet (RH) Zone in the Hamlet of Port Maitland.

**5.1.2** For the purpose of Clauses 5.1.1.1 (a) and (b), "*area of land*" means any lot or parcel described by its boundaries as they existed on April 1, 1987 whether or not there has been any alteration to said boundaries subsequent to the aforementioned date.

## 5.2 Minimum Lot Requirements

5.2.1 All lots shall meet the applicable dimensions for minimum lot area and lot *frontage* contained in the *Land Use By-law* except as required by *Section 12.2.1* of this By-law.

## 5.3 Lots Deemed to Meet Minimum Lot Area Requirements

5.3.1 Notwithstanding the minimum lot area requirements of any zone excluding the Lake George Watershed (LGW) and Rural Development (RD) Zones (Part (20) and (13) respectively of the *Land Use By-Law*), the *Development Officer* may approve a final plan of *subdivision*, where an authorized person of the *Department of the Environment* has assessed the *proposed lots* shown on a final plan of *subdivision* and approved such lots for the installation of on-site sewage disposal systems, such lots shall be deemed to meet the lot area requirements contained in the *Land Use By-law*.

## 5.4 Relaxation of Minimum Lot Area and *Frontage* Requirements

5.4.1 Notwithstanding *Section 5.2*, the *Development Officer* may approve a maximum of two lots, shown on a final plan of *subdivision*, in accordance with *Section 279* of the *Act*, having:

- a) areas or frontages or both not less than 90 percent of the minimum required by the *Land Use By-law* provided the lots are served by a *municipal sewer*; or
- b) frontages not less than 90 percent of the minimum lot *frontage* required by the *Land Use By-law* provided the lots are served by on-site sewage disposal systems; and
- c) provided, in all cases, that all other requirements of this By-law are met.

## 5.5 Lots for Special Uses

5.5.1 The *Development Officer* may approve a final plan of *subdivision* for a lot which is a maximum of 5,005 square feet in area for a special use permitted by the *Land Use By-law*, provided the lot does not contain an existing on-site sewage disposal system or is not to be connected to *municipal sewer*.

## 5.6 Lot Boundary Alterations

5.6.1 Notwithstanding *Sections 5.1 and 5.2*, the *Development Officer* may approve a final plan of *subdivision* altering the boundaries of two or more areas of land where:

- a) no additional lots are created; and
- b) each lot meets the minimum dimension for lot *frontage* as required by the *Land Use By-law* or has not had its *frontage*, if any, reduced; and

- c) each lot meets the minimum dimension for lot area as required by the *Land Use By-law* or has not had its area reduced.

**5.6.2** Where the *proposed lot* is not surveyed, the final plan of *subdivision* prepared pursuant to *Section 5.6.1* shall:

- a) be certified and stamped by a Nova Scotia Land *Surveyor* that the boundaries of the parcel 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;
- b) notwithstanding *Section 11.2.2*, other than the new boundaries which have been surveyed pursuant to Clause (a), show the remaining boundaries of the resulting lot for which approval is requested described graphically as a lighter solid line; and
- c) have the following notation, complete and signed by the *surveyor*, affixed to the plan adjacent to the certification required by the Nova Scotia Land *Surveyors Act* and regulations made under the *Act*:

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.

## **5.7 Encroachment Conditions**

**5.7.1** Notwithstanding *Sections 5.2* where a development component of a permanent nature such as a building, structure, well, on-site sewage disposal system or drive-way 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.

**5.7.2** Where a lot created pursuant to this *Section* is not surveyed, the provisions of *Section 5.6.2* shall apply.

## **5.8 Two or More Main Buildings**

**5.8.1** Notwithstanding *Section 5.2*, where an *area of land* contains more than one main building built or placed on the land prior to November 9, 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:

- a) each lot containing a main building shall have the approval of the Department of Environment; or
- b) where required, each lot containing a main building shall be served by a *municipal sewer*; and
- c) each lot containing a main building shall, as close as is practicable, comply with the minimum lot *frontage* requirements of the *Land Use By-law*; and
- d) the common lot line or lines between lots containing a main building shall, as close as is practicable, comply with the minimum yard requirements of the *Land Use By-law*.

## 5.9 Minimum Lot Width and Depth

**5.9.1** Lots shall not be subdivided to create a width or depth of less than 20 feet.

**5.9.2** Notwithstanding *Section 5.9.1*, *Flag lots* must meet the following requirements:

- a) Where the main body of the *flag lot* is 100 m (328 feet) or less from the *public road* the minimum *frontage* and the width of the pole for its entire length shall be 6.1m (20 feet); or
- b) Where the main body of the *flag lot* is more than 100 m (328 feet) from the *public road* the minimum *frontage* and the width of the pole for its entire length shall be 12.2m (40 feet).

## Part 6 Public and Private Roads

### 6.1 Public Roads

- 6.1.1** All proposed municipal *public roads* shall be shown on a final plan of *subdivision*, paved in accordance with the *Manual*, and shall be approved by the municipal *engineer*.
- 6.1.2** All proposed municipal *public roads* shown on a final plan of *subdivision* approved in accordance with *Section 6.1.1* shall be designed and constructed in accordance with the *Manual* and the deed accepted by the *Municipality* prior to the endorsement of approval on a final plan of *subdivision* by the *Development Officer*.
- 6.1.3** The minimum width of the *right-of-way* of a proposed municipal *public road* shown on a plan of *subdivision* shall be 66 feet unless a lesser width is accepted pursuant to *Section 17.1*.
- 6.1.4** Where a proposed municipal *public road* intersects a provincial *public road*, that intersection shall be approved by the *Department of Transportation*.
- 6.1.5** All *proposed lots* which abut a *public road* shall have an access point to the *public road* which meets the stopping sight requirements of the *Department of Transportation*. Where lots abut:
- a) a provincial *public road*, access shall be approved by the *Department of Transportation*
  - b) a municipal *public road*, the *subdivider* shall provide the municipal *engineer* with written certification that access meets the requirements of the *Department of Transportation*.
  - c) Where a plan or instrument of *subdivision* shows a *proposed lot* abutting an existing *public road*, the authority having jurisdiction shall verify that the road is a *public road*.

### 6.2 Private Roads

#### 6.2.1 Application

- 6.2.1.1** This *Section* shall only apply to a *Subdivision* containing five (5) or more Lots fronting upon a *Private Road*, excluding the lot for the *private road*.

#### 6.2.2 Design Considerations

- 6.2.2.1** 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.

**6.2.2.2** No part of a *private road* shall be included in the calculation of lot area for the purposes of meeting the lot area requirements.

**6.2.2.3** The intersection of a *private road* with a *public road* shall be approved by the authority having jurisdiction over the *public road*.

### **6.2.3 Specifications for Private Roads**

**6.2.3.1** Where an Owner presents a plan of *Subdivision* to a *Development Officer* which proposes to create 5 or more Building Lots without *Public Road frontage*, or where such Owner proposes to create a Lot or Lots fronting upon a *Private Road* where four (4) or more Building Lots already front upon such *Private Road*, the *Private Road* and any extension thereof shall be built to meet the requirements of the *Manual* and this By-law prior to approval being granted.

### **6.2.4 Configuration of Private Roads**

**6.2.4.1** Private Roads to be created pursuant to this *Section* shall be created and mapped as a separate Lot from the Building Lots. A *private road* shall be approved as a separate lot and is deemed to meet minimum lot area and lot *frontage* requirements of *Section 5.2*.

**6.2.4.2** Where an Owner proposes to extend a *Private Road*, such extension shall be consolidated with the existing *Private Road* Lot.

### **6.2.5 Creation of Homeowners' Associations**

**6.2.5.1** For Subdivisions under which this *Section* applies, the Owner shall create a Homeowners' Association which includes the Owner and any property owner of a Lot fronting upon the *Private Road* as members.

**6.2.5.2** The Homeowners' Association's by-laws shall provide for each lot fronting upon the *Private Road* to receive one vote and that decisions pertaining to the *Private Road* are to be made by simple majority vote.

**6.2.5.3** The Owner may act as President of the Homeowners' Association until the *Private Road* is transferred to Such Homeowners' Association in accordance with this *Section*.

**6.2.5.4** Where the Owner proposes to create a *Subdivision* under which this Part applies and there are an insufficient number of Lot owners to create a Homeowners' Association along with the Owner in accordance with the *Societies Act*, the Owner shall post a performance bond or certified cheque in the amount of \$5000 which shall not be released until the Homeowners' Association is created and shall be forfeited should the Owner fail to create the association within two (2) years following *Subdivision* approval.

## **6.2.6 Control and Transfer**

**6.2.6.1** For Subdivisions under which this *Section* applies, the Owner shall create restrictive covenants which benefit and burden each *Lot* comprising part of the *Subdivision* and which shall say:

- a) You covenant to join any owner's association incorporated to manage the road;  
and
- b) You covenant to abide by the by-laws and rules of the lot owner's association.

**6.2.6.2** The Owner shall hold title to the *Private Road* until 50% of the Lots fronting upon the *Private road* are sold, at which time they shall transfer title of the *Private Road* to the applicable Homeowners' Association for \$1.00.

**6.2.6.3** In the event a *Subdivider* proposes to extend a *Private Road* or create a new *Subdivision* phase, such extension of the *Private Road* shall be transferred to the applicable Homeowners' Association for \$1.00 and consolidated with the existing *Private Road* Lot.

**6.2.6.4** All proposed *private roads* or extensions to existing *private roads* shall be shown on a final plan of *subdivision* and shall comply with the design specifications of and construction specifications of the *Manual* and the *private road* provisions contained in the *Land Use By-Law* prior to the endorsement of approval of a final plan of *subdivision* by the *Development Officer*.

## **6.2.7 Intersections**

**6.2.7.1** There shall not be more than four *public road* or *private road* approaches or any combination thereof in an intersection.

## **6.2.8 Adjoining Subdivision**

**6.2.8.1** Where a *public road* in an adjoining *subdivision* abuts the boundaries of a plan of *subdivision* submitted for approval, a *public road* in the latter shall, if reasonably feasible, be laid out in prolongation of such *public road* unless it would be in violation of this By-law.

**6.2.8.2** Where a *private road* in an adjoining *subdivision* abuts the boundaries of a plan of *subdivision* which is to be served by a *private road* submitted for approval, the *private road* in the latter shall, if reasonably feasible, be laid out in prolongation of such *private road* unless it would be in violation of this By-law.

## **6.2.9 Side Lot Lines at Right Angles**

**6.2.9.1** Wherever possible, side *lot lines* shall be substantially at right angles to a *public road* or *private road*, or radial to a curved *public road* or *private road*.

## **6.2.10 Continuous Rear Lot Lines**

**6.2.10.1** Wherever possible, the rear of a series of adjoining lots shall be continuous, not stepped or jogged.

## **6.2.11 Private Roads – Construction**

**6.2.11.1** All proposed private roads shall be:

- a) shown on a final plan of *subdivision*;
- b) designed in accordance with the design requirements for proposed municipal local/private roads as contained in the *Manual* and the requirements of this *Section*, and the design approved by the *Engineer*; and
- c) constructed in accordance with the following requirements:
  - i.) roots, stumps, moss, sod, and all other organic material shall not be placed roadway fills or allowed to remain under roadway fills;
  - ii.) notwithstanding subsection (i.), 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;
  - iii.) the minimum road surface top width shall be 7.3 metres (23.95 feet) and shall be contained entirely within the *right-of-way*;
  - iv.) the minimum *travel surface* width shall be 5.5 metres (18.04 feet);
  - v.) the *travel surface* shall have a base course of crushed, screened, or pit run gravel to a minimum thickness of 250 mm (10 inches);
  - vi.) the maximum road grade shall be ten percent (10%), however, in difficult circumstances grades up to twelve percent (12%) may be approved;
  - vii.) ditches shall have a maximum road slope and a maximum backslope of 2:1;
  - viii.) culverts shall be constructed of corrugated steel, concrete pipe, or dual walled corrugated HDPE and shall have a minimum diameter of 450mm (18 inches), shall be buried a minimum of 450mm (18 inches) below the road surface, and shall be placed substantially at 90 degrees to the roadway centerline;
  - ix.) all bridges shall be certified as having been constructed to Canadian Standards Association specifications "CAN/CSA-S6-00 Canadian Highway Bridge Design Code"; and



- x.) 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.
- 6.2.11.2** The intersection of a *private road* with a public street shall be approved by the authority having jurisdiction for the public street.
- 6.2.11.3** The minimum width of the *right-of-way* of a proposed *private road* shown on a plan of *subdivision* shall be:
- a) 20 metres (65.62 feet); or
  - b) 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*.
- 6.2.11.4** 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 6.2.11*. All submitted documents must be reviewed and approved by the Municipality's *Engineer*
- 6.2.11.5** The specifications referred to in *Section 6.2.11* may be waived or varied by the *Engineer* in accordance with accepted engineering practice.
- 6.2.11.6** A *private road* shall 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).
- 6.2.11.7** (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.
- 6.2.11.8** (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 this By-law.

## Part 7 Parkland Dedication

### 7.1 Parkland Dedication

**7.1.1** Prior to approval by the *Development Officer* of the final plan of *subdivision*, the *subdivider* shall, on the recommendation of the *Development Officer*, where the *Council* agrees:

- a) transfer to the *Municipality*, in fee simple and 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 land* as shown on the final plan of *subdivision*, exclusive of streets, easements, and the residual 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 the Property Value Services Corporation (PVSC), 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) provide to the *Municipality* equivalent value, in any combination as determined by the *Municipality*; or
- d) 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.

**7.1.2** Useable land shall be defined as land that:

- a) is not swampland or subject to flooding;
- b) is not a clearing and grubbing disposal area;
- c) is not an electrical transmission corridor;
- d) where applicable, is able to meet the requirements for lot area and lot *frontage* contained in the *Land Use By-law*; and
- e) be capable of use for :
  - i.) passive recreational purposes such as walking trails or passive park areas; or
  - ii.) active recreational purposes such as playing fields or playgrounds.

**7.1.3** Useable land criteria may be waived

- a) The criteria in subsection 7.1.2 (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 archaeological 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 Lake George Watershed.

#### **7.1.4 Land to be accessible**

- a) Any land to be conveyed to the *Municipality* other than that meeting the requirements of *Section 3* shall be accessible by a public street or *private road* or by a public easement a minimum of 20.1 metres (66 feet) in width and providing a connection to a *public road*.

#### **7.1.5 Parkland not required**

- a) Notwithstanding the above the *Development Officer* may approve a plan of *subdivision* without the requirement for Parkland or the equivalent where:
  - i. *Lot* boundaries are changed but no additional lots are created; or
  - ii. Lots or parcels are consolidated but no additional lots are created;

#### **7.1.6 Bond**

- 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.

#### **7.1.7 Agreement**

- a.) Where *Council* approves the use of a bond or other security 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.

## Part 8 Preliminary Plans of *Subdivision* (Optional)

### 8.1 Procedure

**8.1.1** The procedure for processing preliminary plans of *subdivision* is contained in Part 4 of this By-law.

### 8.2 Plan Requirements

**8.2.1** The person proposing to subdivide an *area of land* may submit to the *Development Officer* 4 copies of the preliminary plan of *Subdivision* drawn to scale showing the following:

- a.) the name of the owner of the *area of land* being subdivided;
- b.) the names of all owners of all properties abutting the *area of land* being subdivided;
- c.) the unique Parcel Identifier (PID) of areas of land being subdivided;
- d.) the civic number of main buildings on the *area of land* being subdivided;
- e.) a location plan showing the approximate distance between the *area of land* being subdivided and the nearest prominent landmark;
- f.) the shape, dimensions and area of the *proposed lots*;
- g.) 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;
- h.) no duplication of *lot* identifiers;
- i.) the approximate location of railway easements;
- j.) the location of existing and proposed *public roads* and private roads;
- k.) the name of existing and proposed *public roads* (and the *public road* number) and private roads as approved by the *Municipality*;
- l.) the graphic representation of *proposed lots* shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidate or both, shown as broken lines;
- m.) the location of existing buildings within 15 metres (49.2 feet) of a property line;
- n.) the general location of watercourses and wetlands;
- o.) the north point;
- p.) the scale;
- q.) any other information necessary to determine whether the *subdivision* conforms to this By-law.

**8.2.2** Where a preliminary plan of *subdivision* is to be forwarded to the Department of Environment pursuant to *Section 4.1.3*, the information listed in *Section 8.2.3* is required for the following *proposed lots*:

- a) a *proposed lot* which is being created for a purpose that will require the construction of an on-site sewage disposal system; or
- b) a *proposed lot* being divided from an existing *area of land*, contains an on-site sewage disposal system; and
  - i.) is 9000 square metres (96,878.4 square feet) or less in area; or
  - ii.) has a width of less than 76 metres (249.3 feet).

**8.2.3** Unless the information already has been submitted to the Department of Environment, the following additional information is required for *proposed lots* referred to in *Section 8.2.2*:

- a) the *lot* layout including any proposed building, on-site sewage disposal system, driveway and water well;
- b) 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;
- c) the surface slopes and directions;
- d) the location of any test pit;
- e) the proposed on-site sewage disposal system, selected or designed;
- f) an explanation of the extent, volume and type of usage to which the on-site sewage disposal system will be subjected;
- g) 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; and
- h) any other information necessary to determine whether the *subdivision* meets the On-Site Sewage Disposal Systems Regulations;

**8.2.4** For the *proposed lot* that is being divided from an existing *area of land* containing an existing on-site sewage disposal system and is more than 9000 square metres (96,878.4 square feet) in area with a width of 76 metres (249.3 feet) or more, the *lot* layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

**8.2.5** For the *proposed lot* 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 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 in the form specified in Schedule "A" must be

completed.

## Part 9 Concept Plans

### 9.1 Procedure

**9.1.1** The procedure for processing concept plans is contained in Part 4 of this By-law.

### 9.2 Plan Requirements

**9.2.2** Where an *area of land* is being subdivided in phases, and/or will contain new public or private roads, a person shall submit to the *development officer* eight (8) copies of a concept plan of the entire *area of land*, the boundaries of which shall be certified by a *Surveyor*.

**9.2.3** 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;
- b) name of property owner(s) and name of all abutting land owners;
- c) the proposed internal street system with connections to existing streets;
- d) the proposed location of all proposed land uses including areas for development, public open space and, if applicable, the residual land not proposed for development;
- e) the shape, dimension, and area of all *proposed lots*;
- f) the location of existing development, if any;
- g) the location of any municipal service boundary;
- h) the north point;
- i) contours at 5 metres (16.4 foot) intervals;
- j) general location of geographic features such as watercourses and wetland;
- k) the scale at which the concept plan is drawn;
- l) any other information necessary to determine if the *subdivision* meets with municipal standards and accepted engineering practice as determined by *Development Officer* and/or the *Municipal Engineer*.

**9.2.4** Application for approval of a concept plan shall be made to the *development officer* in the form specified in Schedule "A" of these regulations.

**9.2.5** The *development officer* shall comply with the notification and approval provisions of the *Act*.

**9.2.6** The *development officer* may forward the concept plan and any supplementary information to appropriate agencies, including but not limited to the *Engineer*, the *Planner*, the *Recreation Director*, the *Fire Chief*, the *Traffic Authority*, and the adjoining *Municipality*, 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) street layout, pedestrian routes, and connections with existing and proposed transportation links on a local and regional scale;
- c) where applicable, the feasibility of servicing with required services, and the effect of the layout on the provision of future services;
- d) public open space; and
- e) any proposed community and commercial uses.
- f) in areas not served by a *municipal sewer*, the *Department of the Environment* shall determine if the lots are generally appropriate to meet the On-site Sewage Disposal Regulations except where the *proposed lot*:
  - i. is greater than 9,000 square metres (96,878.4 square feet);
  - ii. has a width of 76 metres (249.3 feet) or more;
  - iii. the applicant has certified on the application that the *proposed lot* is not intended for a purpose requiring an on-site sewage disposal system;
  - iv. 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 subclause (i);

**9.2.7** Any agency which has been forwarded a copy of the concept plan pursuant to *Section 4.3.1* shall forward a written report of their assessments or recommendations to the *development officer*.

**9.2.8** Approval of a concept plan may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment, the Department of Transportation and Infrastructure Renewal or of any other agency of the *Province* or the *municipality* unless the concept plan is clearly contrary to a law of the *Province* or regulation made pursuant to a law of the *Province*.

**9.2.9** Where the *development officer* refuses to approve a concept plan, the *development officer* shall give notice of the refusal to all agencies which were forwarded a concept plan pursuant to *Section 4.1.3*.

**9.2.10** Where the *development officer* refuses to approve a concept plan, the *development officer* shall inform the applicant of the reasons for the refusal in writing and advise the applicant of the appeal provisions of *Section 284* of the *Act*.

**9.2.11** 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."
- 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*."

**9.2.12** The *development officer* shall forward an approved copy of the concept plan to the applicant.

## Part 10 Tentative Plans of *Subdivision*

### 10.1 Procedure

**10.1.1** The procedure for processing tentative plans of *subdivision* is contained in Part 4 of this By-law.

### 10.2 Plan Requirements

**10.2.1** The person proposing to subdivide an *area of land* shall submit to the *Development Officer* 8 copies of the tentative plan of the proposed *subdivision* meeting the requirements of *Sections 10.2.3 through 10.2.8* inclusive of this By-law.

**10.2.2** Notwithstanding *Section 10.2.1*, the *Development Officer* may waive the requirement that a tentative application and plan of *subdivision* be submitted, where:

- a) lots abut an existing *public road* or an existing *private road*, except where lots are created without *frontage* pursuant to *Section 5.1, 5.7, and 5.8*;
- b) a *sanitary sewer* is not being installed; and
- c) all lots to be served by on-site sewage disposal systems
  - i. are 9,000 square metres (96,878.4 square feet) or more in area; or
  - ii. have been evaluated by an authorized person of the *Department of the Environment* and the *Development Officer* has been informed in writing by the authorized person that the information already provided by the *subdivider* is satisfactory.

**10.2.3** Tentative plans of *subdivision* submitted to the *Development Officer* shall be:

- a) drawn to a scale or scales sufficient for clarity all particulars on the tentative plan of *subdivision*;
- b) based on a description of the *area of land* to be subdivided, preferably but not necessarily as surveyed; and
- c) folded to approximately 20 x 20 cm (8 x 12 in.) 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*

**10.2.4** Tentative plans of *subdivision* shall show the following:

- a) the words "PLAN OF *SUBDIVISION*" located in the title block;
- b) the words "TENTATIVE PLAN" located above in the title block;
- c) a clear space for stamping being a minimum of 225 centimetres square (36 square inches) with a minimum width of 8 centimetres (3 inches);



- d) the name of the *subdivision*, if any, and the name of the owner of the *area of land*;
- e) 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*;
- f) the unique Parcel Identifier (PID) of all areas of land being subdivided;
- g) the civic number of main buildings on the *area of land* being subdivided;
- h) the names of all owners or the identifiers of all properties abutting the proposed *subdivision*;
- i) 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;
- j) the shape, dimensions, and area of the *proposed lots*;
- k) 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;
- l) no duplication of *lot* identifiers;
- m) the boundaries of *proposed lots* shown by solid lines, and the vanishing boundaries of existing *area of land* being resubdivided, consolidated or both, shown as broken lines;
- n) the location of existing buildings within 15 metres (49.2 feet) of a property boundary;
- o) the location of existing and proposed *public roads* and private roads;
- p) the name of the existing and proposed *public roads* (and the *public road* number) and private roads as approved by the *Municipality*;
- q) the width and location of railway easements;
- r) the general location of any watercourse, wetland or prominent rock formation;
- s) the width, location, and nature of any easements on or affecting the *area of land* proposed to be subdivided;
- t) where applicable, a notation stating the lots are serviced by a *municipal sewer and/or water system*;
- u) the north point;
- v) the date on which the plan of *subdivision* was drawn and the date of any revisions;
- w) the scale to which the plan of *subdivision* is drawn, and
- x) any other information necessary to determine whether or not the tentative plan of *subdivision* conforms to this By-law.

**10.2.5** Where a tentative plan of *subdivision* is to be forwarded to the Department of Environment pursuant to *Section 4.1.3*, the information listed in *Section 10.2.6* is required for the following *proposed lots*:

- a) a *proposed lot* which is being created for a purpose that will require construction of an on-site sewage disposal system; or
- b) a *proposed lot* being divided from an existing *area of land*, containing an on-site sewage disposal system; and
  - i. is 9000 square metres (96,878.4 square inch) or less in area; or
  - ii. has width of less than 76 metres (249.3 feet).

**10.2.6** Unless the information already has been submitted to the Department of Environment, the following additional information is required for *proposed lots* referred to in *Section 10.2.5*:

- a) the *lot* layout including any proposed building, on-site sewage disposal system, driveway and water well;
- b) 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 easements;
- c) the surface slopes and directions;
- d) the location of any test pit;
- e) the proposed on-site sewage disposal system, selected or designed;
- f) an explanation of the extent, volume and type of usage to which the on-site sewage disposal system will be subjected;
- g) 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; and
- h) any other information necessary to determine whether the *subdivision* meets the **On-Site Sewage Disposal Systems Regulations**;

**10.2.7** For the *proposed lot* that is being divided from an existing *area of land*, containing an existing on-site sewage disposal system and is more than 9000 square metres (96,878.4 square feet) in area with a width of 76 metres (249.3 feet) or more, the *lot* layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

**10.2.8** For the *proposed lot* 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 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 in the form specified in Schedule "A" must be completed.

**10.2.9** In addition to meeting the requirement of *Section 10.2.3 through 10.2.8* where the *proposed lots* front on a proposed *public road* 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 **Nova Scotia Land Surveyors Act** and the Regulations made thereunder,
- b) be accompanied by 4 copies of a plan showing:
  - i. contours at 2 metres or 5 foot intervals, and drainage patterns only in the case of proposed *public roads*;
  - ii. the width and location of proposed *public roads* or private roads and their intersection with existing *public roads* or private roads; and
  - iii. the location, size, type of material used of existing *municipal sewer and/or water system* and any proposed *sanitary sewer and/or water systems* including a plan view at a scale of 1:500 (1"=40') or 1:200 (1"=20') and a profile view to a vertical scale in the ratio of vertical to horizontal of 1:10.
- c) be accompanied by 2 copies of centerline profiles of proposed *public roads* together with the necessary cross sections; and
- d) 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*.

**10.2.10** For a *proposed lot* that will have access to a *public road*, the tentative plan of *subdivision* may be accompanied by or show stopping sight distances information in the form specified in Schedule "G1" completed by a Nova Scotia Land Surveyor.

**10.2.11** 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 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 endorsed by the *Development Officer* and filed in the *Registry of Deeds*."

## Part 11 Final Plans of *Subdivision*

### 11.1 Procedure

11.1.1 The procedure for processing final plans of *subdivision* is contained in Part 4 of this By-law.

### 11.2 Plan Requirements

11.2.1 The *subdivider* proposing to subdivide an *area of land* shall submit to the *Development Officer* 12 copies of the final plan of *subdivision* meeting the requirements of this By-law.

11.2.2 Final plans of *subdivision* submitted to the *Development Officer* shall be:

- a) Drawn to a scale or scales sufficient for clarity of all particulars of the final plan of *subdivision*;
- b) certified and stamped by a Nova Scotia *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 their regulations, except for a final plan of *subdivision* prepared pursuant to *Sections 5.6* and *5.7* of this By-law.

11.2.3 Before approving a final plan of *subdivision* that adds or consolidates parcels or areas of land in different ownership the *Development Officer* shall have received:

- 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 pursuant to Part V of the **Act**.

11.2.4 A final plan of *subdivision* shall meet the requirements of *Section 10.2.4* through *10.2.6* inclusive except that:

- a) clause *10.2.4 b)* does not apply,
- b) proposed *public roads* or private roads shall be surveyed, and
- c) the geographical and mathematical location of all buildings within 15 metres (49.2 feet) of a proposed boundary shall be shown.

11.2.5 For a *proposed lot* that is being divided from an existing *area of land*, containing an existing on-site sewage disposal system and is more than 9000 square metres (96,878.4 square feet) in area with a width of 76 metres (249.3 feet) or more, the *lot* layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

**11.2.6** For a *proposed lot* 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 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 in the form specified in Schedule "A" must be completed.

**11.2.7** For a *proposed lot* that will have access to a *public road*, the final plan of *subdivision* may be accompanied by or show stopping sight distances information in the form specified in Schedule "G1" completed by a Nova Scotia Land Surveyor.

**11.2.8** 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.

**11.2.9** Final plans of *subdivision* shall be accompanied by a copy of the agreement, entered into between the *Municipality* and the *subdivider* pursuant to *Section 14.2* outlining the terms for the installation of the services.

**11.2.10** The following information shall be stamped or written and completed by the *Development Officer* on any final plan of *subdivision* which is endorsed:

- a) "This final plan of *subdivision* is approved for Lots \_\_\_\_\_";
- b) where applicable:
  - i. "\_\_\_\_\_ (is, are) suitable for the construction or  
(Lot(s) approved and/or remainder)  
installation of an on-site sewage disposal system for \_\_\_\_\_ " and  
(proposed use)  
any conditions 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 purpose which  
(Lot(s) approved and/or remainder)  
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 Environment are met",
  - iii. \_\_\_\_\_ (is, are) served by an existing on-site  
sewage  
(Lot(s) approved and/or remainder)  
disposal 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 road* 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 from the authority having jurisdiction for *public roads*;
- ii. where a *lot* which abuts a *public road* does not have an approved access point along the road, a notation stating that direct access to the road is not permitted; and
- iii. a notation stating which lots abut a *private road* and that no provincial or municipal services shall be provided to these lots.

d) where there are provincial roads which are to be owned and maintained by the *Province*, the words "The following roads and highways are owned and maintained by the *Department of Transportation* and Public Works of the *Province of Nova Scotia*:"

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e) where there are municipal *public roads* which are to be owned and maintained by the *Municipality*, the words "The following roads are owned and maintained by the *Municipality of Yarmouth*:"

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f) where there are private roads, the words "The following roads are private roads and are not entitled to any provincial or municipal services including but not limited to grading, ditching, snowplowing, gravelling, garbage collection or street lighting."

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**11.2.11** Within seven (7) days of approving the final plan of *subdivision*, the *Development Officer* shall forward to the *Registry of Deeds*:

- a) one (1) approved copy 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 11.2.3* of this By-law.

## Part 12 Instrument of *Subdivision*

### 12.1 Procedure

**12.1.1** The procedure for processing an instrument of *subdivision* is contained in Part 4 of this By-law.

### 12.2 Instrument Requirements

**12.2.1** A *subdivider* may subdivide an *area of land* by an instrument of *subdivision* where two or more lots are being consolidated or an existing *lot* is being increased in size;

**12.2.2** All lots created by instrument of *subdivision* are required to be approved.

**12.2.3** Before approving an instrument of *subdivision* that adds or consolidates parcels or areas of land in different ownership the development office shall have received:

- 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, pursuant to Part V of the Act.

**12.2.4** In addition to the application form required by *Section 4.1.1*, the *subdivider* proposing to subdivide an *area of land* by instrument of *subdivision* shall submit to the *Development Officer* a completed instrument of *subdivision* on the form specified in Schedule "E" of this By-law.

**12.2.5** The graphic representation included as part of Schedule "E" shall meet the requirements of *Section 10.2.4 d) to u)* inclusive and *Section 10.2.5 and 10.2.6* of this By-law.

**12.2.6** For a *proposed lot* that is being divided from an existing *area of land* and contains an existing on-site sewage disposal system, the *lot* layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

**12.2.7** For a *proposed lot* 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 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 in the form specified in Schedule "A" must be completed.

**12.2.8** The following information shall be stamped or written and completed by the *Development Officer* on any instrument of *subdivision* which is approved:

a) where applicable:

i. " \_\_\_\_\_ (is, are) suitable for the construction or  
(Lot(s) approved and/or remainder)  
installation of an on-site sewage disposal system for \_\_\_\_\_ and  
(Proposed use)  
any conditions 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 purpose which  
(Lot(s) approved and/or remainder)  
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 Environment are met", or

iii. \_\_\_\_\_ (is, are) served by an existing on-site  
system

(Lot(s) approved and/or remainder)

and should a replacement system become necessary in future, approval of  
the replacement system from the *Department of the Environment* is  
required".

b) where applicable:

i. a notation stating that access to the *public road* as shown has been  
approved for the lots created by this instrument of *subdivision* and  
any conditions which apply are listed on the instrument or are  
contained in a report dated \_\_\_\_\_, available from  
the authority having jurisdiction for *public roads*;

ii. where a *lot* which abuts a *public* or *private road* does not have a safe  
access point along the road, a notation stating that direct access to  
the road is not permitted; and

iii. a notation stating which lots abut a *private road* and that no  
provincial or municipal services shall be provided to these lots.

c) Where there are provincial *public roads* which are to be owned and  
maintained by the *Province*, the words "The following roads and highways  
are owned and maintained by the *Department of Transportation* and Public  
Works of the *Province* of Nova Scotia:

---

d) Where there are municipal *public roads* which are to be owned and  
maintained by the *Municipality*, the words "The following roads are owned  
and maintained by the *Municipality* of Yarmouth:



- 
- 
- e) Where there are private roads, the words "The following roads are private roads and are not entitled to any provincial or municipal services including but not limited to grading, ditching, snowplowing, gravelling, garbage collection or street lighting."
- 
- 

**12.2.9** Within seven (7) days of approving the instrument of *subdivision*, the *Development Officer* shall forward to the *Registry of Deeds*:

- a) one (1) approved copy of the instrument of *subdivision*; and
- b) if applicable, the items required by 9.4 of this By-law.

## **Part 13 Repeal of a Plan or Instrument of *Subdivision***

- 13.1** Where a plan or instrument of *subdivision* has been approved, the approval may be repealed for any or all of the lots created by the plan or instrument of *subdivision*.
- 13.2** Any person requesting a repeal shall submit to the *Development Officer* an application in the form specified in Schedule "C" for a plan or Schedule "F" for an instrument of *subdivision*.
- 13.3** The notification and approval provisions of the *Act* which apply to the approval of a plan or instrument of *subdivision* shall also apply to a repeal.
- 13.4** When the *Development Officer* is satisfied that an application for repeal is complete, the *Development Officer* may forward a copy to any agency which provided an assessment or recommendations on the original plan or instrument of *subdivision*.
- 13.5** 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 or instrument of *subdivision* filed at the *Registry of Deeds* on the same day as the repeal is filed.
- 13.6** Part 5 to 8 inclusive of this By-law do not apply to the repeal of a plan or instrument of *subdivision*.
- 13.7** The *Development Officer* shall forward to the *Registry of Deeds* the repeal in the form specified in Schedule "D" for a plan or Schedule "G" for an instrument of *subdivision*.
- 13.8** The *Development Officer* shall forward a copy of the repeal referred to in *Section 13.7* to
- a) the *subdivider*, and
  - b) any agency which provided an assessment or recommendations on the original plan or instrument of *subdivision*.
- 13.9** At the time of application for the repeal of a *subdivision* the *subdivider* shall submit to the *Development Officer* the fees contained in *Section 4.5*.
- 13.10** Where the *Development Officer* refuses to repeal a *subdivision*, the *Development Officer* shall return the fees referred to in clause 13.9 to the *subdivider*.
- 13.11** Where the *Development Officer* refuses to repeal a *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 13.8*.

## Part 14 Requirements of Subdivider

**14.1** The *subdivider* shall, before endorsement of a final plan of *subdivision* is given by the *Development Officer*:

- a) construct any proposed *public road* in accordance with Part 14 of this By-law.
- b) where applicable, construct and connect to the *municipal sewer*, any proposed sanitary system including collectors and laterals to the boundaries of the *proposed lots* in accordance with Part 16 of this By-law.
- c) where applicable, construct and connect to the *water system*, any proposed *water system* including mains and laterals to the boundaries of the *proposed lots* in accordance with Part 17 of this By-law.
- d) construct any proposed *private road* in accordance with Part 15 of this By-law.

**14.2** Notwithstanding *Section 14.2 a), b) and c)*, the *Development Officer* may endorse approval of a final plan of *subdivision* prior to the construction of a *public road*, a *sanitary sewer* and/or *water system* only where the *subdivider* enters into an *agreement* with the *Council* which states that the *subdivider*:

- a) shall construct the *public road*, *sanitary sewer* and/or *water system* in accordance with the specification of this By-law within a period of time set out in the agreement;
- b) shall convey title of such road, *sanitary sewer* and/or *water system* in fee simple free of all encumbrances to the *Municipality* within a period of time set out in the agreement; and
- c) shall post a performance bond or certified cheque pursuant to Part 15 to assure that the road, *sanitary sewer* and/or *water system* will be constructed in accordance with this By-law.

**14.3** No *public road*, *sanitary sewer* and/or *water system* constructed pursuant to *Sections 14.1* and no *agreement* pursuant to *Section 14.2* shall be entered into with the *Council* prior to the issuance of all required approvals by any authority having jurisdiction.

**14.4** The *subdivider* shall provide to the *Municipality*, prior to acceptance a *public road*, *sanitary sewer* and/or *water system*:

- a) the "as built" reproducible engineering drawings for all *public roads*, *sanitary sewer* and *water systems* which are stamped and signed by a *professional engineer*;
- b) the results of all required test reports;

- c) all operating and procedural manuals for *sanitary sewer* and *water systems*; and
- d) the warranty deeds for all municipal *public roads* and easements associated with *sanitary sewer* and *water systems*.

## Part 15 Performance Bond

- 15.1** Where *Section 14.2* applies, the *subdivider* shall post a performance bond or certified cheque in the amount of one hundred and twenty-five (125) percent of the total estimated cost of constructing the *public road* and installing *sanitary sewer* and/or *water systems*.
- 15.2** The performance bond or certified cheque shall be posted prior to the endorsement of approval of the final plan of *subdivision*.
- a) The *subdivider* shall submit to the *Council* for approval an estimate of the cost of constructing a municipal *public road*, installing *sanitary sewer* and/or *water system*.
  - b) The *Council*, on the advice of the municipal *engineer*, may revise the estimate if the estimate is, in the opinion of the municipal *engineer*, inadequate and shall advise the *subdivider* of the effect upon the amount of the performance bond or certified cheque.
  - c) The *subdivider* may require *Council* to submit the revised estimate to arbitration in accordance with the provisions of the Arbitration Act.
- 15.3** The performance bond or certified cheque shall be in favour of the *Municipality*, duly executed by the *subdivider* and issued by a Surety Company authorized by law to carry on business in the *Province* of Nova Scotia, conditioned on the execution and completion of the *agreement* in accordance with the terms of the agreement, and with the provisions of this By-law and shall not be subject to cancellation, termination or expiration during the period of time required for the completion of the work.
- 15.4** Construction of the *public road* and the installation of *sanitary sewer* and/or *water systems* shall commence within twelve (12) months of the date of the endorsement of approval of the final plan of *subdivision* by the *Development Officer*, and shall be completed in accordance with the *agreement* of *Section 14.2* or the performance bond or certified cheque shall be forfeited.

## Part 16 Maintenance Bond

- 16.1** After completion of the *public road, sanitary sewer and/or water systems* and prior to acceptance by the *Municipality* the *subdivider* shall post a maintenance bond in the amount of ten (10) percent of the actual cost of constructing the *public road* and the installation of *sanitary sewer and/or water systems* to safeguard the road and systems for a period of two years.

## Part 17 Municipal Public Road Specifications

### 17.1 Design

**17.1.1** All Municipal *public roads* shall be designed in accordance with the *Manual*.

**17.1.2** Notwithstanding *Section 17.1.1*, where *Council* accepts road construction to a reduced standard, *Council* may, upon the recommendation of the municipal *engineer*, accept a *right-of-way* width of less than 66 feet provided:

- a) that the *right-of-way* width is not less than 50 feet; and
- b) that the *right-of-way* width is sufficient to contain road slopes, ditches and back slopes.

### 17.2 Construction

**17.2.1** All Municipal *public roads* shall be constructed in accordance with Specifications in the *Manual*.

## Part 18 Private Road Specifications

### 18.1 Design

**18.1.1** The *right-of-way* width for the *private road* shall be as in the *Manual* and in this By-law.

### 18.2 Construction

**18.2.1** A two-way *travel surface* shall be provided as in the *Manual* and in this By-law.

**18.2.2** The *Development Officer* of the *Municipality* shall inspect the *travel surface* for the width requirement prior to the approval of the final plans of *subdivision*.

## Part 19 Sewer Specifications

### 19.1 Design Criteria

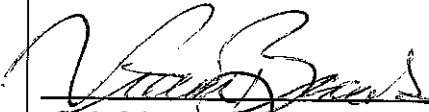

**19.1.1** Where the proposed *sanitary sewer* forms or may form part of a continuing system to provide *municipal sewer* to surrounding areas, the proposed sanitary system shall:

- a) be installed wholly within the limits of a *public road right-of-way* or some other parcel of land abutting the *public road right-of-way*, title to which shall be transferred to the *Municipality*; and
- b) be designed and constructed in accordance with the *Manual*.

## Part 20 Water System Specifications

### 20.1 Design Criteria

**20.1.1** Where the proposed *water system* forms or may form part of a continuing network to provide water services to surrounding areas, the proposed *water system* shall be installed wholly within the limits of a *public road right-of-way* or some other parcel of land abutting the *public road right-of-way*, title to which shall be transferred to the *municipality*; and the waterline sizes shall be designed as required in the *Manual* and the Town of Yarmouth Water Utility.

Chief Administrative Officer's Annotation for Official By-Law Book	
Date of First Reading	March 24, 2021
Date of Advertisement of Notice of Intent to Consider	April 7, 2021
Date of Second Reading	April 28, 2021
Date of Advertisement of Passage of By-law	June 23, 2021
Date of Mailing to Minister a Certified Copy of By-law	May 5, 2021
I certify that this Subdivision By-Law S-0180-20 was adopted by Council and published as indicated above.	
 _____ Chief Administrative Officer	 _____ Date

**Date last reviewed by Council: April 28, 2021**

**Date last amended: April 28, 2021**

**Schedule "A"**  
**Municipality of Yarmouth**  
**Application for Subdivision Approval**

For Office Use Only File No: _____	Land Registry Yes _____ No _____	Office of the Development Officer/Building Inspector 932 Highway 1, Hebron, NS, B5A 5Z5 Phone: 902-742-9691 Fax: 902-742-7557 E-Mail: dev@district.yarmouth.ns.ca
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**Subdivider Related Information**

Name of land owner(s) \_\_\_\_\_

Address of land owner(s) \_\_\_\_\_

Postal Code \_\_\_\_\_ Phone \_\_\_\_\_

Subdivision name (if different from owner) \_\_\_\_\_

Documents to be returned to \_\_\_\_\_

Correspondence to be directed to \_\_\_\_\_

**Land to be subdivided**

Location \_\_\_\_\_ Municipality \_\_\_\_\_

Parcel Identifier(s) \_\_\_\_\_

Type of Application      \_\_\_ Preliminary (Optional)      \_\_\_ Tentative (Optional)      \_\_\_ Final      \_\_\_ Instrument

Fees attached      \_\_\_ yes      \_\_\_ no

Approval requested for lot(s) # \_\_\_\_\_

Approval requested from Department of Environment      \_\_\_ yes      \_\_\_ no

Is there a remainder lot?      \_\_\_ yes      \_\_\_ no

Type of Development Proposed      \_\_\_ Single unit dwelling      \_\_\_ Other (specify) \_\_\_\_\_

(This applies to all proposed lots including remainder lots)

**Certification On-Site system not required (unserviced areas)**

I certify that \_\_\_\_\_ (is, are) being created for a purpose  
Lots being approved under remainder      (Specify purpose)

That will not require the installation of an on-site sewage disposal system.

Signature \_\_\_\_\_

<b>Water Services</b>	<b>Sewer Services</b>	<b>Access</b>
		Existing    Proposed
Existing Proposed Municipal System      ___      ___	Existing Proposed Municipal System      ___      ___	Municipal Public Street      ___      ___
Drilled Well      ___      ___	On-Site      ___      ___	Provincial Public Street      ___      ___
Dug Well      ___      ___	Other (Specify) _____	Private Road      ___      ___
Other (Specify) _____		Other (Specify) _____

I certify that I am the owner or am acting with the owner

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_



**Schedule "B"**

**NOTICE OF APPROVAL OF PLAN OF SUBDIVISION IN ACCORDANCE WITH SECTION 285  
OF THE MUNICIPAL GOVERNMENT ACT**

Name of Owner(s): \_\_\_\_\_

Name of Subdivision \_\_\_\_\_

Location: \_\_\_\_\_

Date of Approval: \_\_\_\_\_ For Lot(s): \_\_\_\_\_

Surveyor: \_\_\_\_\_ Date of Plan: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Development Officer

Plan of Subdivision filed in the registry of deed as Plan # \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

1. The lots' 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 private road.

**Schedule "C"**

**APPLICATION FOR REPEAL OF A PLAN OF SUBDIVISION**

File No. \_\_\_\_\_

**APPLICANT RELATED 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 RELATED TO THE APPROVED PLAN OF SUBDIVISION SOUGHT TO BE REPEALED**

Name of applicant for subdivision approval \_\_\_\_\_

Location \_\_\_\_\_ Municipality \_\_\_\_\_

The Plan of Subdivision was approved on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and is filed

In the Registry of Deeds at \_\_\_\_\_ in the Municipality of the District of \_\_\_\_\_

as Plan # \_\_\_\_\_.

Lot(s) \_\_\_\_\_ was/were approved.

Registration fee submitted

**CERTIFICATION OF FACTS**

(Reasons For Repeal)

(If more space 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 Plan of Subdivision with the 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

\_\_\_\_\_  
Co-Signer

\_\_\_\_\_  
Date

**Schedule "D"**

**REPEAL OF A PLAN OF SUBDIVISION PURSUANT TO SECTION 288 OF THE MUNICIPAL GOVERNMENT ACT**

Name of Owner(s) \_\_\_\_\_  
\_\_\_\_\_

Name of Subdivision \_\_\_\_\_  
\_\_\_\_\_

Location \_\_\_\_\_  
\_\_\_\_\_

Surveyor \_\_\_\_\_ Date of Plan \_\_\_\_\_

Date of Approval of the Plan of Subdivision \_\_\_\_\_

Being Plan # \_\_\_\_\_ at the registry of deeds.

**THIS PLAN OF SUBDIVISION IS REPEALED**

Dated at \_\_\_\_\_ in the \_\_\_\_\_

Province of Nova Scotia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Development Officer

**Schedule "E"**  
**INSTRUMENT OF SUBDIVISION**

AN INSTRUMENT RESPECTING THE SUBDIVISION OF LAND IN ACCORDANCE WITH SECTION 269  
INSTRUMENT OF SUBDIVISION OF THE MUNICIPAL GOVERNMENT ACT

FOR THE MUNICIPALITY OF THE \_\_\_\_\_ OF  
\_\_\_\_\_

LANDS OF  
\_\_\_\_\_  
\_\_\_\_\_

LOCATED AT  
\_\_\_\_\_

Based on the information contained in this Instrument of  
Subdivision, Lots \_\_\_\_\_ are APPROVED.

**IMPORTANT NOTICE:**

This approval does not warrant the size, location, or boundaries  
of the lots described in the instrument and the development  
officer has no duty to verify the information submitted by the  
applicant as to the size, location, or boundaries of the lots.

The information shown on this instrument may not be  
acceptable to municipal development officers or building  
inspectors for any building or development permits.

\_\_\_\_\_  
DEVELOPMENT OFFICER

\_\_\_\_\_  
DATE

**DECLARATION**

I, We \_\_\_\_\_ of \_\_\_\_\_

In the County of \_\_\_\_\_, Province of Nova Scotia, do solemnly declare:

1. THAT (I, we) (am, are) the owner(s) of the area(s) of land as shown on the graphic representation (sketch).
2. THAT (I, we) have shown the registry of deeds book and page numbers of the area(s) of land on the graphic representation.
3. THAT (I, we) intend to subdivide the area(s) of land as shown on the graphic representation in this instrument into Lots \_\_\_\_\_.
4. THAT (I, we) make this solemn declaration conscientiously believing the same to be true and to have the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Declared before me at \_\_\_\_\_ )  
In the County of \_\_\_\_\_ )  
Province of Nova Scotia, this \_\_\_\_\_ day of )  
\_\_\_\_\_, A.D., 20\_\_ )  
\_\_\_\_\_ )

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Commissioner of Oaths  
Province of Nova Scotia

Owner(s) Signature(s)

**Schedule E (Con't)**

**LOCATION MAP**

**TITLE BLOCK  
INSTRUMENT OF  
SUBDIVISION  
Lands of :**

**SCALE:**

I certify that the above graphic representation accurately represents my property

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**Owner(s) Signature(s)**

**Schedule "F"**  
**APPLICATION FOR REPEAL OF AN INSTRUMENT OF SUBDIVISION**

File No. \_\_\_\_\_

**APPLICANT RELATED INFORMATION**

Name of \_\_\_\_\_ Phone \_\_\_\_\_

Address of Land Owner(s) \_\_\_\_\_ Postal Code \_\_\_\_\_

Documents to be Returned to \_\_\_\_\_

Correspondence to be Directed to \_\_\_\_\_

**INFORMATION RELATED TO THE APPROVED INSTRUMENT OF SUBDIVISION SOUGHT TO BE REPEALED**

Name of applicant for subdivision approval \_\_\_\_\_

Location \_\_\_\_\_ Municipality \_\_\_\_\_

The Instrument of Subdivision was approved on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_

and is filed in the Registry of Deeds at \_\_\_\_\_ in the Municipality of the County of

Lot(s) # \_\_\_\_\_ was/were approved.

Registration fee submitted.

**CERTIFICATION OF FACTS**  
(Reasons for Repeal)  
(If more space 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 Instrument of Subdivision with the 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

\_\_\_\_\_  
Co-Signer

\_\_\_\_\_  
Date

**Schedule "G"**

**REPEAL OF AN INSTRUMENT OF SUBDIVISION PURSUANT TO SECTION 289 OF THE MUNICIPAL GOVERNMENT ACT**

Name of Owner(s) \_\_\_\_\_

\_\_\_\_\_

Name of Subdivision \_\_\_\_\_

\_\_\_\_\_

Location \_\_\_\_\_

\_\_\_\_\_

Date of Approval of the Plan of Subdivision \_\_\_\_\_

Being Plan # \_\_\_\_\_ at the registry of deeds.

**THIS INSTRUMENT OF SUBDIVISION IS REPEALED**

Dated at \_\_\_\_\_ in the \_\_\_\_\_

Province of Nova Scotia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Development Officer