



Commercial Development District Improvement Plan By-law C-038-24

Effective Date:

Part 1 Purpose

The purpose of this by-law is to permit the phasing-in, over a period of up to 10 years, of an increase to the taxable assessed value of certain commercial properties located in the Municipality of the District of Yarmouth, Commercial Development District, and to provide a partial rebate of taxes paid by the Owner during the phasing-in period.

Part 2 Definitions

In this By-law:

2. 1 **“Actual Taxable Assessed Value”** means the taxable assessed value pursuant to the assessment roll for the taxation year in which the Rebate Eligible Assessment is to be determined, subject to any adjustments to taxes arising from assessment appeals or changes to the taxable assessed value made by the Property Valuation Services Corporation (PVSC) through requests for reconsideration;
2. 2 **“Annual Rebate”** is the amount of the rebate in a year paid to an Owner of an Eligible Property that is subject to a Phased In Assessment Agreement pursuant to Part 8 of this By-law;
2. 3 **“Base Year Taxable Assessed Value”** means the taxable assessed value of an Eligible Property in the taxation year in which a Phased In Assessment Agreement is signed for the Eligible Property, subject to any adjustments to taxes arising from assessment appeals or changes to the taxable assessed value made by the Property Valuation Services Corporation (PVSC) through requests for reconsideration;
2. 4 **“CDDI”** means the Commercial Development District Improvement Plan By-law;
2. 5 **“Commercial Development District”** or **“CDD”** means the area of the Municipality of the District of Yarmouth established by Part 3 of this By-law;
2. 6 **“Development”** means investment that, in the opinion of the Municipality of the District of Yarmouth, results in an increase in the productive use of an Eligible Property or a building on an Eligible Property, and includes, but is not limited to, construction of a new building, remediation of the property or the expansion or renovation of an existing building to realize more effective use of the Eligible Property’s potential;
2. 7 **“Development Rebate Program”** is a program designed to stimulate building construction and the expansion of the economy of the Municipality of the District of



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Yarmouth;

2. 8 “**Eligible Property**” means an eligible property as defined in section 71C(1) of the *Municipal Government Act* that is situated within the CDD;
2. 9 “**Owner**” means the person named on the assessment roll as responsible for the taxes for a property;
2. 10 “**Municipality**” means the Municipality of the District of Yarmouth;
2. 11 “**Phased In Assessment Agreement**” is an agreement signed by the Municipality of the District of Yarmouth and the Owner of an Eligible Property and is written in substantially the same form as the Agreement set out in Appendix “B” of this By-law; and
2. 12 “**Rebate Eligible Assessment**” in a taxation year means the amount calculated using the following formula:

Rebate Eligible Assessment = Actual Taxable Assessed Value minus Base Year Taxable Assessed Value.

Part 3 Application

- 3.1 This By-law applies to Eligible Properties located in the CDD; and
- 3.2 the CDD for the Municipality ~~is are depicted in the attached Appendix A and is~~ hereby established in accordance with the Municipality’s *Municipal Planning Strategy Generalized Future Land Use Mapping for the Hebron and Lakes District Map 2, and Hamlet of South Ohio*.

Part 4 Development Rebate Program

- 4.1 A Development Rebate Program is established to aid Owners of Eligible Properties in the CDD by providing the possibility of an annual partial rebate on taxes paid by the Owner if the Owner has undertaken Development of their Eligible Property
- 4.2 An owner must express an interest in participating in the Development Rebate Program to the Municipality, in writing, at any time prior to the issuing of an occupancy permit; and



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- 4.3 prior to receiving support through the Development Rebate Program, an Owner of an Eligible Property must enter into a Phased in Assessment Agreement with the Municipality.

Part 5 Eligibility

- 5.1 An Eligible Property must undergo Development before the Owner of the property can participate in the Development Rebate Program;
- 5.2 To be eligible, a development project must have a minimum anticipated investment of \$100,000.

Part 6 Phased In Assessment Agreement

- 6.1 The eligibility criteria for the Development Rebate Program and the limits on the program are as established in this By-Law. In the event of a conflict between a Phased in Assessment Agreement and this By-Law, the provisions of this By-Law shall prevail.

Part 7 Rebate Calculation

- 7.1 An Annual Rebate shall be calculated each year for each Eligible Property that is the subject of a Phased In Assessment Agreement as follows:

Year	Annual Rebate
1	90% of Rebate Eligible Taxes
2	80% of Rebate Eligible Taxes
3	70% of Rebate Eligible Taxes
4	60% of Rebate Eligible Taxes
5	50% of Rebate Eligible Taxes
6	50% of Rebate Eligible Taxes
7	40% of Rebate Eligible Taxes
8	30% of Rebate Eligible Taxes
9	20% of Rebate Eligible Taxes
10	10% of Rebate Eligible Taxes



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Where Rebate Eligible Taxes = Commercial tax rate for the Municipality x the Rebate Eligible Assessment

Part 8 Rebate Limits

- 8.1 The total of Annual Rebates provided to an Owner over the term of participation in the Development Rebate Program must not result in the calculation of the total increase in taxes payable during the phase-in period being less than fifty per cent of the total increase in taxes that would be payable during the same period in the absence of the application of the Development Rebate Program formula.

Part 9 Adjustments

- 9.1 In the event there are any subsequent changes in the total taxes payable in any year due to reductions resulting from assessment appeals, and where such tax changes occur after Annual Rebates have been paid, future year entitlements may be reduced accordingly. Any overpayment of amounts arising from subsequent assessment or tax reductions will be deemed to be a debt owing to the Municipality.

Part 10 Duration

- 10.1 Annual Rebates will only become payable to the Owner after the Eligible Property is first reassessed by the Property Valuation Services Corporation (PVSC) to fully reflect the Development for which the Owner is receiving the rebate; and
- 10.2 all support under the Development Rebate Program will cease if, during the term of the Phased in Assessment Agreement, a building on the subject property is demolished except to allow for eligible Development. Annual Rebates that would have been payable in the year in which the demolition occurs will be adjusted on a pro-rated basis to reflect the date of the demolition.

Part 11 Staged Development

- 11.1 In the case of a staged Development, where one portion of an Eligible Property is Developed in advance of others, each portion of the Eligible Property will be treated as a separate Eligible Property. The first Annual Rebate payment of the component of the Development Rebate Program will be based on the Rebate Eligible Assessment arising



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from the increased assessment on the first portion of the Development. As other portions of the Eligible Property are developed, which result in further assessment increases, the Owner of the Eligible Property may apply to further participate in the Development Rebate Program based on the additional Rebate Eligible Assessment, subject to the continued availability of the Development Rebate Program and the Owner's ability to meet the eligibility requirements and Annual Rebate entitlements in place at that time.

Part 12 Condominiums

- 12.1 If a Development of an Eligible Property is condominiumized, each condominium unit will be treated as a stand-alone Eligible Property and must be able to meet all eligibility requirements of the Development Rebate Program, independent of other condominium units.

Part 13 Repeal

- 13.1 If this By-Law, or any portion thereof, is repealed, any Owner of an eligible property in a CDD who has been accepted to participate in the Development Rebate Program prior to the date of repeal, will benefit from the Development Rebate Program, as applicable, in accordance with this By-Law, despite its whole or partial repeal; and
- 13.2 in the event of a repeal in Part 13.1, for the Owner of an eligible property in the CDD who has been accepted into the Development Rebate Program as of the date of the repeal, this By-law will continue to be considered to be in force and effect only for the limited purpose of providing for the continuation of the Development Rebate Program for that Owner until the ten year maximum term is completed or the Owner's participation in the Development Rebate Program is discontinued.

Part 14 Other Conditions

- 14.1 All proposed Developments must conform to all Provincial laws, municipal By-laws, policies, and processes and all improvements must be made pursuant to an approved building permit and applicable zoning requirements and development approvals;
- 14.2 the applicant to the Development Rebate Program must be the Owner of the Eligible Property that is to be the subject of the Phased In Assessment Agreement; and



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- 14.3 the Owner of an Eligible Property in the CDD must not be in arrears of property taxes or other fees and charges on the date that the Phased In Assessment Agreement is signed.

Part 15 Payment

- 15.1 The Municipality will pay Annual Rebates once annually, in the last quarter of the year, provided that:
- 15.1.1 there are no outstanding taxes, sewer rates, or other sums owed to the Municipality with respect to the subject property;
 - 15.1.2 there are no outstanding work orders or orders or requests to comply from any municipal or provincial entity with respect to the subject property; and
 - 15.1.3 all other eligibility criteria and conditions are met.
- 15.2 an Owner will not be entitled to an Annual Rebate if the property subject to a Phased In Assessment Agreement does not meet the conditions of Part 15.1 at the time the Annual Rebate is due to be paid;
- 15.3 annual Development Rebates will not be applied as tax credits against property tax accounts; and
- 15.4 in case of an assessment appeal, the Municipality reserves the right to withhold Annual Development Rebates pending final disposition of the appeal.

Part 16 Requirement to Review By-Law

- 16.1 This By-law shall be reviewed by the Municipality within four years of its coming into force and every four years thereafter in accordance with section 71(E) of the *Municipal Government Act*.

Part 17 Repeal and Replace

- 17.1 This By-Law hereby repeals and replaces Commercial Development District Improvement Plan By-Law C-038-19.



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Chief Administrative Officer's Annotation for Official By-Law Book

Date of First Reading	
Date of Advertisement of Notice of Intent to Consider	
Date of Second Reading	
Date of Advertisement of Passage of By-Law	
Date of Mailing to Minister a Certified Copy of By-Law	
I certify that this Commercial Development District Improvements Plan C-028-24 was adopted by Council and published as indicated above.	
_____	_____
Chief Administrative Officer	Date

Date last reviewed by Council:

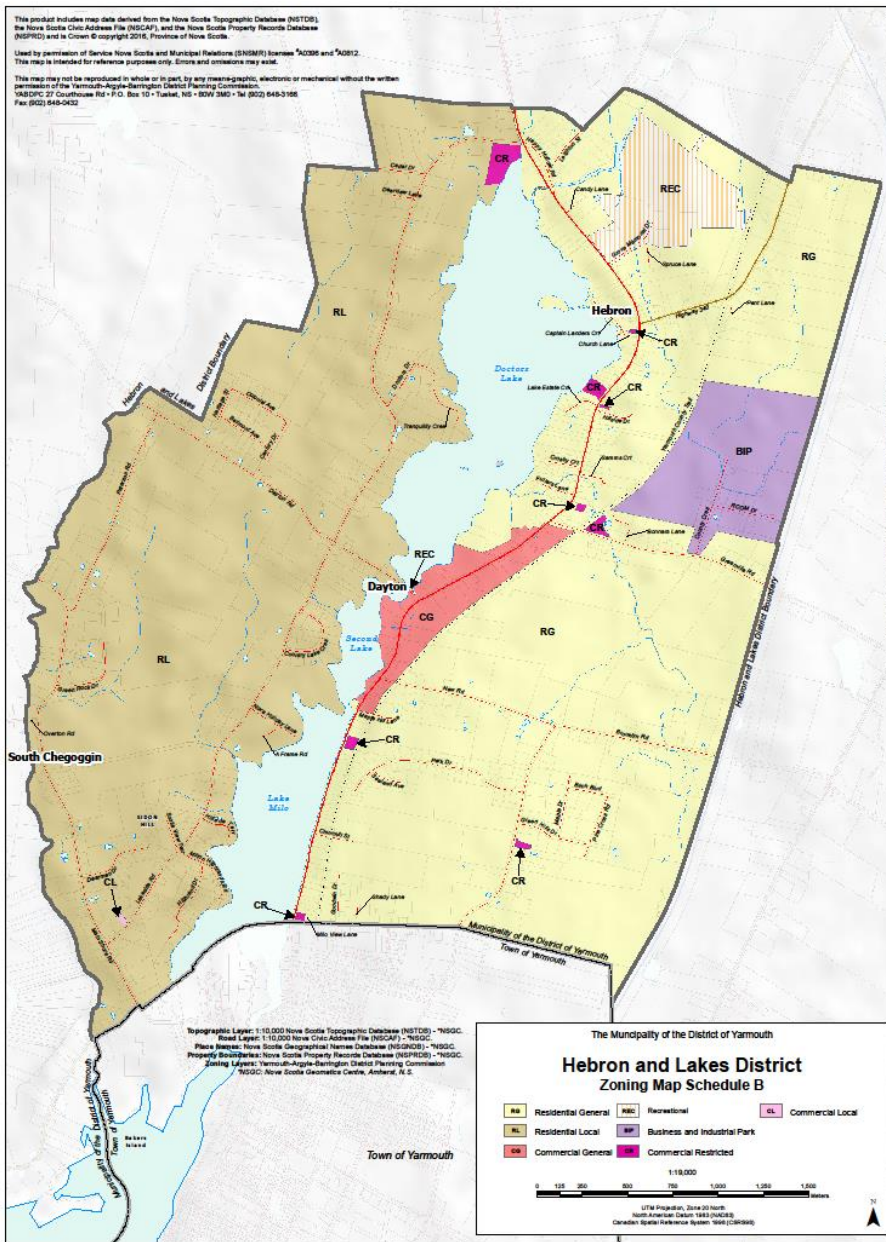


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Appendix "A"



Appendix "B"

**Municipality of the District of Yarmouth
Phased In Assessment Agreement**

THIS AGREEMENT made as of the _____ day of _____, 2____

BETWEEN:

(the "**Applicant**")

– and –

(the Municipality of the District of Yarmouth
[the "**Municipality**"])

WHEREAS the Municipality of the District of Yarmouth adopted By-Law No. C-038-19 cited as the "Central Development District Improvement Plan By-Law" (CDDI By-law), [a partial rebate program consisting of annual rebates to participating owners who undertake development on eligible property in the Central Development District.]

AND WHEREAS the Applicant is the registered owner or the person having the owner's authorization, of an eligible property which is located within the Central Development District and has applied to the Municipality for participation in the Development Rebate Program for the Property described below in Part 1 and in Schedule "A" of this Agreement; (the "**Property**");

AND WHEREAS the Municipality requires that a Phased In Assessment Agreement be entered into between the Applicant and the Municipality;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the premises, covenants and agreements hereinafter contained on the part of the Applicant to be observed, fulfilled and performed as hereinafter required and the approval of the Applicant's application for participation in the Development Rebate Program by the Municipality, subject to and in accordance with, the terms and conditions of this Agreement, the parties covenant and agree as follows:

Part 1 PROPERTY INFORMATION:

Applicant:

Name of registered Property Owner: _____

Address of Property: _____

Property Identification Number(s): _____

Mailing Address of Owner: _____

Name of Agreement Recipient: _____

Mailing address of Recipient: _____

The Legal Description of the Property as set out in Schedule "A" of this Agreement.

Part 2 **DEFINITIONS**

Please note: the terms Actual Taxable Assessed Value, Base Year Taxable Assessed Value, Development, Rebate Eligible Assessment are defined in the CDDI By-law.

The following terms shall have the meanings set out below:

- 2.1 **Agreement** means this Phased-In Assessment Agreement which is entered into between the parties pursuant to sections 71C and 71D of the *Municipal Government Act*, and the Commercial Development District Improvements Plan By-Law C-038-19 enacted by the Council of the Municipality and as amended from time to time;
- 2.2 **Applicant** means the owner of the property, or a person having the owner's authorization to apply for the Development Rebate Program;
- 2.3 **CAO** means the Chief Administrative Officer of the Municipality. The CAO is the approving authority for purposes of this Agreement where authority is not required to come from Council;
- 2.4 **CDDI** means Commercial Development District Improvement Plan By-Law;
- 2.5 **DoF** means Director of Finance for the Municipality;
- 2.6 **Development Rebate Program** means program established by CDDI By-law for a maximum period of 10 years;
- 2.7 **Development Rebate** means annual rebate amount calculated each year as set out in Part 7.1 of the CDDI By-law.
- 2.8 **Eligible Costs** means:
- Construction/retrofit/expansion costs as shown by the main Building Permit for the development;
 - The cost of associated studies and surveys;

- The cost of development of plans and specifications;
- The cost of implementation and administration of the project including staff and professional service costs for architectural, engineering, legal, financial and planning services; and
- Notwithstanding the above, costs which are typically treated as capital costs using generally accepted accounting principles (GAAP).

Eligible costs do not include any costs or portion thereof covered by any form of financial assistance from a Provincial or Federal government or a board or agency of such government.

2.9 **Eligible Use** means permitted commercial uses as set out in the *Municipal Planning Strategy and Land Use By-Law*;

2.10 **Owner** means the registered owner(s) of the Property at the date this Agreement is signed;

2.10 **Property** means the Property described in Part 1 and Schedule “A” of this Agreement;

2.11 **Recipient** means the Applicant, authorized to receive a development rebate;

2.12 **Municipal Solicitor** means the lawyer appointed by the Municipality for the purpose of registering this Agreement in the Registry of Deeds or under the Land Registration System, whichever is applicable.

Part 3 PARTICIPATION IN DEVELOPMENT SUPPORT PROGRAM

3.1 The Applicant’s participation in the Development Rebate Program is conditional on the Applicant ensuring that at all times the following conditions are met:

the objectives and participation requirements of this Agreement and the CDDI By-law, attached as Schedule “C” to this Agreement, are met from year to year;

- (a) all applicable Provincial and Municipal requirements, policies and procedures are met;
- (b) the Applicant is in compliance with all of the terms and conditions of this Agreement and is in conformance with all Building Permits and other regulatory approvals pertaining to the Property;
- (c) the property has undergone development; and
- (d) the Applicant is not in arrears of taxes, area rates, or any other charges in favour of the Municipality.

Part 4 DEVELOPMENT REBATE FUNDING CALCULATION

- 4.1 A development rebate is calculated by the DoF as a percentage of the Rebate Eligible Assessment as shown in Schedule "E" to this Agreement;
- 4.2 prior to the commencement of the Development Rebate Program, the DoF shall determine the Base Year Taxable Assessed Value used to calculate the Annual Rebate Eligible Tax Assessment and the corresponding annual development rebate payable for development. Following this determination, Schedule "E" will be amended annually to show the Actual Taxable Assessed Value, the Rebate Eligible Taxes, and the annual development rebate amount payable as determined by the DoF;
- 4.3 the Applicant shall have an opportunity to review the DoF's calculation of the Base Year Taxable Assessed Value prior to the finalization of Schedule "E", however, the DoF's determination as to the calculation of the Base Year Taxable Assessed Value, and the amount of the development rebate, shall be final;
- 4.4 in calculating the annual development rebate payable for the development, the Rebate Eligible Assessment shall be calculated annually from the first year that the subject Development Rebate is payable, or the first year that the Owner elects to make the Annual Taxable Assessed Value election in accordance with this Agreement and CDDI By-law;
- 4.5 the development rebate will be reduced by the DoF for the year in which a development rebate is paid, to reflect the amount of any rebate(s) of municipal taxes paid to the Owner from any other source, including but not limited to rebates to reflect charitable status tax rebates related to the development (excluding the Development Rebate Program). Any such reductions shall be in an amount reflecting the product of the municipal portion of taxes rebated and the development rebate percentage level applicable to that year; and
- 4.6 the total of development rebates paid over a ten year maximum term of the program must not result in the calculation of the total increase in taxes payable during the phase-in period being less than fifty (50%) percent of the total increase in taxes that would be payable during the same period in the absence of the application of the formula.

REBATE ELIGIBLE ASSESSMENT

- 4.7 Subject to Part 4.9 and 4.10 of this Agreement, the Base Year Taxable Assessed Value shall remain fixed for the duration of the Development Rebate Program;
- 4.8 the Rebate Eligible Assessment will be amended by the DoF, as necessary, to reflect changes to the total Municipal Property Taxes payable in any year, as a result of successful assessment appeals, requests for reconsideration, equity changes, gross errors or other changes to Actual Taxable Assessed Value that have the effect of changing the amount used to calculate the Actual Taxable Assessed Value;
- 4.9 where the Rebate Eligible Assessment is amended in accordance with Part 4.8, future development rebates shall be adjusted accordingly for the duration of the Development Rebate Program period. Such adjustments may reflect any overpayment of development rebate arising from successful assessment appeals that occur subsequent to the commencement of payment of development rebates;
- 4.10 if at any time the Owner appeals any assessment relating to the development that, in the opinion of the CAO, may impact the calculation of the Rebate Eligible Assessment, the Municipality shall withhold any or all of the Development Rebate that would otherwise be paid for the development, based on a reasonable estimate of the reduction in assessment

being sought, pending final disposition of the appeal. If as a result of the decision of the appeal body, the Actual Taxable Assessed Value is reduced below the amount determined in calculating the Rebate Eligible Assessment, then the reduced Rebate Eligible Assessment shall be the basis for determining the development rebate payable under this Agreement;

- 4.11 where Part 4.9 and 4.10 apply, any overpayment of a development rebate arising from subsequent assessment or tax reductions will be deemed to be a debt owing to the Municipality which the Owner shall pay forthwith together with the same interest charged for overdue accounts by the Municipality; and
- 4.12 If at any point after the development is complete, additional work is proposed on the Property that is not part of the original Program application, but may serve to further increase the current year tax assessed value , such additional work shall not be included in the calculation of the development rebate in this Agreement, but may be the subject of a further Development Rebate Program application, subject to the continued availability of the Development Rebate Program and the eligibility requirements and rebate entitlements in effect at that time.

Part 5 FUNDING PAYMENT

- 5.1 Subject to Part 6 of this Agreement, development rebate payments to a maximum of ten (10) annual payments will commence being paid the first taxation year in which the Rebate Eligible Assessment is capable of being determined.
- 5.2 Development rebates cannot be applied as tax credits against the Property tax account.

Part 6 CONDITIONS OF PAYMENT

- 6.1 The CAO shall determine whether the Applicant has satisfied the participation requirements of this Agreement and the Schedules attached hereto.
- 6.2 A development rebate will only become payable after the property is first reassessed by the PVSC to fully reflect the development for which the Applicant might receive a rebate.
- 6.3 A rebate can only be paid once annually, in the last quarter of the year, provided that:
- (a) there are no outstanding taxes, water/sewer rates, or other sums owed to the Municipality with respect to the property;
 - (b) there are no outstanding work orders and/or orders or requests to comply from any municipal or provincial entity; and
 - (c) all other required criteria and conditions are met.

Part 7 OWNERS' OBLIGATIONS

Compliance with Rebate Application

- 7.1 The Applicant shall undertake the development in accordance with the Development Rebate Program.

Compliance with Municipal Directives

- 7.2 The Applicant shall strictly comply with and observe all material requirements, stipulations, guidelines and directives related to the Development Rebate Program as required by the Municipality, and shall undertake all necessary courses of action to ensure compliance.

Compliance with Legislation

- 7.3 The Applicant agrees that the development shall be completed in compliance with all required Building Permits and Development Agreements, and constructed in accordance with the Nova Scotia Building Code Act and all applicable Land-Use By-law requirements, Municipal requirements and other approvals required at law.

Demolition/Conversion

- 7.4 The Applicant covenants to the Municipality that the development will not be demolished, in whole or in part, or converted to an ineligible use, in whole or in part, prior to the advance of all of the payments over the term of this Agreement unless such demolition is required to enable Property enhancement approved by the Municipality under the terms of this Agreement;
- 7.5 the Applicant shall ensure that the Property is maintained in its redeveloped condition in accordance with this Agreement; and
- 7.6 the Applicant further covenants that if at any time during the Development Rebate Program the building which underwent development is demolished, in whole or in part, or converted to an ineligible use, in whole or in part, the CAO, in his or her sole discretion will cease to advance future development rebates or reduce the amount of future development rebates on a pro-rated basis to reflect the date of the demolition or conversion.

Payment of Costs

- 7.7 The Applicant acknowledges that without limiting the generality of the other provisions of this Agreement:
- (a) the onus and responsibility is upon the Applicant at all times to assume all costs of development and to apply for and obtain, at the Applicant's expense, all approvals and permits required from the Municipality and all other agencies including but not limited to all Municipal Planning Strategy Amendments, Land Use By-law amendments, minor variances, site plan approval and building permits in accordance with all applicable legislation; and
 - (b) the Owner remains responsible at all times for the payment in full of all amounts in respect of property taxes, water/sewer and any other charges that may be levied by the Municipality relating to the Property as and when they fall due.

Development Permits

- 7.8 Applications to participate in the Development Rebate Program must be made prior to the issuance of the first Occupancy Permit for the development.

Part 8 ASSIGNMENT

- 8.1 The Applicant covenants to the Municipality that if the Owner intends to sell, transfer or assign the Property or if for any reason the Property ceases to be registered in the Owner's name prior to the advance of all of the development rebate payments, the Applicant will immediately notify the CAO in writing of such change or proposed change of ownership;

8.2 The payment of development rebates shall cease upon the sale, transfer or assignment of the Property, unless, prior to the completion of such sale, transfer or assignment, the Owner and the new owner enter into an agreement with the Municipality, in a form and content satisfactory to the CAO and the Municipal Solicitor, in which it is agreed that either:

- (a) the new owner shall have the right to participate in the Development Rebate Program; or
- (b) the Applicant shall continue to receive the Development rebates

Provided that:

- (c) the new owner shall assume the Applicant's obligations under this Agreement from and after the date of completion of such sale, transfer or assignment;

and

- (d) the new owner shall require that any subsequent owner(s) of the Property shall assume the Applicant obligations under this Agreement;

8.3 where the Applicant wishes to assign the right to receive the development rebates to a recipient, who is not a new owner, the CAO, in the CAO's sole discretion, may agree to the assignment provided that the Recipient with the written consent of the owner enter into an agreement with the Municipality, in a form and content satisfactory to the CAO and the Municipal Solicitor, acting reasonably, in which it is agreed that such assignment shall not relieve the Applicant of any of the Applicant's obligations and responsibilities under this Agreement, nor shall it affect in any way the Municipality's rights under this Agreement; and

8.4 it is the responsibility of the Applicant or Owner to provide in writing to the CAO a change in Recipient. It is at the discretion of the CAO to determine if an adjustment to the development rebate is appropriate on the identification of a new Recipient by the Applicant.

Part 9 MUNICIPAL RIGHTS

No Representation

9.1 Nothing in this Agreement shall be construed to be a representation by the Municipality regarding compliance of the Property with any applicable legislation, regulations, policies, standards, permits, approvals or by-laws.

No Claim for Compensation or Reimbursement

9.2 In the event that any of the conditions of this Agreement are not fulfilled and a development rebate is not advanced or required to be repaid, or the development rebate payments cease or are delayed, the Applicant and Owner agrees that notwithstanding any costs or expenses incurred by the Applicant or Owner, the Applicant or Owner shall not have any claim for compensation or reimbursement of these costs and expenses against the Municipality and that the Municipality is not liable to the Applicant or Owner for losses, damages, interest, or claims which the Applicant or Owner may bear as a result of the lapse of time (if any) where the Municipality is exercising its rights herein to either delay a payment pending the Applicant or Owners' compliance with this Agreement, or to

terminate

this

Agreement.

Part 10 DEFAULT AND REMEDIES

10.1 Subject to Part 10.3, on the occurrence of a Default under this Agreement, the Municipality shall be entitled to all available remedies to terminate or enforce this Agreement, including, but not limited to:

- (a) immediate termination and cessation or delay of the release of a development rebate otherwise payable to the Applicant; and
- (b) requiring the Applicant or Owner to immediately repay to the Municipality all or a portion of any development rebates paid to the Applicant or Owner together with interest at the established Municipal Rate;

10.2 a default under this Agreement ("**Default**") shall be deemed to occur upon the failure of the Applicant or Owner to perform any of the obligations of the Applicant or Owner contained in this Agreement or to comply with all of the terms and conditions contained in this Agreement, including, but not limited to, the following:

- (a) failure by the Applicant or Owner to satisfy the minimum requirements as set out in this Agreement and the CDDI By-law;
- (b) failure by the Applicant or Owner in any material respect, to perform any of the obligations contained in this Agreement;
- (c) failure by the Applicant or Owner to pay and keep in good standing all real property taxes with respect to the Property and all other charges against the Property in favour of the Municipality, including but not limited to development charges, special assessments, local improvement charges, sewer and water and utility rates;
- (d) the making of an assignment by the Applicant or Owner for the benefit of creditors, or if the Applicant or Owner assigns in bankruptcy or takes advantage of any statute for relief in bankruptcy, moratorium, settlement with creditors, or similar relief of bankrupt or insolvent debtors; receipt of a receiving order against the Applicant or Owner, or if the Applicant or Owner is adjudged bankrupt or insolvent, or if a liquidator or receiver is appointed by reason of any actual or alleged insolvency, or any default of the Applicant or Owner under any mortgage or other obligation, or if the Property or the interest of the Applicant or Owner in the Property is taken or sold by any creditors or under any writ of execution or other like process;
- (e) failure by the Applicant or Owner to remain in contact with the Municipality such that the Municipality is unable to contact the Applicant or Owner for a period of time exceeding one (1) year;
- (f) any representation or warranty made by the Applicant or Owner in this Agreement or the Development Rebate Program is incorrect in any material respect; and
- (g) willful defaults by the Applicant or Owner in the payment of moneys to any contractor, supplier or creditor, who has undertaken the works that are the subject of this Agreement;

10.3 if a Default occurs, the Municipality shall give written notice to the Applicant or Owner

specifying the nature of the Default. The Applicant or Owner shall then have sixty (60) days, or such additional time as may be agreed to by the Municipality, acting reasonably, from the receipt of such notice of Default to rectify the Default, during which time all Development rebate payments may, in the CAO's sole discretion, be suspended, provided that if the Default is such that it cannot with due diligence be wholly rectified within sixty (60) days, or such additional period of time as may be agreed to by the CAO, and the Applicant or Owner has commenced and continues diligently working to correct the Default, the Applicant or Owner shall not be deemed to be in default of this Agreement so long as it proceeds with due diligence to rectify the Default. If the Applicant or Owner fails to rectify the Default within the sixty (60) day time period or such additional time as may be agreed to by the CAO, and provided that the Applicant or Owner has not commenced and continued diligently working to correct the subject Default, the CAO shall have the option, in the CAO's sole discretion, to exercise the remedies under Part 10.1.

- 10.4** Wherever in this Agreement the Municipality requires repayment of all or part of any Development rebate and the Applicant or Owner fails to repay as required, the unpaid amounts shall be deemed to be a debt owing to the Municipality, and may be added to the tax roll for the property, together with interest at the Municipal rate.

Part 11 INDEMNITY

11.1 The Applicant or Owner shall indemnify, save, defend and keep harmless from time to time and at all times, the Municipality and its elected officials, officers, employees and agents from and against all claims, actions, causes of action, interest, demands, costs, charges, damages, expenses and loss made by any person arising directly or indirectly:

- (a) in respect of any failure by the Applicant or Owner to fulfill its obligations under this Agreement; and
- (b) in respect of any loss, damage or injury (including death resulting from injury) to any person or property, however caused, directly or indirectly, resulting or sustained by reason of any act or omission of the Applicant or Owner or any person for whom the Applicant or Owner is in law responsible in connection with any of the purposes set out in this Agreement or the failure by the Applicant or Owner to fulfill its obligations under this Agreement;

This indemnification shall, in respect of any matter arising prior to the termination of this Agreement, remain in force following termination or expiry of this Agreement.

Part 12 ADDITIONAL PROVISIONS

Term

12.1 This Agreement shall remain in effect from the date of its execution by the Municipality to the earlier of:

- (a) the Applicant informing the Municipality in writing prior to the first development

rebate payment that it has decided not to accept any Development Rebates;

- (b) subject to the provisions of Part 10 of this Agreement, the Municipality informing the Applicant or Owner in writing that due to the non-fulfillment of a required condition or due to Default, this Agreement is at an end;
- (c) the expiry of the Development Rebate Program period after 10 years; and
- (d) the Applicant informing the Municipality in writing at any point after receiving the first Development Rebate payment, that it no longer wishes to receive Development Rebates.

Time of the Essence

12.2 Time shall be of the essence with respect to all covenants, agreements and matters contained in this Agreement.

Extension of Time

12.3 Where a time limit or deadline is provided for under this Agreement, the CAO, acting reasonably, may extend such time limit or deadline without an amendment to this Agreement.

Registration

12.4 Upon execution of this Agreement, the Municipality, at the Owner's expense, shall register or cause this Agreement to be registered on title to the Property immediately following execution by the Municipality.

Schedules

12.5 The following Schedules are attached to and form part of this Agreement:

Schedule "A"	Legal Description of the Property
Schedule "B"	Example of Development Rebate Calculation
Schedule "C"	CDDI
Schedule "D"	List of Development Plans
Schedule "E"	Development Rebate Calculation

Survival of Covenants

12.6 Any terms or conditions of this Agreement that require performance by the Municipality or the Applicant or Owner after the expiration or other termination of this Agreement remain enforceable notwithstanding such expiration or other termination of this Agreement for any reason whatsoever.

Notice

12.7 Any notice required to be given by either party to the other shall be given in writing and delivered in person or by facsimile transmission to:

(a) In the case of the Municipality to:

CAO
Municipality of the District of Yarmouth
932 Highway 1
Hebron, N.S.
B5A 5Z5
Fax (902) 742-3164

(b) In the case of the Applicant/Owner to:

Notice shall be deemed to have been received on the day of personal delivery or facsimile transmission if such day is a business day and delivery is made prior to 4:00 p.m. and otherwise on the next business day. The parties agree to notify each other immediately, in writing, of any changes of address from those set out above.

Entire Agreement

12.8 This Agreement and the Schedules attached to it constitute the entire Agreement between the parties and there are no agreements collateral to it other than as referred to herein and no representations or warranties, express or implied, written or verbal, statutory or otherwise, other than as expressly set forth or referred to in this Agreement.

Municipal Government Act

12.9 Nothing in this Agreement limits or fetters the Municipality in exercising its statutory jurisdiction under the *Municipal Government Act*, or under any other legislative authority or By-law and in the event that the Municipality decides to grant or deny any request or oppose or appeal any decision made pursuant to any such legislation, such action by the Municipality is not in any manner affected or limited by reason of the Municipality entering into this Agreement.

Governing Law

12.10 This Agreement will be exclusively governed, construed and enforced in accordance with the laws of the Province of Nova Scotia and the Owner agrees to attorn to the jurisdiction of the Province of Nova Scotia.

Waiver and Consent

12.11 No consent or waiver, express or implied, by either party to or of any breach or Default by either party of any or all of its obligations under this Agreement or any amendment of this Agreement will:

- (a) be valid unless it is in writing and stated to be a consent or waiver pursuant to this Agreement;
- (b) be relied upon as a consent or waiver to or of any other breach or Default of the same or any other obligation;
- (c) constitute a general waiver under this Agreement, or
- (d) eliminate or modify the need for a specific consent or waiver pursuant to this section in any other instance.

Headings

12.12 The division of this Agreement into articles, sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The articles, section, subsection and schedule headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and should not be considered part of this Agreement.

Extended Meanings

12.13 Words expressed in the singular include the plural and vice-versa and words in one gender include all genders.

Severability

12.14 If any provision of this Agreement is invalid, illegal or unenforceable, it shall not affect the validity, legality or enforceability of any other provision of this Agreement.

Further Assurances

12.15 The parties agree that they shall each execute, deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances and things as may be required or as the other party may reasonably request in order to give full effect to this Agreement.

Force Maieure

12.16 If either party is prevented or delayed from performing any of the obligations on its part to be performed hereunder by reason of an Act of God, strike, labour dispute, lockout, threat of imminent strike, fire, flood, interruption or delay in transportation, war, acts of terrorism, insurrection or mob violence, requirement or regulation of government, or statute, unavoidable casualties, shortage of labour, equipment or material, plant breakdown or failure of operation, equipment or any disabling cause (other than lack of funds), without regard to the foregoing enumeration, beyond the control of the parties which cannot be overcome by the means normally employed in performance, then and in every such event, any such prevention or delay shall not be deemed a breach of this Agreement but performance of any of the said obligations or requirements shall be suspended during such period or disability and the period of all such delays resulting from any such causes shall be excluded in computing the time within which anything required or permitted by either party to be done is to be done hereunder, it being understood and agreed that the time within which anything is done, or made pursuant thereto shall be extended by the total period of all such delays.

Successors and Assigns

12.17 The terms and provisions of this Agreement shall ensure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized representatives effective this _____ day of, 20_____

MUNICIPALITY OF THE DISTRICT OF YARMOUTH

Name:
Title: CAO

Name:
Title:

I have authority to bind the corporation.

SCHEDULE "A"

LEGAL DESCRIPTION OF OWNER'S LAND

SCHEDULE "B"

EXAMPLE OF DEVELOPMENT REBATE CALCULATION

A. Pre-Development Base Year Taxable Assessed Value:

(1)

Base Year	Base Year Taxable Assessed Value
2000	\$100,000

B. Post-Development Actual Taxable Assessed Value: *NOTE: All values and rates are for example purposes only and do not necessarily reflect actual rates and values in force or applicable to each specific development project.*

Yrs	Rebate Year	(2) Actual Taxable Assessed Value	(3) Current Commercial Municipal Tax
1.	2001	\$200,000	3.00
2.	2002	\$200,000	3.00
3.	2003	\$225,000	3.00
4.	2004	\$250,000	3.00
5.	2005	\$225,000	3.00
6.	2006	\$225,000	3.00
7.	2007	\$225,000	3.00
8.	2008	\$225,000	3.00
9.	2009	\$200,000	3.00
10.	2010	\$200,000	3.00

C. Development Rebates:

Yrs	(4) Rebate %	(5) = (2-1) Rebate Eligible Assessment	(6) = (5 x 3) Rebate Eligible Taxes	(7) = (6 x 4) Rebate Amount \$	(8) Cumulative % Payable
1.	90%	\$100,000	\$3,000	\$2,700	10.0%
2.	80%	\$100,000	\$3,000	\$2,400	20.0%
3.	70%	\$125,000	\$3,750	\$2,625	30.0%
4.	60%	\$150,000	\$4,500	\$2,700	40.0%
5.	50%	\$125,000	\$3,750	\$1,875	50.0%
6.	50%	\$125,000	\$3,750	\$1,875	50.0%
7.	40%	\$125,000	\$3,750	\$1,500	60.0%
8.	30%	\$125,000	\$3,750	\$1,125	70.0%
9.	20%	\$125,000	\$3,750	\$750	80.0%
10.	10%	\$100,000	\$3,000	\$300	90.0%
Totals (9) & (10):			\$36,000	\$17,850	\$18,150.
Calc: % max vs actual:			50%	49.6%	
Total Allowable Rebate:			\$18,000	\$17,850	

Total Allowable Development Rebates over the program period cannot exceed 50%.

SCHEDULE "C"

CDDI BY-LAW

**CENTRAL DEVELOPMENT DISTRICT IMPROVEMENTS IN MUNICIPALITY OF THE
DISTRICT OF YARMOUTH**

SCHEDULE "D"

DEVELOPMENT PLANS & DRAWINGS

SCHEDULE "E"

DEVELOPMENT REBATE CALCULATION

Address:

Property Identification No.:

A. Pre-Development Base Year Taxable Assessed Value:

(1)

Base Year	Base Year Taxable Assessed Value
	\$

B. Post-Development Actual Taxable Assessed Value:

(2)

(3)

Yrs	Rebate Year	Actual Taxable Assessed Value	Current Commercial Municipal Tax Rate
1.		\$	
2.		\$	
3.		\$	
4.		\$	
5.		\$	
6.		\$	
7.		\$	
8.		\$	
9.		\$	
10.		\$	

C. Development Rebates:

(4)

(5) = (2-1)

(6) = (5 x 3)

(7) = (6 x 4)

(8)

Yrs	Rebate %	Rebate Eligible Assessment	Rebate Eligible Taxes	Rebate Amount \$	Cumulative % Payable
1.	90%	\$	\$	\$	
2.	80%	\$	\$	\$	
3.	70%	\$	\$	\$	
4.	60%	\$	\$	\$	
5.	50%	\$	\$	\$	
6.	50%	\$	\$	\$	
7.	40%	\$	\$	\$	
8.	30%	\$	\$	\$	
9.	20%	\$	\$	\$	
10.	10%	\$	\$	\$	
Totals (9) & (10):			\$	\$	
Re-calculate:			50%	\$	
Total Allowable Rebate:			\$	\$	

Total Allowable Development Rebate over the program period cannot exceed 50%.