

SUBDIVISION BY-LAW

MUNICIPALITY OF THE COUNTY OF ANTIGONISH



APPROVED BY COUNCIL: MAY 16, 2006

Signed by Minister on August 1, 2006 (Ministerial Amendments)

Revised:

May, 2007 (Added text to Table of Contents; added text to Policy 21, 33, 37(2), 39(2)(a), 39(2)(b); added Policy 39(3); added Schedule "F" map; deleted all August 6, 1984 references; added reference to April 16, 1987)

June, 2007 (Deleted text from Policy 39(2)(a) and (b); deleted all references to SCHEDULE "F" ANTIGONISH – CENTRED SERVICES and replaced with SCHEDULE "G" Antigonish Centred Services)

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SUBDIVISION BY-LAW FOR THE MUNICIPALITY OF THE COUNTY OF ANTIGONISH

PART 1: TITLE

1. This By-law may be cited as the Subdivision By-law for the Municipality of the County of Antigonish, and shall apply to the Municipality of the County of Antigonish.

PART 2: INTERPRETATION

2. The Metric System of measurement is used throughout the By-law. Imperial Measurements are approximate only, for convenience only, and in all cases of conflict between Imperial Measure and Metric Measure, the Metric Measure shall prevail.

PART 3: DEFINITIONS

3.
 1. “Approval” means an approval of the Director of Engineering Services (DES). The decision of the DES will be final and binding in all matters of design and construction. However, the DES does not certify any installations, procedures, equipment, or materials nor does he/she approve or evaluate testing laboratories. Approvals will be based on compliance with these Specifications and/or other appropriate standards as indicated throughout this document. Tentative Approval and Final Approval are as set out in the Municipality of the County of Antigonish Subdivision Bylaw;
 2. “Act” means the *Municipal Government Act*, 1998, c. 18, s. 1 and amendments thereto;
 3. “Agreement” means a contract between the subdivider and the Municipality which describes the responsibilities of each party with respect to the subdivision and servicing of land;
 4. “Area of land” means any existing lot or parcel as described by its boundaries, except in Sections 19 and 21;
 5. “Arterial road” means a road intended to move a relatively large volume of traffic at medium to high speeds used where traffic movement is the primary consideration and land access secondary;
 6. “Base course” means the crushed rock or aggregate which is placed immediately upon the sub-base course;
 7. “Clearwater lateral” means the pipe which conveys clear water from foundation drainage systems to a public storm sewer or clearwater sewer on a public street;
 8. “Collector road” means a road intended to collect traffic from local streets and move it to the arterial, used where traffic movement and land access are of equal importance;
 9. “Council” means the Municipal Council of the Municipality of the County of Antigonish;
 10. “Department of Environment” means the Nova Scotia Department of the Environment & Labour or its successors;
 11. “Department of Transportation” means the Nova Scotia Department of Transportation and Public Works or its successors;
 12. “Design Engineer or Designer or Engineer” means the Professional Engineer representing the Applicant, who has affixed his or her professional seal to the Engineering drawings, plans, and specifications for the proposed development and/or is the Professional Engineer who is

- responsible to ensure the services are constructed to meet and satisfy the approved design. This person must be registered and/or licensed to practice engineering and he or she is in good standing in the Province of Nova Scotia;
13. “Developer or Applicant” means the owner of the area of land proposed and includes anyone acting on his or her behalf with the owner’s written consent;
 14. “Development Officer” means that person appointed by Council pursuant to the *Municipal Government Act* and having the power and duty to administer this By-law;
 15. “Diameter” means the nominal internal diameter of the pipe unless noted otherwise;
 16. “Director of Engineering Services (DES)” in these Specifications, means either the DES appointed by the Municipality or, where no DES has been appointed, that Professional Engineer, licensed to practice in Nova Scotia, retained from time to time by the Municipality to perform the functions of a DES herein. The DES or designated engineer may, with the approval in writing of the Municipality, authorize a representative to act in his or her absence. The DES or designated engineer reports to the Clerk Treasurer for the Municipality;
 17. “Director of Planning” means the professional planner appointed by or acting on behalf of the Municipality of the County of Antigonish, to perform planning functions, and includes a person acting under the supervision and direction of the planner as defined herein;
 18. “Drainage plan” means a detailed Management plan, including, but not limited to drawings and calculations of stormwater runoff and the courses and channels of it, including floodplains, for one or more parts of an area of drainage for all lands tributary to, or carrying drainage from, land that is proposed to be subdivided;
 19. “Equivalent value” means cash or facilities, services, or other value in kind related to parks, playgrounds and similar public purposes or any combination thereof, determined by the Municipality to be equal to the value of the land required to be transferred to the Municipality for parkland purposes;
 20. “Feeder main” means a water main which typically receives flow from transmission mains or from pressure control facilities (i.e. booster pumping stations or pressure reducing valves) and which supplies water to several branch mains (distribution mains). The feeder main provides a significant carrying capacity or flow capability to a large area;
 21. “Floodplain” means the low lying area adjoining a watercourse that is subject to flooding, as defined in the *Municipal Government Act* 1998 and includes:
 - (a) “Floodway” meaning the inner portion of a flood risk area where the risk of flooding is greatest, on average once in twenty years, and where flood depths and velocities are greatest.
 - (b) “Floodway Fringe” meaning the outer portion of a flood risk area, between the floodway and the outer boundary of the flood risk area, where the risk of flooding is lower, on average once in one hundred years, and floodwaters are shallower and slower flowing.
 22. “Frontage” means the lot frontage measured as required by the Land Use By-law in effect for the area of land proposed to be subdivided;
 23. “Highway” means the whole right-of-way which is reserved for use in constructing the roadway and its appurtenances, the boundaries being determined by the Municipality of the County of Antigonish;

24. “Inspection” means a field inspection by the Applicant’s or Owner’s Engineer at various stages of construction;
25. “Island” means an area of land completely surrounded by water at low tide;
26. “Local Road” means a road which has the main function of providing land access;
27. “Lot” means any parcel to be created by the filing of a plan of subdivision;
28. “Manual” means the Municipal Service Systems General Specifications Pursuant to the Subdivision By-law for the Municipality of the County of Antigonish.
29. “Municipality” means the Municipality of the County of Antigonish.
30. “Municipal services systems” include sanitary sewer collection and treatment systems and water distribution and treatment systems, storm sewers and subdivision roads which are, or are to be, owned, operated and maintained by the Municipality;
31. “Private road” means any road which is not public shown on a plan of subdivision which extends to and has access to a public street 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 is assignable and perpetual and which has been clearly granted by deed, will, Crown grant or other registerable instrument, registered in the Registry of Deeds for this Municipality;
32. “Professional Engineer” means a Professional Engineer who is a member, in good standing, of the Association of Professional Engineers of Nova Scotia;
33. “Province” means Her Majesty the Queen in right of the Province of Nova Scotia;
34. “Provincial Regulation” means the requirements and provisions of the Province of Nova Scotia contained in any Provincial Statute or in any Regulation or Order made pursuant to the authority of any Statute of Nova Scotia;
35. “Public sewer system” means any sewer system which is owned by the Municipality;
36. “Public street” includes any street or road owned and maintained by the Municipality or the province; and
 - (a) “Municipal public street” means any street or road owned and maintained by the Municipality; and
 - (b) “provincial public street” means any street or road owned and maintained by the Department of Transportation excluding designated controlled access highways pursuant to Section 20 of the *Public Highways Act* R.S., c. 371, s. 1.
37. “Public water system” means any water system which is owned by the Municipality;
38. “Public Water Utility or Water Utility” means the water utility controlled by the Municipality of the County of Antigonish;
39. “Public Works” means the Public Works Department of the Municipality of the County of Antigonish;
40. “Registry of Deeds” means the office of the Registrar of Deeds for the County of Antigonish;
41. “Right-of-way easement” means an easement for right-of-way and access unrestricted in use extending to and having access to a public street, and where not totally located within the area of land proposed to be subdivided, the right-of-way easement shall be assignable and perpetual and clearly granted by deed or easement registered in the Registry of Deeds for this

- Municipality, or declared to exist for the benefit of the land proposed to be subdivided by order of a court of competent jurisdiction, and in either case the easement shall:
- (a) if created or declared to have been created prior to August 6, 1984, have a minimum width of 3 meters (9.8 feet), or
 - (b) if created or declared to have been created on or after April 16, 1987, have a minimum width of 6.1 meters (20 feet);
42. “Roadbed” means the portion of the roadway extending from shoulder line to shoulder line, in other words, the subgrade and shoulders considered as a unit;
43. “Roadway” means the portion of highway included between the outside lines of gutters or side ditches including all the appertaining structures, and all slopes, ditches channels, waterways etc. necessary for proper drainage and protection;
44. “Sanitary sewer” means a sewer system receiving and carrying liquid and water-carried wastes and to which storm, surface or ground waters are not intentionally admitted;
45. “Sanitary sewage” means the spent water from a community consisting of liquid conveying solids from residential, industrial, institutional and commercial buildings but excluding storm water or surface run-off and groundwater. It does not include contaminated liquid wastes or sewage at concentrations greater than that commonly found in domestic sewage;
46. “Sanitary sewage collection system” means the system consisting of all pipes, mains, equipment, buildings and structures for collecting and pumping of sanitary sewage (including trunk sewers and pumping stations) operated by the Municipality of the County of Antigonish. It is designed to collect and convey sanitary sewage from its point of origin to a disposal or treatment location;
47. “Service easement” means an allotment of land required to maintain and repair municipal services. In the event that sanitary and/or water services are installed outside of public rights-of-way (ROW), the Applicant shall provide a service easement in favor of the Municipality.
- The service easement shall be constructed to provide access by maintenance vehicles including service trucks and heavy equipment;
48. “Set back line” means a line drawn parallel to the boundary of a highway, road or street which is offset by the setback distances required by the Municipality;
49. “Sewer lateral or service lateral” as used throughout this document is synonymous with Building Service Connection as defined by the Municipality. Sanitary sewer lateral means the pipe which conveys sanitary sewage from the property line to the main sewer;
50. “Sewer” means pipe or conduit for carrying sanitary sewage, groundwater, stormwater or surface run-off and includes all sewer drains, storm sewer, clearwater sewers, storm drains and combined sewers;
51. “Stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;
52. “Stormwater system” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways;
53. “Storm sewer or storm sewer system” means the system consisting of all pipes, mains, ditches, equipment and structures for collecting and pumping stormwater and surface runoff water, excluding sewage, operated by the Municipality. It is designed to collect and convey

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- storm runoff from its point of origin to its point of discharge into a natural drainage system. The system includes the collection of clearwater from foundation drainage systems;
54. “Street” means the entire width between the boundary lines of a street, road or highway and includes a public thoroughfare in an urban setting with buildings or residential dwellings more or less continuously housed on each side of it along its limits;
 55. “Street line” means the limit of the public road right-of-way (ROW);
 56. “Sub-Base course” means the crushed rock aggregate which is placed immediately upon the subgrade;
 57. “Subdivider” means the owner of the area of land proposed to be subdivided or consolidated and includes anyone acting with the owner’s written consent;
 58. “Subdivision” means the division of any area of land into two or more parcels and includes a re-subdivision and a consolidation of two or more parcels;
 59. “Subdivision road” the whole right-of-way which is reserved for use in constructing the roadway including all appertaining structures, roadbed, gravels, asphalt, slopes, ditches and channels required for proper drainage and protection;
 60. “Subgrade” means the portion of the roadbed upon which the sub-base course is to be placed;
 61. “Surveyor” means a registered member in good standing of the Association of Nova Scotia Land Surveyors;
 62. “Wastewater” means any liquid waste containing animal, vegetable, mineral or chemical matter in solution or suspension carried from industrial sectors;
 63. “Watercourse” means a lake, river, stream, ocean or other body of water as defined in the *Municipal Government Act*;
 64. “Water system or distribution system” means the system consisting of watermains, water service laterals from the watermains to property lines and appurtenances carrying and distributing potable water for domestic and/or fire protection purposes and includes any pumping stations, pressure control facilities and reservoirs, vested in or under the control of, the Municipality;
 65. “Water service lateral” means pipe that conveys water from a water main to the street line or the limit of a service easement;
 66. “Wearing surface” means the exposed material placed directly upon the base course which comprises the traveling surfaces.

PART 4: GENERAL PROVISIONS

A – PROCEDURE

4. APPLICATION FORM

Application for approval of a plan of subdivision shall be made to the Development Officer in the form specified in Schedule “A” of this By-law.

5. COMPLY WITH ACT

The Development Officer shall comply with the notification and approval provisions of the *Act*.

6. REVIEW BY AGENCIES

The Development Officer shall forward a copy of the preliminary, tentative or final plan of subdivision to:

- (a) in areas not served by a central sanitary sewer, the Department of the Environment to determine compliance with the On-site Sewage Disposal Systems Regulations, except where the proposed lot;
 - i. is more than 9 000 square meters (96,878.4 square feet);
 - ii. has a width of 76 meters (249.3 feet) or more, and
 - iii. the applicant has certified on the application that proposed lot is not intended for a purpose requiring an on-site sewage disposal system;
- (b) in areas served by a central sewer, the authority having jurisdiction for central sewers;
- (c) the authority having jurisdiction for public streets; and
- (d) any other agency of the Federal, Province or the Municipality which the Development Officer deems necessary.

7. REVIEW OF CONCEPT PLAN

The Development Officer may forward a copy of the concept plan and any supplementary information to appropriate agencies in order to evaluate the concept plan in terms of:

- (a) the design’s consideration of topography, natural features, and other site constraints and restrictions;
- (b) the street layout, pedestrian routes, and connections with existing and proposed transportation links on a local and regional scale;
- (c) the feasibility of servicing with applicable services, and the effect of the layout on the provision of future services where applicable;
- (d) public open space; and
- (e) any proposed uses.

8. REPORT BY AGENCIES

Any agency which has been forwarded a copy of a plan of subdivision pursuant to Sections 6 and/or 7 shall forward a written report of their assessments or recommendations to the Development Officer.

9. PLAN NOT TO BE REFUSED BASED ON AGENCIES' REVIEW

Approval of a plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment, the Department of Transportation or any other agency of the Province or the Municipality unless the plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province, including any applicable requirements contained in a Land Use By-law of the Municipality.

10. FEES

- (1) The subdivider shall pay fees contained in the *Costs and Fees Act*, R.S., c. 104, s. 1 and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan and registering a notice of approval of the plan; and as per municipal fee schedule.
- (2) The fees referred to in Subsection (1) shall be paid to the Municipality at the time of application for approval of the plan of subdivision.

11. SUBDIVISION THAT ADDS OR CONSOLIDATES

Before approving a final plan that adds or consolidates parcels or areas of land under different ownership, the Development Officer shall be provided with:

- (a) executed deeds suitable for registering to effect the addition or consolidation;
- (b) fees for registering the deeds;
- (c) affidavit of value including particulars of any exemption, if any, pursuant to Part V, Deed Transfers, of the *Act*; and
- (d) where applicable, the deed transfer tax.

12. COPY OF APPROVED PLAN TO SUBDIVIDER AND SURVEYOR

- (1) The Development Officer shall forward a copy of the approved tentative or final plan of subdivision to the subdivider and the surveyor.
- (2) The Development Officer shall forward a copy of the approved concept plan to the subdivider.
- (3) Inform the subdivider in writing of the evaluation of the preliminary plan of subdivision.

13. NOTICE OF REFUSAL TO AGENCIES

Where the Development Officer refuses to approve a concept, tentative or final plan of subdivision, the Development Officer shall give notice of the refusal to all agencies which were forwarded a plan pursuant to Sections 6 and 7 of this By-law.

14. NOTICE OF REFUSAL TO SUBDIVIDER

Where the Development Officer refuses to approve a concept, tentative or final plan of subdivision, the Development Officer shall inform the subdivider of the reasons for the refusal in writing, and advise the subdivider of the appeal provisions of the *Act*.

15. LOTS CREATED BEFORE A PLAN OF SUBDIVISION IS FILED – SECTION 287(3) OF THE ACT

A final plan of subdivision showing lots as described in Subsection 287(3) of the *Act*, shall:

- (a) identify such lots;
- (b) state the names of the grantor and the grantee of such lots; and
- (c) state the date, book and page number of the conveyance of such lots as recorded in the Registry of Deeds.

B - LOT REQUIREMENTS**16. LOTS SHALL ABUT STREETS**

All lots to be approved on a plan of subdivision shall abut and will access directly to:

- (a) a public street; or
 - (b) a private road which meets the requirements of Section 29, 30 and 31 of this By-law;
- or
- (c) an existing private road which was approved prior to the effective date of this By-law and subject to Section 33 of this By-law.

17. LAND USE BY-LAW

Where a Land Use By-law is in effect:

- (a) all lots for which approval is requested including a remainder lot, if any, for which no approval is requested, shall meet the applicable requirements for lot frontage and area contained in such Land Use By-law.
- (b) Subsections 16(b) and (c) and Sections 18, 19, 21, 22 and 23 do not apply unless the Land Use By-law permits development on any lot created pursuant to these sections and the municipal planning strategy provides for both the subdivision and development of such lots.

18. 10% VARIANCE

- (1) Notwithstanding the lot area and frontage requirements of Subsection 17(a), the Development Officer may approve a maximum of two lots, shown on a plan of subdivision, not meeting these requirements, provided that the lot dimensions and area are not less than ninety (90%) of the required minimums, provided all other requirements of this By-law are met.

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- (2) Subsection (1) does not apply if the area requirements established by the Department of Environment for the construction or installation of an on-site sewage disposal system are not met.

19. WATER FRONTAGE

- (1) For the purposes of this section, “water frontage” means the distance measured as a straight line between the two points where the side lot lines meet a watercourse, and “area of land” means any lot or parcel as described by its boundaries as they existed on April 16, 1987.
- (2) Notwithstanding Section 16 and the lot frontage requirements of Subsection 17(a), the Development Officer may approve the subdivision on an island which does not contain a public street or private road.

20. SUBDIVISION ALTERING BOUNDARIES

- (1) Notwithstanding Section 16 and the lot area and frontage requirements of Subsection 17(a), the Development Officer may approve a subdivision altering the boundaries of two more areas of land where:
- (a) no additional lots are created; and
 - (b) each resulting lot:
 - i. meets the minimum dimensions for lot frontage of the Land Use By-law; or
 - ii. has not had its frontage, if any, reduced; and
 - (c) each resulting lot:
 - i. meets the minimum requirement for lot area of the Land Use By-law; or
 - ii. has not had its area reduced
- (2) Where the proposed lot is not surveyed, the final plan of subdivision prepared pursuant to Subsection (1) shall:
- (a) be certified and stamped by a Nova Scotia Land Surveyor that the boundaries of the parcel or area of land proposed to be added to the existing area of land have been surveyed and shown as a heavy solid line, except the common boundary between the existing areas of land, which is surveyed and certified as being the common boundary and is shown as a heavy broken line; and
 - (b) notwithstanding Subsection 70(1)(b), other than the new boundaries which have been surveyed pursuant to Subsection (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, completed and signed by the surveyor, affixed to the plan adjacent to the certification required by the *Nova Scotia Land Surveyors Act* and the regulations made there under:

“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.”

21. LOTS WITHOUT FRONTAGE AND ACCESS BY RIGHT-OF-WAY

- (1) For purposes of this Section, “area of land” means any lot or parcel as described by its boundaries as they existed on April 16, 1987 notwithstanding that the area of land has been subdivided subsequent to April 16, 1987 resulting in the creation of additional lots meeting the requirements of Section 16 and the lot frontage requirements of Subsection 17(a).
- (2) One lot that does not meet the requirements of Section 16 and the lot frontage requirements of Subsection 17(a) may be created within an area of land, provided the lot is served by a right-of-way easement as defined in Subsection 3(41), and provided no such lot has already been subdivided within the area of land.
- (3) Notwithstanding the limitation to one lot contained in Subsection (2), two lots may be created, including any remainder lot, where:
 - (a) the area of land does not abut a public street or private road, provided that each lot is served by a right-of-way easement as defined in Subsection 3(41); or (b) the area of land has less than 6.1 meters (20 ft.) of frontage on a public street or a private road.

22. ENCROACHMENTS

- (1) Notwithstanding the lot area and frontage requirements of Subsection 17(a), where a development component of a permanent nature such as a structure, driveway, well, or on-site sewage disposal system is encroaching in or upon an abutting area of land, the Development Officer may approve a plan of subdivision to the extent necessary and practical to remove the encroachment.
- (2) Where a lot created pursuant to Subsection (1) is not surveyed, the provisions of Subsection 20(2) shall apply.

23. MAIN BUILDINGS ON LOT BEFORE APRIL 16, 1987

- (1) For purposes of Subsection (2), “main building” is a building which is not an accessory building to another building on the area of land.
- (2) Notwithstanding the lot area and frontage requirements of Subsection 17(a), where an area of land contains more than one main building built or placed on the land prior to April 16, 1987, the Development Officer may approve a final plan of subdivision creating the same number of lots or fewer as there are main buildings provided that each proposed lot is served by a central sanitary sewer or meets the applicable requirements of the Department of Environment.

24. MINIMUM LOT WIDTH AND DEPTH

Lots shall not be subdivided to create a width or depth of less than 6 meters (20 feet).

25. REAR LOT LINES

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

26. SIDE LOT LINES TO BE AT RIGHT ANGLES

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

PART 5: PUBLIC STREETS AND PRIVATE ROADS***A – GENERAL*****27. MAXIMUM FOUR APPROACHES**

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

28. STREETS IN ADJOINING SUBDIVISION

Where a public street or private road in an adjoining subdivision abuts the boundaries of a plan of subdivision submitted for approval, a public street or private road in the latter shall, if possible, be laid out in prolongation of such public streets or private roads, unless it would be in violation of this By-law.

B- PRIVATE ROADS**29. CONSTRUCTION AND DESIGN**

- (1) Although the Municipality is under no obligation to assume ownership of private roads, all proposed private roads shall be:
 - (a) shown on a plan of subdivision;
 - (b) designed by a licensed professional engineer, registered in the Province of Nova Scotia, in accordance with the design requirements for proposed municipal public streets as contained in the Manual and the requirements of this section, and the design approved by the DES; and
 - (c) constructed and approved by the DES in accordance with the following requirements:
 - i. roots, stumps, moss, sod and all other organic or deleterious material shall not be placed in roadway fills or allowed to remain under roadway fills; and

- ii. the minimum road surface top width shall be 10 meters (33 feet) and shall be contained entirely within the right-of-way; and
 - iii. the minimum travel surface width shall be 7.3 meters (24 feet); and
 - iv. the travel surface shall have a base course of crushed, screened, or pit run gravel, meeting NSTPW Type I gravel specifications, to a minimum thickness of 150 mm (6 inches) overlying a sub base course of crushed, screened, or pit run gravel, meeting NSTPW Type II gravel specifications, to a minimum thickness of 250 mm (10 inches); and
 - v. the maximum road grade shall be six percent (6%), however, in difficult circumstances grades up to eight percent (8%) may be approved; and
 - vi. ditches shall have a maximum road slope and a maximum back slope of 50percent (50%); and
 - vii. culverts shall be constructed of steel, reinforced concrete pipe, approved plastic or PVC and shall have a minimum diameter of 45 cm (18 inches), shall be buried a minimum of 50 cm (20 inches) below the road surface, and shall be placed substantially at 90 degrees to the roadway centreline; and
 - viii. all bridges shall be certified as having been designed and constructed to Canadian Standards Association specifications “S6 Design of Highway Bridges”; and
 - ix. provision shall be made for surface drainage of the private road 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.
- (2) The intersection of a private road with a public street shall be approved by the authority having jurisdiction for the public street.
- (3) The minimum width of the right-of-way of a proposed private road shown on a plan of subdivision shall be 20 meters (65.6 feet).

30. NOT PERMITTED IN SERVICED AREAS

Notwithstanding any other provision of this By-law, no private roads shall be permitted in serviced areas, or areas of the Municipality that have access to the Municipal sewer and/or water system.

31. DESIGN AND CONSTRUCTION REQUIREMENTS WAIVED

Subsections 29(1) (b) and (c) shall be waived where a private road provides access to six or fewer lots.

32. RECONSTRUCTION

Notwithstanding Section 31 of this section, where the road construction requirement is waived under Section 31, and the private road to which the waiver relates at any time

services more than six lots, or is extended or prolonged to provide access to more than six lots, whether or not these lots or any of them is owned by the first subdivider, the entire private roadway, including the roadway to the first six lots, shall be reconstructed, and constructed, as the case may be, in accordance with Section 29(1) (b) and (c), and no final approval to any subdivision plan shall be given without this requirement being met.

33. MAXIMUM OF 6 LOTS ON AN EXISTING PRIVATE ROAD

A maximum of six lots abutting an existing private road which does not satisfy Section 29 (1) (b) and (c) may be approved after December 1, 2005.

34. PROFESSIONAL ENGINEER'S CERTIFICATE OF COMPLIANCE

Prior to approval of a final plan of subdivision proposing a private road, the subdivider shall provide the Development Officer with a certificate stamped by a professional engineer which shows compliance with the design and construction requirements of Section 29 (1) (b) and (c).

35. VARIANCE

The requirements referred to in Section 29 (1) (b) (c) and (3) may be varied by the Engineer and approved by the DES in accordance with accepted engineering practice.

36. PRIVATE ROAD APPROVED AS A SEPARATE LOT

A private road may be approved as a separate lot on a plan of subdivision and is deemed to meet minimum lot area and lot frontage requirements of Subsection 17(a).

37. PRIVATE ROAD BOUNDRY NOT LOT BOUNDARY

- (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.
- (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.

C - PUBLIC STREETS

38. MUST PROVIDE ACCESS TO MORE THAN SIX LOTS

All proposed public streets must provide access to more than six (6) lots.

39. GENERAL REQUIREMENTS FOR PUBLIC STREETS

- (1) All public streets shall:
 - (a) be shown on tentative and final plan of subdivision;
 - (b) be designed in accordance with the Manual and the requirements of this section;
 - (c) be constructed and paved in accordance with the Manual prior to final approval and acceptance by the DES;

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- (d) be approved and accepted by the DES prior to the approval of a final plan of subdivision by the Development Officer;
- (2) The minimum width of the right-of-way of a proposed public street shown on a plan of subdivision shall be:
 - (a) 20 meters (65.6 feet) in areas that cannot be serviced by the municipal sewer and water system or are outside the serviceable area boundary shown on the “ANTIGONISH – CENTRED SERVICES” map, Schedule “G” of the Municipality of the County of Antigonish and where the entire roadway (slopes, ditches and roadbed) can be built within the 20 meters (65.6 feet). Construction must include ditches, asphalt, sewer, water and storm water systems and must be approved by the DES.
 - (b) 15 meters (49.2 feet) in areas that can be serviced by the municipal sewer and water system and are in the serviceable area boundary shown on the “ANTIGONISH – CENTRED SERVICES” map, Schedule “G” of the Municipality of the County of Antigonish and where the entire roadway (slopes, ditches and roadbed) can be built within the 15 meters (50 feet). Construction must include curb, gutter, asphalt, sewer, water and storm water systems and must be approved by the DES.
 - (c) Notwithstanding sub clause (2)(a) above the minimum width of the right-of-way of a proposed public street shown on a plan of subdivision may be 15 meters (49.2 feet) in areas that can be serviced by the municipal sewer and/or water system and where the entire roadway can be built within the 15 meters (50 feet). Construction must include curb, gutter, asphalt, sewer, water and storm water systems and must be approved by the DES.
 - (3) Where a proposed municipal public street intersects a provincial public street, that intersection shall be approved by the Department of Transportation.
 - (4)
 - (a) A proposed lot which abuts a public street shall have access to a public street approved by the Department of Transportation or the Municipality, as the case maybe.
 - (b) This Subsection does not apply to proposed lots which have an existing access to a public street.
 - (5) Where a plan of subdivision shows a proposed lot abutting an existing public street, the Department of Transportation or the Municipality, as the case may be, shall verify that the street is a public street.
 - (6) A 20-meter (65.6 ft.) right-of-way may be required to provide access to adjacent property and where required, must be conveyed to the Municipality. Where practical, these accesses shall be no greater than 400 meters (1,312 feet) apart, except where this requirement would prejudice the proper subdivision of the land proposed to be subdivided or the adjacent land.

40. PROFESSIONAL ENGINEER'S CERTIFICATE OF COMPLIANCE

Prior to approval of a final plan of subdivision proposing a Municipal public street, the subdivider shall provide the Development Officer with a certificate from a professional engineer which certifies that the public street has been constructed in compliance with the design and construction requirements of Section 39(1) (b) and (c).

41. VARIANCE

The specifications referred to in Section 39(1) (b) and (c) may be waived or varied by the Engineer and approved by the DES in accordance with accepted engineering practice.

42. TESTING

The subdivider shall be responsible for the following:

- (a) arranging for complete testing of the installation of a street at various stages as required by the Manual; and
- (b) giving reasonable notice to the DES of the proposed test date, site and time; and
- (c) allowing the DES to inspect the installation at any stage or to verify or confirm any required test.

43. ALTERNATIVE TO COMPLETE CONSTRUCTION

As an alternative to the complete construction and acceptance of a municipal public street as required by Sections 39, 40, 41, 42 and 53, the subdivider may, before approval of the final plan is given, enter into a written agreement with the Municipality in accordance with Part 7, and post a performance surety in accordance with Part 8.

PART 6: WATER AND SEWER SYSTEMS AND STORM DRAINAGE SYSTEMS**44. SANITARY SEWER**

- (1) Where a proposed subdivision is in an area serviced by a municipal sewer, and where a new public street is proposed, the subdivider shall, prior to approval of the final plan of subdivision by the Development Officer:
 - (a) construct and connect to the sewer a sanitary sewer system including collectors and laterals to the boundary of the proposed lots; and
 - (b) the sanitary sewer system shall be designed and inspected by a professional engineer, in compliance with the specifications contained in the Manual and shall be approved by the DES.

45. MUNICIPAL WATER

- (1) Where a proposed subdivision is in an area serviced by a municipal water system, and where a new public street is proposed, the subdivider shall, prior to approval of the final plan of subdivision by the Development Officer:

- (a) construct and connect to the municipal water system, a water system including mains and laterals to the boundary of the proposed lots; and
- (b) any water system shall be designed and inspected by a professional engineer, in compliance with the specifications contained in the manual and shall be approved by the DES.

46. STORM DRAINAGE SYSTEM

The subdivider shall install a storm drainage system in conformance with a drainage plan, properly designed and inspected by a professional engineer, to remove any surface drainage that may enter the area being subdivided or be generated within the proposed subdivision, and to adequately dispose of the waters so as not to negatively affect any downstream properties. All drainage plans and storm drainage systems shall comply with the specifications contained in the Manual and approved by the DES.

47. VARIANCE

The specifications referred to in Sections 44(1)(b), 45(1)(b) and (46) may be varied by the Engineer and approved by the DES in accordance with accepted engineering practice.

48. PROFESSIONAL ENGINEER'S CERTIFICATE OF COMPLIANCE

Prior to approval of the final plan of subdivision by the Development Officer, the subdivider shall provide a certificate to the Development Officer from a professional engineer which certifies that the developer has complied with the design and construction requirements of Sections 44(1)(b), 45(1)(b) and (46).

49. TESTING

The subdivider shall be responsible for the following:

- (a) arranging for complete testing of the installation of the water, sewer and storm drainage systems at various stages as required by the Manual; and
- (b) giving reasonable notice to the DES of the proposed test date, site and time; and

50. ALTERNATIVE TO COMPLETE CONSTRUCTION

As an alternative to the complete construction and acceptance requirements for water, sewer and storm drainage systems, as contained in Sections 44, 45, 46, 48 and 49, the subdivider may, before endorsement of approval of the final plan is given, enter into a written agreement with the Municipality as provided for in Part 7, and post a performance surety as provided for in Part 8.

PART 7: SERVICING AGREEMENT

51. CONTENTS OF AGREEMENT

Where an agreement is entered into between the subdivider and the Municipality pursuant to Sections 43 and 50, the agreement shall contain provisions satisfactory to the Municipality with respect to any or all of the following:

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

PART 8: PERFORMANCE SURETY

52. PERFORMANCE SURETY

Where a subdivider proposes to complete construction of any streets, sewer, water or storm drainage systems after receiving approval of any final plan of subdivision, the following shall be required:

- (a) the subdivider shall post a performance surety, satisfactory to the Municipality, in the amount of one hundred and fifteen percent (115%) of the estimated cost to complete the streets and services;
- (b) the subdivider's engineer shall submit to the Development Officer for approval an estimate of costs to complete the construction of the streets and services and the Development Officer may revise the estimate if it is, in the opinion of the DES, inadequate, and the decision of the DES shall be final. Such estimates shall include all construction related costs including but not limited to professional engineering contract management and site supervision and inspection of all construction and work;
- (c) the performance surety shall be posted before approval of any final plan of subdivision is given by the Development Officer;
- (d) the performance surety shall be in favour of the Municipality and may be in the form of cash, certified cheque or letter of credit or bond issued by a bank, surety or guarantee company licensed by the Province of Nova Scotia and conditional on the execution and completion of the agreement in accordance with terms of the agreement and the requirements of this By-law and it shall not be subject to cancellation, termination or expiration during the period of time for completion of the work;
- (e) where the performance surety is paid in cash or by certified cheque, the cheque will be cashed and all monies paid in cash will be held by the Municipality and returned without interest to the subdivider one year following completion of the work;

- (f) where the DES determines that the work is substantially complete, the Municipality may, in its sole discretion, return a portion of the performance surety, less any amount held back for deficiencies, prior to complete construction and acceptance by the Municipality; and (g) where construction of the proposed streets and services does not commence within twelve (12) months, as determined by the DES, or is not substantially completed within fifteen (15) months, as determined by the DES, of the date of approval of the final plan of subdivision and according to the approved time schedule, the subdivider shall forfeit the performance surety.

PART 9: FINAL APPROVAL AND ACCEPTANCE

53. PRIOR TO FINAL APPROVAL AND ACCEPTANCE BY THE MUNICIPALITY

Within thirty (30) days following completion of any public streets and services and prior to final approval and acceptance by the Municipality of any streets and services, the subdivider shall:

- (a) post a maintenance bond, satisfactory to the Municipality and the DES, in the amount of ten percent (10%) of the actual cost of construction of the streets and services. The maintenance bond shall be in favor of the Municipality and may be in the form of cash, certified cheque, irrevocable letter of credit, or bond issued by a bank, surety or guarantee company licensed by the Province of Nova Scotia. The bond shall be for a period of twelve (12) months and shall state that it is a guarantee against deficiencies in the construction and installation of streets and services. Where the maintenance bond is paid in cash or by certified cheque, the cheque will be cashed and all monies paid in cash will be held by the Municipality and returned without interest to the subdivider;
- (b) provide reproducible record drawings of Engineering design showing all the actual constructed systems including sanitary sewers, water systems and storm drainage;
- (c) provide “as built” reproducible design drawings and digital files in AutoCAD compatible format for the street including plan and profile of streets drawn to the required scale and certified by a professional engineer;
- (d) provide the results of all test reports, and all operating and procedural manuals for each public water or public sewer system, demonstrating that the required streets and systems have been constructed and are operating according to the standards set out in this By-law and the Manual; (e) provide four (4) copies of the final plan of subdivision showing the municipal public streets and all drainage rights-of-way outlined in red, road reserves outlined in yellow and easements outlined in green;
- (f) provide deeds, easements or bills of sale to the Municipality, free of encumbrances, for streets, rights-of-way, easements and services. All conveyances of real property and easements shall be by warranty deed or warranty easement, conveyances of services shall be by warranty bill of sale, and the subdivider shall provide to the Municipality from his or her legal counsel a

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

- (g) pay all document registration and other costs associated with the requirements of this section.

PART 10: PRELIMINARY PLANS OF SUBDIVISION (Optional)

A – REQUIREMENTS

54. APPLICATION WITH 6 COPIES OF PLAN

- (1) The subdivider proposing to subdivide an area of land may submit to the Development Officer an application in the form specified in schedule "A" of this By-law, together with six (6) copies of the preliminary plan of subdivision drawn to scale showing:
 - (a) the name of the owner of the area of land being subdivided;
 - (b) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the Registry of Deeds for this Municipality;
 - (c) the name of all owners and Parcel Identifier (PID) Numbers of all properties abutting the area of land being subdivided;
 - (d) the unique Parcel Identifier (PID) of all areas of land being subdivided;
 - (e) the civic number of main buildings on the area of land being subdivided;
 - (f) a location plan showing the approximate distance between the area of land being subdivided and the nearest prominent landmark.
 - (g) the shape, dimensions, and area of the lots being created;
 - (h) 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;
 - (i) no duplication of lot identifiers;
 - (j) the approximate location of railways and railway rights-of-way;
 - (k) the location of existing and proposed public streets and private roads;
 - (l) the name of existing and proposed public streets (and the public street number) and private roads, as issued by the civic addressing system;
 - (m) the graphic representation of lots being created shown by solid lines, and the vanishing boundaries of existing areas of land being re-subdivided, consolidated or both, shown as broken lines;

- (n) the location of existing buildings within 10 meters (32.8 feet) of a property line;
- (o) the general location of watercourses and wetlands;
- (p) the north point;
- (q) the scale; and
- (r) any other information which the Development Officer deems necessary to determine whether the preliminary plan conforms to this By-law.

55. NOVA SCOTIA DEPARTMENT OF ENVIRONMENT AND LABOUR REQUIREMENTS

- (1) Where the preliminary plan of subdivision is to be forwarded to the Department of the Environment, the following additional information, if required by the Department of the Environment, shall be part of, or included with, the preliminary plan:
 - (a) the lot layout including buildings, proposed on-site sewage disposal system, proposed driveway and water wells;
 - (b) the location of watercourses, wetlands and other features that may influence the design of the system, including ditches, roads and driveways;
 - (c) the surface slopes and directions;
 - (d) an explanation of the extent, volume and type of usage to which the system will be subjected;
 - (e) 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, except where the assessment report is to be prepared by the Department of the Environment; and
 - (f) any other information necessary to determine whether the subdivision meets the On-site Sewage Disposal Systems Regulations.

B – PROCEDURE

56. PROCESSING

The procedure for processing preliminary plans of subdivision is contained in PART 4: General Provisions of this By-law.

57. REPORT TO SUBDIVIDER

Upon receipt of all written reports from the review agencies which were forwarded the plan pursuant to Section 6, the Development Officer shall inform the subdivider in writing of the results of the evaluation of the preliminary plan of subdivision.

PART 11: CONCEPT PLANS (OPTIONAL)

A – REQUIREMENTS

58. APPLICATION WITH 8 COPIES OF PLAN

Where an area of land is being subdivided in phases or where it will contain new public streets or private roads, a subdivider may submit to the Development Officer an application in the form specified in Schedule “A” to this By-law, together with eight (8) copies of a concept plan of the entire area of land.

59. CONTENTS

Concept plans shall be at a scale sufficient for clarity of all particulars of the plan and shall show the following:

- (a) the words “Concept Plan” located in the title block, along with an estimated lot yield figure, based on the requirements of the applicable Land Use By-law and the Department of the Environment, as applicable;
- (b) name of the property owner(s) and names and Parcel Identifier (PID) Numbers of all abutting land owners;
- (c) the unique Parcel Identifier (PID) for all areas of land being subdivided;
- (d) the proposed internal street system with connections to existing streets;
- (e) the proposed location of public open space;
- (f) the location of existing development, if any;
- (g) the location of any municipal service boundary or the location of the municipal water and/or sewer system;
- (h) the north point;
- (i) contours at five meter (16.4 foot) intervals; and
- (j) any other information the Development Officer deems necessary to determine if the subdivision meets with municipal standards and accepted engineering practice as determined by the DES.

60. APPROVAL LAPSES IN 2 YEARS

Approval of a concept plan lapses if a complete application for tentative or final subdivision plan approval is not received within two (2) years of the date of approval of the concept plan.

B – PROCEDURE

61. PROCESSING

The procedure for processing concept plans is contained in PART 4: General Provisions of this By-law.

62. STAMPS

The following information shall be stamped or written and completed by the Development Officer on any concept plan which is approved:

- (a) “This concept plan is approved. Such approval lapses if a tentative or final subdivision plan is not submitted for approval within two years of the date of approval of the concept plan.”
- (b) the date of the approval of the concept plan; and
- (c) “This concept plan shall not be filed in the Registry of Deeds as no subdivision takes effect until a final plan of subdivision is approved by the Development Officer and filed in the Registry of Deeds.”

PART 12: TENTATIVE PLANS OF SUBDIVISION (Required if Public Streets are Proposed)**63. APPLICATION WITH 8 COPIES OF PLAN**

The subdivider proposing to subdivide an area of land may submit to the Development Officer an application in the form specified in Schedule “A” to this By-law, together with eight (8) copies of the tentative plan of the proposed subdivision meeting the requirements of Section 64 of this By-law.

64. CONTENTS

- (1) Tentative plans of subdivision submitted to the Development Officer shall be:
 - (a) drawn to a scale or scales sufficient for clarity of all particulars on the tentative plan of subdivision;
 - (b) based on a deed description of the area of land to be subdivided, preferably but not necessarily as surveyed; and
 - (c) folded to approximately 20 x 30 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.
- (2) 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 the title block;
 - (c) a clear space for stamping being a minimum of 225 square centimeters (36 sq. in.) with a minimum width of 8 centimeters (3 in.);
 - (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 for this Municipality;

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- (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 and Parcel Identifier (PID) Numbers 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 lots being created;
 - (k) each lot being approved 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 lots being created shown by solid lines, and the vanishing boundaries of existing areas of land being re-subdivided, consolidated or both, shown as broken lines;
 - (n) the location of existing buildings within 10 meters (32.8 feet) of a property boundary;
 - (o) the location of existing and proposed public streets and private roads;
 - (p) the name of existing and proposed public streets (and the public street number) and private roads, as issued by the civic addressing system;
 - (q) the width and location of railroads and railway rights-of-way;
 - (r) the general location of watercourses, wetlands, or prominent rock formations;
 - (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 public 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) recommended culvert size per each proposed lot;
 - (x) the scale to which the plan of subdivision is drawn; and
 - (y) any other information which the Development Officer deems necessary to determine whether or not the plan of subdivision conforms to this By-law.

65. NOVA SCOTIA DEPARTMENT OF ENVIRONMENT AND LABOUR REQUIREMENTS

- (1) Where the tentative plan of subdivision is to be forwarded to the Department of Environment, the following additional information, if required by the Department of Environment, shall be part of, or included with, the tentative plan:
 - (a) the lot layout including buildings, proposed on-site sewage disposal system, proposed; driveway and water wells;
 - (b) the location of watercourses, wetlands and other features that may influence the design of the system, including ditches, roads and driveways;
 - (c) the surface slopes and directions;
 - (d) an explanation of the extent, volume and type of usage to which the system will be subjected;
 - (e) 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, except where the assessment report is to be prepared by the Department of the Environment; and
 - (f) any other information necessary to determine whether the subdivision meets the On-site Sewage Disposal Systems Regulations.

66. REQUIREMENTS WHERE LOTS FRONT ON A PROPOSED PUBLIC STREET OR PRIVATE ROAD

- (1) In addition to meeting the requirements of Sections 64 and 65, where the proposed lots front on a proposed public street or proposed private road, a plan of subdivision shall:
 - (a) show a boundary survey of the area proposed to be subdivided, excluding the remainder lot, certified and stamped by a Nova Scotia Land Surveyor in the manner required by the *Land Surveyors Act*, R.S., c. 249, s. 1 and its regulations;
 - (b) be accompanied by four (4) copies of a plan showing:
 - i. contours at 2 meter (6.6 ft.) intervals and drainage patterns;
 - ii. the width and location of proposed public streets and private roads, and their intersection with existing public streets; and
 - iii. the location of existing and proposed central sewer and water systems and proposed connections thereto; and
 - (c) be accompanied by two (2) copies of centerline profiles of proposed public streets or private roads;
 - (d) be accompanied by four (4) copies of a storm drainage plan and design report applying acceptable engineering practices for the proper removal of surface drainage from the proposed subdivision and in compliance with Section 46.

- (e) be accompanied by any other information which the Development Officer deems necessary to determine whether the plans referred to in Subsections (b), (c) and
- (d) conform to this By-law.
- (2) Where plans or drawings or centreline 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*. R.S., c. 148, s. 1.

B – PROCEDURE

67. PROCESSING

The procedure for processing tentative plans of subdivision is contained in Part 4: General Provisions of this By-law.

68. STAMPS

The following information shall be stamped or written and completed by the Development Officer on any tentative plan of subdivision which is approved together with any other information, including conditions, necessary for the tentative plan to proceed to the final plan stage:

- (a) “This tentative plan of subdivision is approved for Lots _____. Such approval lapses if the lots are not shown on a final plan of subdivision approved within two years of the date of the approval of the tentative plan.”;
- (b) the date of the approval of the tentative plan; and
- (c) “This tentative plan of subdivision shall not be filed in the Registry of Deeds as no subdivision takes effect until a final plan of subdivision is approved by the Development Officer and filed in the Registry of Deeds.”

PART 13: FINAL PLANS OF SUBDIVISION

A – REQUIREMENTS

69. APPLICATION WITH 12 COPIES OF PLAN

- (1) The subdivider proposing to subdivide or consolidate an area of land shall submit an application in the form specified in Schedule “A” of this By-law together with twelve (12) copies of the final plan of subdivision meeting the requirements of Section 70 of this By-law to the Development Officer for approval.
- (2) A final plan of subdivision submitted for approval shall be accompanied by any security or bonds required to be posted under this By-law.

70. CONTENTS

- (1) 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 Land Surveyor that the lots for which approval is requested have been surveyed in the manner required by the *Land Surveyors Act* and its regulations, except for a final plan of subdivision prepared pursuant to Subsection 20(2) of this By-law; and
 - (c) folded to approximately 20 x 30 centimeters (8x12 in.) with the face of the folded print being the title block which is located in the lower right-hand corner of the final plan of subdivision.
- (2) Final plans of subdivision shall meet the requirements of Sections 64, 65 and 66, except that:
 - (a) Subsection 64(2)(b) does not apply;
 - (b) proposed streets and roads shall be surveyed;
 - (c) the geographical and mathematical location of all buildings within three meters (9.8 ft.) of a proposed boundary shall be shown; and
 - (d) the stopping sight distance shall be shown when a lot abuts a road that is owned and maintained by the Municipality of the County of Antigonish in conformance with Schedule “E” and in conformance with the standards indicated in the Government of Nova Scotia Management Manual 23, Department of Transportation and Public Works Management, Chapter 8, Construction and Maintenance.

B – PROCEDURE**71. PROCESSING**

The procedure for processing a final plan of subdivision contained in Part 4: General Provisions of this By-law.

72. STAMPS

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

- (a) “This final plan of subdivision is approved for Lots _____.”;
- (b) where applicable,
 - i. “_____ (is/are) suitable for the (lot(s) approved and/or remainder) construction or installation of an on-site sewage disposal system for _____ and any (proposed user) conditions which apply are contained in a report dated and available from the Department of the Environment.”, or

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- ii. “IMPORTANT NOTICE
_____ (has/ have) been (lot(s) approved and/or remainder) created for a purpose which does not require an on-site sewage disposal system and will not be eligible for a permit to install a system unless the requirements of the Department of the Environment are met.”; or
 - iii. “_____ (is/are) served by (lot(s) approved and/or remainder) an existing on-site system and should a replacement system become necessary in future, approval of the replacement system from the Department of the Environment is required”.
- (c) where applicable,
- i. a notation stating that access to the public street as shown has been approved for the lots created by this final plan and any conditions which apply are listed on the plan or are contained in a report dated _____, available from the authority having jurisdiction for public streets;
 - ii. where a lot which abuts a public street does not have an approved access point along the street, a notation stating that direct access to the street is not permitted; and
 - iii. where there are private roads which are not to be owned and maintained by the Department of Transportation or the Municipality, the words “The Private Road(s) shown on this Plan is/are not owned or maintained by either the Nova Scotia Department of Transportation and Public Works of the Municipality of the County of Antigonish and therefore properties located on this private road are not entitled to any Provincial or Municipal Services including Grading, Ditching, Snowplowing, Gravelling, School Busing or Garbage Collection.”

73. REGISTRY OF DEEDS

- (1) The Development Officer shall forward to the Registry of Deeds three (3) approved copies of the final plan of subdivision and any other documentation pursuant to the *Land Registration Act*, 2001, c. 6, s. 1, and if applicable, a Notice of Approval in the form specified in Schedule “B” of this By-law.
- (2) If applicable, the items required by Section 11 of this By-law.

PART 14: INSTRUMENTS OF SUBDIVISION

74. REQUIREMENTS

- (1) As an alternative to a FINAL plan of subdivision, the Development Officer may approve an instrument to create a subdivision where:
 - (a) all other requirements of this By-law are met, and

- (b) the plan shows only lots having a minimum area of 2 hectares (4.9 acres) including the remainder lot, if any, or
 - (c) two or more areas of land are being consolidated into one lot, and
 - (d) the plan is prepared, stamped and signed by a member in good standing of the Association of Nova Scotia Land Surveyors but is not certified in accordance with the *Land Surveyors Act*, R.S., c. 249, s. 1 and the Regulations made thereunder,
 - (e) the plan meets the requirements of clause 64(2)(c) to 64(2)(4) inclusive except the reference to a survey in clauses 64(2)(j) and 64(2)(n) does not apply.
- (2) The Instrument of subdivision submitted to the Development Officer for approval pursuant to Subsection (1) shall have the following affixed thereto immediately above the title block:

“The boundaries shown on this plan are a graphic representation only and do not represent the accurate shape or position of lot boundaries. The accurate locations of all boundaries shown are subject to a field survey prepared in accordance with *Land Surveyors Act* and the Regulations made thereunder.”

- (3) The plan shall be subject to the same stamps as those required by Section 72 except the words “FINAL plan of subdivision” shall be changed to “instrument of subdivision”.
- (4) Application for approval of an instrument of subdivision shall be made to the Development Officer in a form specified in Schedule “A” of this By-law along with a completed instrument of subdivision in a form specified in Schedule “F” of this by-law.

PART 15: PARKLAND DEDICATION (PRESERVATION OF NATURAL AREAS)

75. TRANSFER OF LAND

Prior to approval by the Development Officer of the final plan of subdivision, the subdivider shall either:

- (a) transfer to the Municipality, free of encumbrances, for parks, playgrounds and similar public purposes, an area of useable land within the area being subdivided equal to five percent (5%) of the area of the lots to be approved, as shown on the final plan of subdivision, exclusive of streets, easements and the remainder of the land of the subdivider; or
- (b) provide to the Municipality a sum of money equivalent to five percent (5%) of the market value, as determined by an assessor, of the lots to be approved, as shown on the final plan of subdivision, exclusive of streets, easements and the remainder of the land of the subdivider; or
- (c) where the Council agrees, provide to the Municipality equivalent value, in any combination as determined by the Municipality; or

- (d) where the Council agrees, transfer to the Municipality, free of encumbrances, an area of useable land of equal value outside the area being subdivided but within the boundaries of the Municipality, in lieu of the land in the subdivision required to be transferred under Subsection 75(a).

76. USABLE LAND

- (1) For the purposes of Section 75, useable land shall be defined as land that:
 - (a) has an average slope over the entire parcel of not more than fifteen percent (15%), provided that any part of the parcel with a slope of fifteen percent (15%) or more shall not exceed one-quarter of the area of the entire parcel;
 - (b) consists of a parcel having an area of 0.2 hectare (one-half acre) or more;
 - (c) is serviced by public water and sewer systems, or is capable of supporting an onsite sewage disposal system, unless the parcel is intended for recreational purposes, such as linear walking or hiking trails, which do not require an on-site sewage disposal system or services;
 - (d) is not a clearing and grubbing disposal area;
 - (e) is not swampland or subject to flooding;
 - (f) is not an electrical transmission corridor; and
 - (g) where applicable, is able to meet the requirements for lot area and lot frontage contained in the Land Use By-law.
- (2) The criteria in Subsection 76(1) may be waived if the land to be transferred is considered unique by the Development Officer in that the parcel is:
 - (a) land suitable for preservation as an interpretive natural reserve area based on the opinion of Council;
 - (b) land of significant historical or archaeological value to the Municipality;
 - (c) land adjacent to parkland or open space owned by the Municipality; or
 - (d) land deemed by the Recreation Department of the Municipality to be required for recreational purposes.
- (3) Any land to be conveyed to the Municipality other than that meeting the requirements of Subsection 76(2) shall abut a public road or private road. Land to be conveyed to the Municipality pursuant to the requirements of Subsection 76(2) shall be accessible by a public street or private road or by a public easement a minimum of 50 feet (15 meters) in width and providing a connection to a public road.

77. BOND

- (1) 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.

- (2) Where Council approves the use of a bond or other security under Subsection (1), 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.

78. CERTIFICATION OF TITLE

Any conveyance of land to the Municipality under this Part shall be by warranty deed, and the subdivider shall provide to the Municipality from his or her legal counsel a solicitor's certificate of title certifying that all property conveyed is free from all encumbrances. In the event that the conveyance is not free from encumbrances, an unqualified undertaking from the subdivider's solicitor to release the encumbrances may be accepted by the Municipality.

79. SUBDIVIDER RESPONSIBLE FOR COSTS

The subdivider shall be responsible for all document registration costs and other costs associated with the requirements of this Part.

80. SECTION 75 SHALL NOT APPLY

Section 75 shall not apply:

- (a) to the consolidation or re-subdivision of land where no additional lots are created;
- (b) where the lot being created has a dwelling situate thereon that was completed on or before the 1st day of January, 1979, and the remainder of the land owned by the subdivider also has a dwelling situate thereon that was completed prior to the 1st day of July, 1978; or
- (c) to plans of subdivision showing the creation of six (6) lots or less, except where the lot(s) are phased lot approvals of a more extensive subdivision shown on an approved tentative plan of subdivision.

PART 16: REPEAL OF A PLAN OF SUBDIVISION

81. APPLICATION

Any person requesting the repeal of a plan of subdivision shall submit to the Development Officer an application in the form specified in Schedule "C".

82. NOTIFICATION OF APPROVAL

The notification and approval provisions of the *Act* which apply to the approval of a plan of subdivision shall also apply to a repeal.

83. REPEAL OF ANY OR ALL LOTS APPROVED

Where a plan of subdivision has been approved, the approval may be repealed for any or all of the lots created by the plan of subdivision.

84. APPLICATION TO REVIEW AGENCIES

When the Development Officer is satisfied that an application for repeal is complete, the Development Officer may forward a copy to any agency who provided an assessment or recommendation on the original plan of subdivision.

85. BUILDINGS ON SUBJECT LANDS

Where buildings have been erected on the subject lands after the date of the subdivision approval sought to be repealed, no repeal shall be granted which would cause these buildings to be in violation of any building code regulations, Land Use By-law, or sewage disposal regulations unless the violation can be rectified by the approval of a new plan of subdivision filed at the Registry of Deeds on the same day as the repeal is filed.

86. SECTIONS TO NOT APPLY

Sections 4 to 80 inclusive of this By-law do not apply to the repeal of a plan of subdivision.

87. REPEAL TO REGISTRY OF DEEDS

The Development Officer shall forward to the Registry of Deeds the repeal in the form specified in Schedule "D".

88. COPY TO SUBDIVIDER AND REVIEW AGENCIES

The Development Officer shall forward a copy of the repeal referred to in Section 87 to:

- (a) the subdivider; and
- (b) any agency who provided an assessment or recommendation on the original plan of subdivision.

89. FEES

- (1) At the time of application for the repeal of a subdivision, the subdivider shall submit to the Development Officer:
 - (a) the fees contained in the *Costs and Fees Act*, R.S., c. 104, s. 1 and its regulations for registering a repeal of a plan of subdivision; and
 - (b) a processing fee of \$200.00, per final application for repeal of a subdivision.
- (2) Where the Development Officer refuses to repeal a subdivision, the Development Officer shall return the fees referred to in Subsection (1) (a) to the subdivider.

90. NOTICE OF REFUSAL TO REVIEW AGENCIES

Where the Development Officer refuses to repeal a plan of subdivision, the Development Officer shall give notice of the refusal to the subdivider and to all agencies which were forwarded the application for repeal pursuant to Section 84.

PART 17: REPEAL OF BY-LAW**91. PREVIOUS BY-LAW REPEALED**

The Subdivision By-law approved by the Minister of Municipal Affairs on August 15, 1994 and any amendments thereto is repealed.

SCHEDULE "A"
APPLICATION FOR SUBDIVISION APPROVAL

SUBDIVISION AREA Municipality of the Co. of Antigonish _____		APPLICATION TYPE: Concept <input type="checkbox"/> Preliminary <input type="checkbox"/> Tentative <input type="checkbox"/> Final <input type="checkbox"/>	
NAME OF SUBDIVISION		APPROVAL REQUESTED FOR LOT #s	
LOCATION: PROPERTY IDENTIFICATION NUMBER (PID):		No. & TYPE OF EXISTING BUILDINGS:	
PRESENT USE OF SITE:		PROPOSED USE OF SITE:	
SIZE OF PARCEL TO BE APPROVED:		SIZE OF REMAINING PARCEL:	
PROPERTY OWNER(S):	MAILING ADDRESS:	TELEPHONE NUMBER:	
APPLICANT:	MAILING ADDRESS:	TELEPHONE NUMBER:	
CORRESPONDENCE AND PLANS SHOULD BE SENT TO: <input type="checkbox"/> OWNER <input type="checkbox"/> APPLICANT <input type="checkbox"/> OTHER (Specify Below)			
NAME:	MAILING ADDRESS:	TELEPHONE NUMBER:	
WATER SERVICES: Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Central System _____ Drilled Well _____ Dug Well _____ Other: _____	SEWER: Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Central System _____ On-Site _____ Other _____	ACCESS: Existing <input type="checkbox"/> Proposed <input type="checkbox"/> Public Road _____ Private Road _____ Right-of-Way _____ Other _____	

APPLICATION FOR SUBDIVISION APPROVAL
Back of Form

CERTIFICATION: ON-SITE SYSTEM NOT REQUIRED (unserviced areas)

I certify that _____ (is/are) being subdivided for a purpose
(Lot(s) being approved and/or remainder Lot)

(_____) which will not require the installation of an on-site sewage
(Specify Purpose) disposal system.

Signature: _____ Date: _____

DECLARATION: I CERTIFY THAT I AM THE OWNER OR AM ACTING WITH THE OWNER'S WRITTEN CONSENT.

Signature of Applicant(s): _____ Date: _____

_____ Date: _____

SPACE FOR OFFICE USE ONLY

Plan Received: _____ Application Complete: _____ Plans Approved: _____

Plans Reviewed By:

Sent		Received
_____	DOT&PW	_____
_____	DOE&L	_____
_____	Public Works	_____
_____	LRO	_____
_____	Other	_____

Registration Fee 5% Open Space Fee

Plan No.: _____ PID No.: _____

Map No.: _____ Zoning: _____

Previous Subdivision Approval Yes
No

Plan No.: _____

Subdivision Type: _____

SCHEDULE "B"

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

File Reference No.: _____

**REGISTRY OF
DEEDS
STAMP:**

Name of the Owner(s): _____

Name of Subdivision: _____

Location: _____

Date of Approval: _____ For: LOT(S) _____

Surveyor: _____ Date of Plan: _____

DATED THIS _____ DAY OF _____

Municipal Development Officer

Plan of Subdivision filed in the Registry of Deeds as Plan #

DATED THIS _____ DAY OF _____, 2005.

<p>This plan of subdivision also contains information regarding the lots approved on this plan with respect to one or more of the following:</p> <ol style="list-style-type: none"> 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 highway.
--

SCHEDULE "C"
APPLICATION FOR REPEAL OF A SUBDIVISION

Plan of Subdivision

File Number

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 SUBDIVISION SOUGHT TO BE REPEALED

Name of applicant for subdivision approval: _____

Location: _____ Municipality: _____

The subdivision was approved on the _____ day of _____, 20____.

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

of _____ the County of _____ as # _____.

Lot(s) # _____ was/were approved and repeal is sought for approval of

Lot(s) # _____.

Registration fee submitted.

CERTIFICATION OF FACTS

(Reasons for Repeal - If more space is required, attach additional sheet)

APPLICATION FOR REPEAL OF A SUBDIVISION
Back of Form

OWNER'S CERTIFICATE

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

SIGNATURE OF OWNER OR AGENT

DATE

CO-SIGNER

DATE

SCHEDULE "D"
REPEAL OF A SUBDIVISION

Plan of Subdivision

Name of Owner(s): _____

Name of Subdivision: _____

Location: _____

Date of Approval of the Subdivision: _____

Being Registration # _____ at the Registry of Deeds.

THIS SUBDIVISION IS REPEALED

Entire Plan _____ Or Only Lot # _____

Dated at _____ In the _____

Province of Nova Scotia, this _____ Day _____

of _____, 20_____.

Development Officer

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

SCHEDULE "E"
STOPPING SIGHT DISTANCE

STOPPING SIGHT DISTANCE								
LOT NO.	SPEED ZONE	DISTANCE FROM LOT CORNER LEFT/RIGHT	LEFT		RIGHT		PASS OR FAIL*	COMMENT
			GRADE	DISTANCE	GRADE	DISTANCE		

* Government of Nova Scotia Management Manual 23, Department of Transportation and Public Works Management, Chapter 8, Construction and Maintenance.

Signed: _____
Nova Scotia Land Surveyor

SCHEDULE "F"

INSTRUMENT OF SUBDIVISION

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

(DATE) AD (YEAR)

Commissioner of Oaths
Province of Nova Scotia

Owner(s) Signature(s)

LOCATION MAP

**TITLE BLOCK
INSTRUMENT OF SUBDIVISION
LANDS OF:**

SCALE:

**I certify that the above graphic representation accurately represents
my property**

Owner(s) Signature(s)

SCHEDULE "G" ANTIGONISH - CENTRED SERVICES MAP

