

RIVERPORT AND DISTRICT

Municipality of the District of Lunenburg

SECONDARY PLANNING STRATEGY

AND

LAND-USE BY-LAW

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

1. Adoption Secondary Planning Strategy and Land Use By-law adopted by Municipal Council on July 12, 2005. Effective date: August 10, 2005.
2. February 10, 2009 Amendments to the Secondary Planning Strategy and Land Use By-law to rename the Planning Area from “District Three” to “Riverport and District” and revise the Environmentally Sensitive (ES) Zone by prohibiting development in wetlands and salt marshes identified in the Nova Scotia Department of Natural Resources “Wetlands and Coastal Habitats Inventory”.
3. May 10, 2011 Amendment to the Land Use By-law respecting Fees.
4. April 1, 2015 Amendments to the Secondary Planning Strategy, SPS Policy 7.1.8 re-drafted, in reference to Municipality’s Public Participation Program on Planning Manners policy (MDL-66), and repeal of Part 8, Procedure.
5. March 9, 2016 Amendments to Part 4.1 and Policy 7.1.5 of the Secondary Planning Strategy, and section 5.2.3 and Definition 9.16 of the Land Use By-law, respecting telecommunications.
6. October 30, 2019 Amendment to Subsections 5.2.3, 5.2.4, 5.2.5 of the Secondary Planning Strategy, Subsections 5.1.2, 5.2.3, 9.22A and 9.29A of the Land Use By-law, respecting exemptions of Emergency Service Facilities from requirements.
7. September 16, 2020 Amendments to the Secondary Planning Strategy, Subsections 7.1.2 and 7.1.8 to move references from the Area Advisory Committee to the Planning Advisory Committee.

FIRST READING BY COUNCIL – JUNE 14, 2005
SECOND READING BY COUNCIL – JULY 12, 2005

EFFECTIVE DATE: AUGUST 10, 2005
LAST AMENDMENT: **SEPTEMBER 16, 2020**

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1. INTRODUCTION

1.1 COMMUNITY PROFILE

The Riverport and District Planning Area includes a number of distinct but closely linked rural communities, including: Riverport, Rose Bay, Lower Rose Bay, Upper Kingsburg, Kingsburg, Feltzen South, Bayport, Indian Path, Middle LaHave, East LaHave, Lower LaHave, Crouse's Settlement, and Five Houses, as well as portions of Tanner's Settlement and Grimm's Settlement.

The physical shape of the District is a complex peninsula confined between the LaHave River to the southwest and Lunenburg Bay to the northeast. The shoreline is extremely irregular, creating a number of smaller peninsulas, harbours, coves and beaches.

As in other parts of the Lunenburg County shoreline, the importance of the waterfront to transportation and fishing decided the layout of the original land grants and then shaped the development of the communities in the District. Houses, barns, businesses and roads clustered along the waterfront, reserving the inland areas for farming and forestry. The exceptions to this generality are the communities of Grimm's Settlement, Tanner's Settlement, Crouse's Settlement and parts of Kingsburg, where the location of the better farmland, shelter from weather, or the pattern of land inheritance have fostered communities with less obvious connections to the water.

Two hundred years of development, change in transportation, food supply and population have reduced the economic significance of the waterfront. The on-shore base for fishing is now mostly concentrated at a few locations suitable for wharves. The waterfront is now important chiefly for its unique contribution to the character of the area and its role in providing a high quality of residential living. This unique natural resource is valued very highly both by life-long residents and more recent arrivals.

These changes in the economy show up also in the reduced role of fishing, farming and forestry in the daily lives of the people of the District. Although the linear form of development along the coasts and roads persists, cleared agricultural land is now largely idle, and the communities have developed a more suburban or rural residential character. This trend is likely to continue, with residential development in the forefront compared with commercial, industrial, agricultural and fisheries development.

Following a disastrous fire in September of 1981 and reduction in fish quotas, the Fishery Products International (FPI) fish plant carries on the traditions of fish processing and ship maintenance at Kraut Point. With this exception, the commercial and industrial operations in the District are small in size and number, co-existing comfortably with the surrounding residential land uses. This co-existence was the general pattern in the past and should be the pattern of the future.

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Distinctly suburban residential development in compact subdivisions is a type of development which is more likely to happen close to the Town of Bridgewater, than in the Riverport and District planning area. However, land values in the Riverport and District planning area are increasing, particularly waterfront residential land values, which reflects an increase in the opportunity for residential development. More residential development along the highways can be expected in between the existing houses, as well as the development of homes on a second layer of lots behind the existing road frontage lots. The practical difficulties of this form of development coupled with the restrictions imposed by the Municipal Subdivision By-law, will limit the extent of this type of residential development.

Compared to other parts of Nova Scotia and other parts of Lunenburg County, the Riverport and District planning area has unique features which attract people who seek a high-quality living environment with views of the ocean and river, as well as direct use of these resources. These same features attract investors and speculators who would take advantage of the area's potential for rural residential development and for part-time seasonal dwellings.

The Riverport and District Board of Trade together with other local and regional groups are working for increased development of the tourist industry, as well as general commercial or industrial development of the area. Residents of the area want to protect the existing quality of life in the area and at the same time encourage local economic development. They have recognized that this is a special place. The residents have expressed a strong desire to have a role in determining the future of their communities and in ensuring that the essential character of the area does not disappear.

2. AUTHORITY AND SCOPE

This Secondary Planning Strategy and Land-Use By-law was adopted by Municipal Council on July 12, 2005, and became effective August 10, 2005. The Strategy and By-law were prepared and adopted in accordance with the Municipal Government Act (Chapter 18, Acts of 1998), which replaced the Planning Act as of April 1, 1999. The Municipal Government Act states that Council may prepare a Planning Strategy for all or part of a Municipal Unit. The planning area to which this Planning Strategy applies was defined by the February 2000 Municipal Council District Three boundary (approved by NSURB February 2000) which includes the communities of Riverport, Rose Bay, Lower Rose Bay, Upper Kingsburg, Kingsburg, Feltzen South, Bayport, Indian Path, Middle LaHave, East LaHave, Lower LaHave, Crouse's Settlement and Five Houses, as well as portions of Tanner's Settlement and Grimm's Settlement, hereinafter referred to in this document as "the planning area".

The Municipal Government Act enables Council to adopt a Secondary Planning Strategy for the purpose of providing statements of policy for the management of a specific area of the Municipality. The Municipal Government Act also outlines a broad range of matters related to the physical, social or economic environment of the planning area that may be addressed in policies by the Municipality. These include: the goals and objectives of the planning area; the improvement of the physical, economic and social environment; the use, protection, and development of lands; the provision of municipal services and facilities; environmental protection; land subdivision; use and conservation of energy; and public involvement in planning. The Municipal Government Act is the legislative basis for the preparation and adoption of these planning documents.

This Secondary Planning Strategy consists of policy statements and maps that express Council's wishes and intentions with respect to development and land-use in the planning area during the next ten years. The Municipal Government Act states that a Council shall include policies in the Planning Strategy on how and when it intends to review the Strategy and Land-Use By-law and enables the Strategy to be amended by Council at any time during this period. While the Strategy focuses primarily on development and land-use issues, matters such as municipal services, recreation and infrastructure are also addressed.

The Land-Use By-law, which has been prepared and adopted in conjunction with this Planning Strategy, is the primary regulatory mechanism through which the Planning Strategy is implemented. The Land-Use By-law contains standards, requirements and zoning designations that control the type and characteristics of developments. Amendments to the By-law that involve rezoning of land for a new or a different use from that permitted by the By-law are provided for in the Planning Strategy policies.

Policies also govern the circumstances under which a Development Agreement or a rezoning may be considered and approved.

2.1 GENERAL POLICIES

- 2.1.1. It shall be the policy of Council that this Secondary Planning Strategy shall be the primary policy document through which the future growth and development of the planning area shall be guided, encouraged and controlled.
- 2.1.2. It shall be the policy of Council that the Land-Use By-law, prepared and adopted by Council in conjunction with the Secondary Planning Strategy, shall provide the primary regulatory mechanism for land-use and development control, through which the intent of this Planning Strategy shall be implemented.
- 2.1.3. The maps and schedules appended to this Secondary Planning Strategy shall form part of the Secondary Planning Strategy.
- 2.1.4. The Generalized Future Land-use Map, Map 1, which is attached to this Secondary Planning Strategy, shall be regarded as a generalized representation of the intended pattern of future land-use in the planning area.
- 2.1.5. This Secondary Planning Strategy applies to the Riverport and District planning area as shown as an area of land on Map 1, the Existing Land-use Map.
- 2.1.6. Throughout this Secondary Planning Strategy and throughout the Land Use By-law, the metric measurement system is used to indicate the required standards. Imperial measurements are approximate only and are inserted only for convenience.

3. GOALS AND OBJECTIVES

3.1 GOALS

There is heightened awareness of the quality of the Riverport and District living environment and a growing concern that some types of development could have a negative impact on the community. Residents and landowners are concerned that without appropriate planning and development controls, individual properties or the entire community could be adversely affected. Municipal Council has set 3 goals for the Riverport and District planning area in three main areas, Environmental, Economic and Social.

3.1.1. The goals of Council shall be to:

- a) preserve the Riverport and District’s vital Resources for present and future generations;
- b) provide opportunities for a sustainable economic-base; and
- c) promote the Riverport and District as an attractive rural residential environment for all ages.

3.2 ENVIRONMENTAL – OBJECTIVES

Council's Environmental goal is to preserve the Riverport and District’s vital Resources for present and future generations. Council adopts the following policies to achieve the Environmental goal:

- 3.2.1. It shall be the policy of Council to ensure that development does not negatively impact over all water quality such as drinking water, surface water, ground water, lakes, rivers, wetlands and oceans.
- 3.2.2. It shall be the policy of Council to ensure that development activity doesn't create emissions that can negatively effect air quality to the extent that an environmental or a health hazard is created.
- 3.2.3. It shall be the policy of Council to encourage responsible and sustainable resource management such as Forestry and Agriculture.

3.3 ECONOMIC – OBJECTIVES

Council's Economic goal is to provide opportunities for a sustainable economic-base. Council adopts the following policies to achieve the Economic goal:

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- 3.3.1. It shall be the policy of Council to promote local entrepreneurship by providing for a range of commercial and industrial uses within the planning area.
- 3.3.2. It shall be the policy of Council to encourage higher levels of government and the private sector to provide educational and training opportunities to meet the needs of the changing labour market such as but not limited to new technology, call centres, and more specific new technology in the fishing industry.
- 3.3.3. It shall be the policy of Council to provide for amenities within the planning area such as educational, health care, and recreational opportunities; a variety of housing options and an aesthetically pleasing living environment to attract new industries and business to the Riverport and District.
- 3.3.4. It shall be the policy of Council to enable Agriculture and other resource based activities to play an important role in the Riverport and District economic base.
- 3.3.5. It shall be the policy of Council to protect the shoreline from over development, by encouraging economic growth away from the shoreline and implement development standards to preserve and enhance shoreline views.
- 3.3.6. It shall be the policy of Council to encourage industrial activity by providing for such uses within the planning area.
- 3.3.7. It shall be the policy of Council to encourage other levels of government and the private sector to provide public transportation opportunities to attract new business and industry to the Riverport and District planning area.

3.4 SOCIAL – OBJECTIVES

Council's goal is to promote the Riverport and District planning area as an attractive rural residential environment for all ages. Council adopts the following policies to achieve the Social goal:

- 3.4.1. It shall be the policy of Council to provide for low impact recreational space, such as but not limited to foot paths, water access and public open space within the planning area.
- 3.4.2. It shall be the policy of Council to preserve and enhance shoreline view planes through development standards.

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- 3.4.3. It shall be the policy of Council to enhance and preserve the rural aesthetics of the Riverport and District’s living environment through development standards.
- 3.4.4. It shall be the policy of Council to encourage higher levels of government and the private sector to provide educational opportunities to all age groups within the community.
- 3.4.5. It shall be the policy of Council to provide development standards for a variety of housing options to meet all ages and needs.
- 3.4.6. It shall be the policy of Council to encourage public transportation initiatives.
- 3.4.7. It shall be the policy of Council to encourage the establishment of medical clinics and offices, by providing for such uses within the planning area.

4. LAND USE CONTROLS

4.1 RURAL LAND USES

The Riverport and District planning area can be described as a sparsely populated, rural area. There is a broad mix of uses that are concentrated along the coast, which are primarily residential in nature. The Existing Land-Use Map indicates the following land-uses within the planning area: Residential, Residential Home Occupation, Agricultural, Recreational and Cultural, Industrial, Commercial, Institutional, Forestry, Fishery, Protected and Limited use, Transportation and Transmission, and undeveloped lands.

An examination of the soils in the community indicates the most fertile soil types in the planning area are classified as Bridgewater loam- drumlin phase and Wolfville loam- drumlin phase. Mostly all of the agricultural lands in the planning area are located on these soils.

Fishing, haying and timber harvesting are the most common resource uses in the planning area. The land-use inventory revealed few areas of land being used for haying and even fewer areas being used for timber harvesting. Some of the forestry land appeared to have been harvested some time ago. Only one or two areas of land are being used to grow a significant amount of crop vegetables, although there are numerous small garden plots used to grow vegetables.

This mix of existing rural land uses are part of Riverport and District's rural setting. This Planning Strategy and accompanying Land Use By-law will ensure that this form of compatible rural development continues. To do this Council will establish a Rural designation and zone which provides for a variety of land-uses consistent with the existing pattern of development in the Riverport and District planning area.

- 4.1.1. In recognition of the Riverport and District planning area as a rural community and the need to accommodate the mix of land-uses in the planning area, it shall be the policy of Council to designate the Riverport and District planning area, "Rural" (RU) as shown on Map 1, Generalized Future Land Use, and within this area allow a wide variety of residential, agricultural, recreational, industrial, commercial, institutional, forestry and fishery uses of land.

Rural Three (RU-3) Zone

Although the Rural designation allows for a mix of land-uses, Council will control the scale to minimize the potential for land-use conflicts. Council will do this by establishing a "Rural Three (RU-3)" Zone and permit a variety of land-uses up to a maximum size deemed to be compatible with a rural setting, subject to zone standards. Land-uses that exceed the thresholds established in the Land Use By-law will be subject to a Development Agreement. A Development Agreement will give Council and the community greater flexibility and input into larger scale development.

Some types of land-uses, regardless of size, have the potential to negatively impact on the community, without some type of controls to ensure compatibility with neighbouring land-uses. Such uses include but are not limited to: bulk storage of petroleum products, salvage yards, beverage rooms, lounges and shooting ranges. Council will implement these controls utilising Development Agreements, which will provide Council and the Community with a greater flexibility in controlling large-scale development.

The intentions of Council is not to stop a landowner from any particular land use within the Rural Three (RU-3) Zone, but simply to require that the community be made aware of large scale land-uses and those that have the potential to impact on the character of the community. The owner will be required to undertake these developments in a manner that respects and compliments the existing community setting.

- 4.1.2. To provide for a mix of land uses within the Rural designation, it shall be Councils policy to establish a Rural Three (RU-3) Zone, as shown on Schedule A, Zoning Map, of the Land Use By-law.
- 4.1.3. Pursuant to Policy 4.1.2, it shall be Council's policy to permit the following developments in the Rural Three (RU-3) Zone, to a threshold as specified in the Land Use By-law and subject to the requirements of the Land Use By-law:
 - a) Residential developments to a maximum of 4 dwelling units per lot;
 - b) Small-scale commercial, industrial, resource and institutional uses;
 - c) Fixed roof accommodation for the travelling public and their associated facilities for food preparation and serving of meals;
 - d) Non-residential uses which are not commercial or industrial such as (but not restricted to) parks, playgrounds, recreation developments, and cemeteries;
 - e) Notwithstanding Clause b) agricultural and forestry activities and developments; and
 - f) Notwithstanding Clause b) fishery uses including general storage, docks, boat launches and repair facilities which support the inshore fishery.
- 4.1.4. Notwithstanding Policy 4.1.3, and to provide greater flexibility and control over large scale uses to ensure compatibility with Riverport and District's existing and future pattern of development, it shall be the policy of Council that within the Rural Three (RU-3) Zone, established by Policy 4.1.2, residential, commercial, institutional, resource and industrial uses that exceed the

thresholds established in the Land Use By-law, may be permitted by Development Agreement in accordance with the applicable requirements of Policies 7.1.4, 7.1.5, and 7.1.6.

- 4.1.5. Notwithstanding Policies 4.1.3 and 4.1.4, in recognition of the need to provide flexibility and more specific control of certain land-uses, it shall be the policy of Council that specific uses that are considered to be hazardous or that have the potential for creating unacceptable land-use conflicts or nuisances are permitted in the Rural Three (RU-3) Zone only by Development Agreement, regardless of size or scale of the operation. These uses shall be listed in the Land Use By-law and include, but are not limited to: bulk storage of petroleum products; scrap and salvage yards; beverage rooms and lounges; shooting ranges; land leased communities, and uses associated with aggregate and mineral resource extraction operations. Before entering into a Development Agreement for any land use addressed in this policy and specified in the Land Use By-law, Council shall be satisfied that the development proposal satisfies the conditions and criteria contained in Policies 7.1.4 and 7.1.5.

Amended March 9, 2016

Outdoor Wood Furnaces

Outdoor wood furnaces heat water (or air) that is, in turn, piped into dwellings for the use of home heating. Because of their location outside of the home, outdoor wood furnaces generally only require a very short chimney, which may cause them to produce low-lying smoke under certain conditions. For this reason, they have the potential to become nuisances and, therefore, likely to cause unacceptable land-use conflicts. Consequently, through this Secondary Planning Strategy and accompanying Land Use By-law, Council will control the location of outdoor wood furnaces to minimize land use conflicts.

- 4.1.6. To minimize nuisances and land use conflicts, it shall be the policy of Council to establish within the Rural Three (RU-3) Zone, requirements for the placement, erection or alteration of outdoor wood furnaces and require a development permit for the same.

Stationary Electric Generators

Stationary electric generators can create land use conflicts with adjacent land uses, especially when located close to residential uses. To reduce the possible land use conflicts with stationary electric generators Council will setback stationary electric generators from adjacent lot lines.

- 4.1.7. To reduce the possible noise conflicts with stationary electric generators, it shall be the policy of Council to establish within the Rural Three (RU-3) Zone setback requirements for locating stationary electric generators

Wind Turbines

Wind is caused by the uneven heating of the atmosphere by the sun, the irregularities of the earth's surface, and rotation of the earth. Wind flow patterns are modified by the earth's terrain, waterbodies, and vegetative cover. This wind flow can be "harvested" by wind turbines to generate clean non-polluting electricity.

The concerns with wind turbines are unwanted noise, aesthetics and safety issues. The two extremes of wind turbines are large mega-watt turbines which provide electricity to an entire community and the small scale residential wind turbines that provide power to a single home. Large scale mega-watt wind turbines are larger, louder and can be more aesthetically intrusive than the small scale wind turbines and thus the requirements for locating a large scale wind turbines should be more restrictive to reduce potential for land use conflicts. Wind turbines that can be easily climbed can present a hazard and proper guarding should be installed to minimize the risk.

Council realizes that wind energy is a renewable resource and it should be encouraged as an alternative energy source and as such Council will allow wind turbines in the Rural zone subject to requirements established in the Land Use By-law to reduce the possible land use conflicts, while not discouraging the use of wind turbines within the Planning Area.

- 4.1.8. To reduce possible noise nuisances and visual impacts of wind turbines, it shall be the policy of Council to establish within the Rural Three (RU-3) Zone setback requirements for the erection and alteration of small scale wind turbines and their supporting structure. Furthermore, it shall be the policy of Council to permit large scale wind turbines and multiple installations on the same lot, only by Development Agreement.
- 4.1.9. It shall be the policy of Council to, for safety reasons, require fencing or guarding specifications to discourage the climbing of wind turbines.

Non-conforming Use of Land and Structures in the Rural Three (RU-3) Zone

Uses of land and structures that are not permitted within the Rural Three (RU-3) Zone in which they are located as of right, but which lawfully existed on the effective date of this Planning Strategy and Land-use By-law, are considered non-conforming uses of land and non-conforming uses in structures. The Municipal Government Act contains provisions regarding non-conforming uses of land and non-conforming uses in structures. These provisions deal with providing for the continuance of the non-conforming use subject to restrictions on enlargements, extensions and alterations.

The Municipal Government Act does enable Council to relax these restrictions through a Planning Strategy and accompanying Land-use By-law. Municipal Council does not wish to impose undue limitations or restrictions on these non-conforming uses and consequently has opted for a relaxation to some of the requirements of the Municipal

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Government Act concerning non-conforming uses of land and structures. Council wishes to relax these restrictions to enable the extension, enlargement and alteration of structures containing the non-conforming uses, as well as the extension of a non-conforming use of land. To ensure that such expansions and alterations will not negatively impact on the surrounding community, Council will require a Development Agreement for such proposals.

- 4.1.10. In recognition of the need to not impose unreasonable restrictions on non-conforming uses and at the same time the need to protect, preserve and enhance the rural character of the Riverport and District planning area, it shall be the policy of Council to permit within the Rural Three (RU-3) Zone:
- a) The extension of a non-conforming use of land;
 - b) The extension, enlargement and alteration of structures containing non-conforming uses; and
 - c) The reconstruction of structures containing non-conforming uses, after destruction, only by Development Agreement, provided the proposal satisfies the conditions and criteria contained in Policies 7.1.4, 7.1.5 and 7.1.6.

Non-conforming Use – Discontinued

The Municipal Government Act further restricts the recommencement of a non-conforming use of land or a non-conforming use of a structure if discontinued for a continuous period of six months. Once again the Municipal Government Act enables Council to relax this restriction through this Planning Strategy and accompanying Land-use By-law. Council does not wish to restrict the recommencement of a non-conforming use of land or structures, provided that the use has not been discontinued for a period of 12 months or more. Council feels that the absence of a non-conforming use for 12 months or more creates uncertainty in terms of a community's environment, and economic, physical and social characteristics. Council is of the opinion that a non-conforming use that is discontinued for a period exceeding 12 months should be subject to the same requirements as a new, proposed use.

- 4.1.11. It shall be the policy of Council to permit, within the Rural Three (Ru-3) Zone, a non-conforming use of land or a non-conforming use in a structure to recommence after it has been discontinued for a continuous period in excess of six months, provided the non-conforming use of land or the non-conforming use in a structure has not been discontinued for a period in excess of 12 continuous months.

Institutional Zone

Development and land use patterns in the Planning Area did not warrant Institutional Zoning at the time of the adoption of this Planning Strategy. Council recognizes that institutional uses of a large scale have the potential to negatively impact on the rural environment. It is for this reason that Policy 4.1.4 permits institutional uses that

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exceed a specified threshold to be permitted by Development Agreement, so that land use conflicts may be minimized through the regulation of various aspects of the development.

Council recognizes that many municipal developments are institutional in nature and further recognizes that Development Agreements are not possible under such circumstances. This is primarily because a Municipality cannot enter into a Development Agreement with itself. It's for this reasons that Council will establish an Institutional Zone in the Rural Designation. This zone will be a floating zone, as no land on the Zoning Map, Schedule A of the Land Use By-law, will be zoned Institutional (I) at the time the Planning Strategy and Land Use By-law becomes effective. Council will, however, provide policy to enable rezoning to the Institutional (I) Zone where the Municipality is proposing an institutional development.

- 4.1.12. It shall be the policy of Council to establish an Institutional Zone within the Rural Designation (as shown on Map 1, Generalized Future Land Use Map) which shall provide for a range of institutional developments that will accommodate publicly owned buildings. Furthermore, where an institutional use that would otherwise only be permitted by development agreement is to be developed by the Municipality of the District of Lunenburg, Council may rezone land within the designation to Institutional provided that the development proposal satisfies the conditions and criteria stated in Policies 7.1.4 and 7.1.5.

4.2 ENVIRONMENTALLY SENSITIVE AREAS

Council wishes to protect certain lands within the Riverport and District planning area because of their sensitivity or their protected standing by the Provincial Government. These lands consist of freshwater wetlands and salt marshes and will be designated as Environmental Protection.

Wetlands are nature's water purifiers. The wetland plants effectively absorb and break down contaminants, and help prevent many toxic chemicals from entering the surface and ground water supply. Wetlands help stabilise surface water levels and reduces soil erosion and sedimentation in waterways. Wetlands also store water, which replenishes the ground water supply.

The Nova Scotia Department of Natural Resources "Wetlands and Coastal Habitats Inventory" mapping displays wetlands and salt marshes that are 0.5 of a hectare and greater in size. This is the best wetlands mapping currently available and will be used as the basis for protecting wetlands in the Planning Area. However, it is important to note that the mapping is not complete as the method of mapping is visual interpretation from air photos therefore wetlands with a tree cover may not have been identified. There is a tree covered wetland adjacent to Hirtles Pond that is not currently shown in the "Wetlands and Coastal Habitats Inventory" that Council will continue to protect. Council recognizes the importance of protecting sensitive ecosystems such as salt marshes and wetlands and will include these natural features in the Environmental Designation and Environmentally Sensitive Zone. The Environmental Designation and Environmentally Sensitive Zone will provide a level of protection to wetlands and salt marshes and strive to preserve these sensitive areas for the future. [Amendment: Feb. 10, 2009]

In June 2002 the Nature Conservancy of Canada, the Kingsburg Coastal Conservancy and the Nova Scotia Nature Trust announced that Gaff Point, a 124 acre unspoiled coastal headland in the Riverport and District planning area had been protected from private development. In March 1999 the Kingsburg Coastal Conservancy took possession of the Murphy Wetland, an ecologically sensitive area, adjacent to Kingsburg Pond. Council recognizes the work of the Kingsburg Coastal Conservancy in protecting and securing access for future generations to Gaff Point and the Murphy Wetland and will place these lands in a "no build" Environmentally Sensitive Zone.

There are two provincially protected beaches in the Riverport and District planning area, Kingsburg and Hirtles Beach. Council recognizes that the beaches require protection; however, council feels that the provincial protected beach designation is adequate in protecting these two environmentally sensitive areas from development. Under the Protected Beaches Act no one is able to develop in these areas without the approval of the Minister of Natural Resources. Council is satisfied with the protection that the province has implemented and has chosen not to include these areas with an area designated as Environmental Protection.

- 4.2.1. In recognition of the important role wetlands have in protecting water quality, water supply and providing a wildlife habitat, it shall be the policy of Council to establish an Environmental Protection (ENV) Designation, as shown on Map 1, Generalized Future Land Use, of the Secondary Planning Strategy, these lands shall include all wetlands and salt

marshes shown on the Nova Scotia Department of Natural Resources Wetlands and Coastal Habitats Inventory and a tree covered wetland at Hirtles Pond. Furthermore, in recognition of the work of the Kingsburg Coastal Conservancy in preserving ecologically sensitive lands in District Three, it shall be the policy of Council to include Gaff Point and the Murphy Wetland in the Environmental Protection (ENV) Designation. [Amendment: Feb. 10, 2009]

Council recognizes that there is a general lack of municipal mandate to protect environmentally sensitive areas, such as significant wildlife habitat and wetlands from all human activity, and acknowledges that this responsibility rests with applicable senior level government departments. Though various Provincial and Federal departments are mandated with the responsibility to manage and protect these areas, municipalities are enabled in various ways to help protect the environmentally sensitive areas within their jurisdictions.

4.2.2. It shall be the policy of Council to establish an Environmentally Sensitive (ES) Zone, as shown on Schedule “A”, Zoning Map of the Land Use By-law, within the Environmental Protection Designation. The lands within this zone shall be comprised of wetlands and salt marshes shown on the Nova Scotia Department of Natural Resources Wetlands and Coastal Habitats Inventory, a tree covered wetland at Hirtles Pond, Gaff Point and the Murphy Wetland. Furthermore, it is Council’s policy to permit only low-impact, (non-motorized) recreation activities, environmental education, and nature interpretation uses within the Environmentally Sensitive Zone. For further clarity, it shall be the policy of Council that the Environmentally Sensitive (ES) Zone shall be considered a “no build” zone, in which no structures shall be permitted for the intended permitted uses, except for raised boardwalks for walking trails.

4.2.3. Pursuant to Policy 4.2.2, it shall be the policy of Council to rezone the Environmentally Sensitive (ES) Zone in the Land Use By-law to an adjacent zone where study of a wetland or salt marsh, by a qualified person, shows that land within the Environmentally Sensitive (ES) Zone is not wetland or salt marsh.

In addition to protecting environmentally sensitive areas through the Environmental Protection Designation and Environmentally Sensitive (ES) Zone, Council will establish a provision within the Land Use By-law to require that copies of all approved Development Permits be forwarded to the appropriate government department.

4.2.4. It shall be the policy of Council to help protect environmentally sensitive areas within the planning area by incorporating provisions in the Land-Use By-law to require applicable government departments be notified of development proposals located within the Environmentally Sensitive Zone or development proposals adjacent to significant watercourses by forwarding a copy of the approved Development Permit to the applicable government department.

4.3 ENVIRONMENTAL PROTECTION

General Environmental Protection

Impact on the natural environment and the living environment will be a factor in decisions respecting development and land use within the Planning Area, to the extent that the Municipal Government Act permits. All human activity has some affect on the environment. The point at which irreversible damage to the environment occurs is very difficult to detect. Significant damage can be done before there is actual evidence of damage. Although some activities may not appear to pose a threat, incremental events can be damaging and the effects may be irreversible.

This Secondary Planning Strategy and Land-Use By-law will include policies and requirements that will seek to prevent or reduce the impact that land use and development can have on the environment. The Land-Use By-law will contain provisions to ensure that development doesn't cause harm to watercourses and, in relation to a development, that a portion of the natural vegetation adjacent to watercourses is retained so that the impact on the watercourse will be minimized. The Municipal Government Act also permits municipalities to prescribe methods for controlling erosion and sedimentation during the construction of a development. Where developments are permitted by Development Agreement or amendments to the Land Use By-law and Planning Strategy, environmental protection will be a consideration in the granting of amendments and development agreements. In granting approvals and agreements, they will contain provisions that address environmental concerns.

- 4.3.1. It shall be the policy of Council that where Council determines on the advice of a qualified person that there is a significant risk of environmental damage from any residential, commercial, or industrial development which may be permitted by development agreement or rezoning, an environmental impact assessment shall be undertaken by the developer for the purpose of determining the nature and extent of any impact. No amendment or development agreement shall be approved until Council is satisfied that the proposed development will not cause or result in environmental damage.

Water Resources

Land use activities and development on property near or adjacent to watercourses have potential to affect water quality through surface runoff or by damaging the natural vegetation immediately adjacent to the watercourse. Land use and development can increase the already high natural tendency for the soils in the area to erode. The Bridgewater Loam- Drumlin Phase and the Wolfville Loam- Drumlin Phase, soils prevalent in the planning area, have the potential to be erodable, especially on steeper slopes. Retaining a portion of the natural vegetation along watercourses is aesthetically pleasing, it moderates air and water temperatures, filters noise and air pollution, reduces runoff of excess nutrients and other foreign materials, provides wildlife habitat corridors near vital water resources and helps minimize soil erosion and sedimentation of the watercourse. When development occurs in close proximity to a watercourse there is an increase risk of erosion and sedimentation, especially when the natural vegetation is disturbed or removed; therefore, Council has implemented erosion control standards in areas adjacent to significant watercourses.

- 4.3.2. It shall be the policy of Council that in all zones development near a significant watercourse, as shown on Schedule "B", Development Constraints Map of the Land Use By-law, shall be setback from the ordinary high water mark in order to minimize the impact of development on fish, wildlife, aquatic ecosystems, and the natural aesthetic characteristics of waterbodies and the immediate shoreline.
- 4.3.3. To reduce soil erosion and minimize sedimentation of watercourses, it shall be the policy of Council that, in relation to a development, the removal of natural vegetation, infilling and excavation in areas in close proximity of the ordinary high water mark of a significant watercourse, as shown on Schedule "B", Development Constraints Map of the Land Use By-law shall be subject to erosion control standards as specified in the Land Use By-law. The distance shall be as specified in the Land-Use By-law. Erosion control standards may include, but shall not be limited to the retention and/or replanting of natural vegetation and other measures to prevent or minimize erosion on land near a significant watercourse.

Erosion Control – Excessive Slope

Riverport and District’s topography is associated with depressions and level ground to very gently undulating slopes to drumlin relief, some of which is associated with slopes in excess of 20 percent. Of primary concern in Riverport and District , are the lands within the planning area comprised of Wolfville loam- drumlin phase and Bridgewater loam- drumlin phase soils that are also associated with drumlin relief. Both of these soil types have moderately rapid to moderately slow internal drainage, and thus, have the potential to erode, especially on the steeper slopes associated with drumlin relief. These soils are a concern especially when they cover steeper slopes and where they are close to significant watercourses or the marine environment, as erosion can negatively impact on water quality, and marine and freshwater plant and fish life. Development controls will be imposed in these vulnerable areas, especially when re-contouring of the land by infilling or excavation is necessary. In order to protect Riverport and District’s marine and freshwater environments from erosion and sedimentation, erosion control standards will be imposed in areas of land that have slopes in excess of 20 percent.

- 4.3.4. It shall be the policy of Council to identify all areas with slopes in excess of 20% as “areas of excessive slopes”, as shown on Schedule B, Development Constraints Map of the Land-Use By-law. All development permitted in these areas shall be subject to erosion control standards, as specified in the Land-Use By-law, regardless of the zone in which the development is located. Development control standards and requirements, to prevent or minimize erosion and sedimentation, shall include the retention or replanting of natural vegetation and other measures to stabilize disturbed soils.

- 4.3.5. It shall be the policy of Council that wherever the Secondary Planning Strategy provides for developments by Development Agreement, that are also within areas of excessive slopes, as identified on the Development Constraints Map, Schedule B of the Land-use By-law, the Development Agreement shall contain provisions respecting erosion and sedimentation to minimize the impact on the natural environment.

4.4 VIEW PLANE OVERLAY

The majority of Riverport and District’s population lives along shoreline. Beautiful shoreline vistas can be seen while driving along the winding roads. Both visitors and residents of the area enjoy these shoreline vistas. Council realizes that shoreline vistas are an important part of Riverport and District’s aesthetic quality and should be protected from physical obstruction. It’s these vistas that attract new residents and visitors to the area. It’s not Council’s intention to restrict all development from the view plane overlay but rather to limit large bulky intrusive buildings to preserve the vistas of the shoreline. The View Plane Overlay will extend from the ordinary high water mark to 30 m (98 ft) inland or to a public road which ever is less. The View Plane Overlay covers the coastal areas as well as Kingsburg Pond, Hirtles Pond and Romkey Pond as shown on Schedule “C” View Plane Overlay Map of the Land Use By-law. Council has excluded traditional marine uses from the requirements of the view plane overlay for they depend on coastal access and are a traditional form in the coastal landscape.

- 4.4.1. To preserve and enhance the shoreline view planes in the Riverport and District planning area, it shall be the policy of Council to identify important shoreline view planes, as shown on Schedule “C”, View Plane Overlay of the Land Use By-law. All development permitted in these areas shall be subject to the view plane requirements of the Land Use By-law, regardless of the zone in which the development is located. Development control standards and requirements to prevent the obstruction of the view planes shall include: a setback of all structures from the ordinary high water mark, height of structures and minimum separation distances between buildings. It shall further be Council’s Policy that, traditional marine industries be exempt from the shoreline view plane requirements.

Non-conforming Structures – View Plane Overlay

Municipal Council does not wish to impose undue limitations or restrictions on non-conforming structures and consequently has opted for a relaxation of the Municipal Government Act to allow these structures to be rebuilt if destroyed or damaged as long as the structure does not impede further into the requirements of the View Plane Overlay.

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- 4.4.2. Notwithstanding Policy 6.1.7, in recognition of the need to not impose unreasonable restrictions on non-conforming structures and at the same time preserve the shoreline vistas of the Riverport and District planning area, it shall be the policy of Council to permit within the View Plane Overlay the reconstruction of non-conforming structures, that existed on the date of the Land Use By-Law, after destruction provided that the structure does not extend any encroachments and the reconstruction of the structure is commenced within 12 months of the date of destruction.

5. SERVICES

5.1 RECREATION

There are a few different recreational opportunities within the Riverport and District planning area. An old converted school in Riverport is used as a community centre for different social events. The Riverport and District Elementary School in Rose Bay has excellent playground equipment and a ball field, which are often used outside of school hours. This school is also used for public meetings. The Lunenburg Rod & Gun Club is located on Fishpedder Road.

For enjoyment of the marine environment, there are businesses that offer excursions, boat rentals and sailing instruction, as well as Hirtles Beach, which is a Municipally owned public beach. The Ovens Provincial Park and campground, at Cunard Cove, has walking trails and sea caves to explore. Deep sea fishing for mackerel and pollock is very popular, as well as freshwater sport fishing for brook trout. In addition to the opportunities mentioned above, the Bayport Plant Farm offers gardening workshops. The Riverport and District planning area contains six parcels of Municipal land and four “common” lands --three are Municipal and one private. The Indian Path Municipal Common land has two hiking trails for short excursions. Gaff Point also has a hiking trail which is located in 124 acres of unspoiled coastal headland.

In 1999, Municipal Council requested staff to compile a report on the Public Open Space in the Municipality. Part of the research for this report involved a survey of the quantity, quality and location of the Municipal owned public open space within the Municipality of Lunenburg. This report includes recommendations for the evaluation of existing municipal lands respecting its recreational potential as well as to target locations where the acquisition of open space for recreational use is considered a priority. The report also outlines the importance of the Municipality providing recreational opportunities in proximity to waterways.

- 5.1.1. It shall be the policy of Council to develop a strategic plan for the evaluation of the recreational potential of existing municipal property as well as the acquisition and development of recreation lands within the planning area and the municipality for recreational purposes. Furthermore Council shall consider as part of this strategic plan, the acquisition of land adjacent to waterways to provide for public access to the inland waterbodies and the marine environment within the planning area.
- 5.1.2. It shall be the policy of Council to co-operate with the Department of Transportation to ensure that the Municipality is consulted before a road right-of-way is divested.
- 5.1.3. It shall be the policy of Council to co-operate with other levels of government to provide more recreational opportunities for the residents of the Riverport and District planning area to the extent that funding allows.

- 5.1.4. It shall be the policy of Council to monitor demographics and recreational trends during reviews of this Planning Strategy and Land Use By-law, to ensure that the recreational needs of the Riverport and District planning area are being met.

5.2 POLICE AND FIRE PROTECTION

The Royal Canadian Mounted Police provide police protection to the Riverport and District planning area. The Riverport and District Fire Commission provides fire protection services for all of the Riverport and District planning area, with the exception of Crouse's Settlement, Tanner's Settlement and Grimm's Settlement. Crouse's Settlement receives fire protection services from the Dayspring Fire Department, while Tanner's and Grimm's Settlement are served from Lunenburg (District 1 & 2 Fire Department).

- 5.2.1. It shall be the policy of Council to co-operate with the Royal Canadian Mounted Police in providing police protection.
- 5.2.2. It shall be the policy of Council to continue its current role in fire protection in the Riverport and District planning area by collecting the area rate and by providing an operating grant, subject to continuance of Provincial funding for the grant, to a maximum amount which may be established by Council from time to time and to the extent of available funding.
- 5.2.3. It shall be the policy of Council to support the emergency service provision by providing exemptions from provisions that may affect the ability to increase the protection services in the Riverport and District Plan Area.
- 5.2.4. Notwithstanding section 5.2.3, no emergency service shall be built to the waters edge or within an area shown to be subject to flood risk, except where the service includes protective services provided by watercraft and is flood proofed as required by a qualified professional engineer licensed by Engineers Nova Scotia and submitted to the Development Officer and meets or exceeds any other standard required by any Act of the Province of Nova Scotia.
- 5.2.5. Notwithstanding section 5.2.4, the Riverport District Fire Hall (PID 60187267) may be built to the waters edge or within an area shown to be subject to flood risk provided it is Flood Proofed to a standard required by a report completed by a qualified professional engineer licensed by Engineers Nova Scotia and submitted to the Development Officer and meets or exceeds any other standard required by any Act of the Province of Nova Scotia.

5.3 TRANSPORTATION

The Municipal Government Act enables Municipalities to establish transportation reserves in planning strategies and list matters related to transportation that Council may include in Land-Use By-laws. Regulations may include defining Council's intention to acquire property for the purposes of establishing proposed rights-of-way or any proposed widening, altering or diverting of an existing street or pathway.

Through a consultation process with the Municipal Engineer and the Nova Scotia Department of Transportation and Public Works, there have been no transportation reserves identified in this Secondary Planning Strategy for the Riverport and District planning area. Consultation with the Department of Transportation and Public Works has confirmed that there is no capacity or service volume problems existing on the public roads in the planning area. The AADT (Annual Average Daily Traffic Counts), according to the Department of Transportation & Public Works, are well below numbers requiring upgrades to roads, in terms of widening the pavement, providing extra lanes or creating new roads. Further, the Department of Transportation and Public Works has identified no requirement to upgrade, treat or otherwise alter any of the roads in the planning area at present. Consultation with the Municipal Engineer revealed that there is no requirement at this time to establish a transportation reserve. The existing road network is sufficient for the volumes of traffic that frequent the main secondary highway (Highway 332), the collector roads and the local roads within this planning area. There are also no issues of transportation safety or servicing in the Riverport and District planning area that need to be addressed at the time of this Planning Strategy, by the Municipality.

- 5.3.1. It shall be the policy of Council to encourage Nova Scotia Department of Transportation and Public Works to maintain the existing roads to an acceptable standard.
- 5.3.2. It shall be the policy of Council that road capacities and service volumes within the planning area shall be researched during reviews of this Secondary Planning Strategy and Land-Use By-law to identify traffic or road issues.
- 5.3.3. It shall be the policy of Council that reviews of these planning documents shall include a consultation process with the Municipal Engineer to identify any need to establish transportation reserves within the planning area.

The mobility of residents within the Riverport and District planning area relies on private transportation. Residents who are unable to afford their own vehicle for their day-to-day errands have no alternative means of transportation. The retirees on a fixed income and the younger population are usually affected the most from the lack of mobility. The part-time job market for youth is restricted as the commute to work is usually dependant on their parents. Once the older population can not longer afford and maintain a vehicle or are no longer fit to drive they will be dependant on family or friends for their daily needs. Council recognizes the lack of alternative modes of transportation and therefore, will support, not necessarily financially, initiatives to promote public transportation.

- 5.3.4. It shall be the policy of Council to support public transportation initiatives, but not necessarily financially.

5.4 MISCELLANEOUS SERVICES

A number of services such as recreational programs, education, health care, garbage collection, building inspection and planning are funded by the general tax base. Sewer, water, street lighting and other services are available by way of area rates as provided for by the Municipal Government Act and subject to the agreement of ratepayers.

The Riverport Electric Light Commission owns and maintains the electric power distribution network of substations, poles and wires throughout most of the District. They purchase electricity from Nova Scotia Power Corporation, are financially independent of the Municipality. The balance of the District is served directly by Nova Scotia Power Corporation.

- 5.4.1. It shall be the policy of Council to work with the South Shore District School Board to ensure the Riverport Elementary School remains in the community.
- 5.4.2. It shall be the policy of Council to have open dialog with the Nova Scotia Community College, other post secondary institutions and Human Resources Canada to encourage the availability of post secondary training to the residents of the Riverport and District planning area to better equip the residents for changes in the economy.
- 5.4.3. It shall be the policy of Council to continue to provide street lighting through an area tax rate where requested by residents.
- 5.4.4. It shall be the policy of Council to continue to encourage local volunteer groups in providing a range of services.

6. DEVELOPMENT / REGULATORY POLICIES

The following development and regulatory policies affect all zones within the Rural Three Designation and Environment Protection Designation.

Signs

The erection of signs on land or buildings involves matters related to aesthetics, nuisance and safety. Signs are recognized as necessary and important, however, it's in the best interest of the community as a whole that some control be exercised over signs. Signs that may cause hazardous conditions due to the creation of confusion or distraction, such as flashing or pulsating lights will be prohibited as will signage that would interfere with pedestrian or vehicular traffic.

- 6.1.1. It shall be the policy of Council to prohibit through appropriate provisions in the Land Use By-law signs which create hazards to traffic or pedestrians, which constitute a public nuisance, or which are incompatible with the rural character of the Riverport and District planning area.
- 6.1.2. It shall be the policy of Council that the Land Use By-law regulate the height, maximum area, illumination and location of signs throughout the Riverport and District planning area to minimize hazards and nuisances; to control the impact of signs on the landscape, streetscape and skyline; and to ensure that the nature, size and location of signs permitted in the various zones is appropriate and compatible with the character of the areas within those zones.

Yard Requirements, Cemeteries and Fences

Although Council's intention is not to establish lot size or yard requirements for uses permitted without the necessity of entering into a Development Agreement, Council does recognize the need for yard requirements in special circumstances. More specifically, Council recognizes the need to preserve and enhance the cemeteries located within the Riverport and District planning area, and does this by establishing abutting yard requirements, for lots that abut a cemetery. Council's concern is with the potential impact of development on abutting lots threatening the aesthetic characteristics, as well as the rich heritage of a cemetery. A setback from cemeteries will prevent adjacent landowners from building directly on the edge of a cemetery. No structures except fences will be permitted within the cemetery setback area.

- 6.1.3. It shall be the policy of Council to establish within the Land Use By-law and within all zones, abutting yard requirements for a lot which abuts a lot containing a cemetery, to reduce land conflicts and to preserve the character and quality of cemeteries in the Riverport and District planning area.

Council recognizes the negative impacts that development, on an abutting lot, may have for a cemetery. Council has further expressed a desire to prohibit structures from being located in close proximity to a cemetery. However, Council does recognize the useful purpose of fences in maintaining ones boundary and preventing access as such fences will be allowed in the required yard on a lot that abuts a cemetery. Fences can as already noted produce negative impacts, and thus, Council will establish restrictions, in the Land Use By-law, on the height and location of fences in a yard that abuts a cemetery.

- 6.1.4. Pursuant to Policy 6.1.3, it shall be the policy of Council that the Land Use By-law shall regulate, within the planning area, the location and height of fences within the required yard of a lot, which abuts a lot containing a cemetery to minimize the impact on the lot containing the cemetery.

Storage of Vehicles on a Lot

- 6.1.5. It shall be the policy of Council to regulate, within the planning area, the storage of non-operational motor vehicles or parts thereof. Furthermore Council shall require non-operational motor vehicles or parts thereof to be screened from a public highway or from a residence on an abutting property through the use of landscaping or opaque fencing.

Temporary Uses

These general policies affect all zones within the Rural Designation within the Riverport and District planning area.

- 6.1.6. It shall be the policy of Council that temporary uses associated with a construction site, a special occasion, or a holiday are permitted for a time period to be regulated in the Land Use By-law, with no requirement for a development permit.

Non-conforming Structure

Structures that existed on or before the effective date of the Land Use By-law that do not satisfy the requirements in the Land Use By-law are considered non-conforming structures. The Municipal Government Act contains provisions restricting the extension, enlargement, reconstruction, or alteration of these non-conforming structures. The Municipal Government Act enables Council, through a Planning Strategy and Land-use By-law, to provide for a relaxation of these restrictions. Council does not wish to impose undue hardship on the owners of these structures and has incorporated policy and Land-use By-law provisions to enable a non-conforming structure to be extended, enlarged, altered or reconstructed, provided that the structure shall not thereby be permitted to extend or increase any existing encroachment.

- 6.1.7. It shall be the policy of Council to incorporate within the Land Use By-law provisions enabling the extension, expansion, alteration or reconstruction of non-conforming structures, subject to satisfying the requirements of the zone in which they are located.

Subdivision By-Law Requirements

The Subdivision By-law for the Municipality of the District of Lunenburg, effective June 14, 1999, governs the subdivision of land throughout the Municipality. Some provisions of the Subdivision By-law that allow lots to be created are not operative in areas that have a Planning Strategy and Land-use By-law in place unless the Planning Strategy provides for both the creation and development of these lots and the Land-use By-law allows for the development of these lots. This Planning Strategy and the accompanying Land Use By-law will contain policies that will make all provisions of the Subdivision By-law operative within the Riverport and District Planning Area.

- 6.1.8. It shall be the Policy of Council that all sections of the Subdivision By-law shall apply and are operative in the Riverport and District planning area, and any lot that has been created through subdivision approval may be used for a development that is permitted in the zone where the lot is located, subject to the applicable requirements of the Land-use By-law.

7. IMPLEMENTATION AND ADMINISTRATION

Introduction

The Secondary Planning Strategy and the Land-Use By-law are legal documents that govern land-use and development within the planning area. The Planning Strategy provides a broad policy framework for the land-use and development regulation, both in the present and the future. The Land-Use By-law provides more detailed regulations and requirements, which are intended to express and carry out the intent of the Planning Strategy.

Council may make amendments to the Land-Use By-law provided that they conform to the overall policy framework imposed by the Planning Strategy. Amendments to planning strategies are subject to the review of the Director of Services Nova Scotia and Municipal Relations and must be reasonably consistent with the Municipal Government Act's Statement of Provincial Interest regarding 1) Drinking Water; 2) Flood Risk Areas; 3) Agricultural Land; 4) Infra-structure; and 5) Housing. Only when deemed to be inconsistent with the Provincial Statements of Interest as outlined in the Municipal Government Act, are Planning Strategies and amendments to Planning Strategies subject to the approval of the Minister of Services Nova Scotia and Municipal Relations.

7.1.1. This Secondary Planning Strategy shall be implemented by means of powers conferred upon Council by the Municipal Government Act and such other provincial statutes as may be applicable.

7.1.2. *repealed.*

Amended September 16, 2020

7.1.3. It shall be the policy of Council that the Land Use By-law shall be the principal means for implementing the Planning Strategy, pursuant to the Municipal Government Act.

7.1.4. It shall be the policy of Council that when considering amendments to the Land Use By-law and in considering Development Agreements in addition to all other criteria as set out in the various policies of this Secondary Planning Strategy, Council shall be satisfied that:

- a) the proposal conforms to the intent of the Municipal Planning Strategy and of the Secondary Planning Strategy;
- b) the proposal is not premature or inappropriate due to:
 - i. financial ability of the Municipality to absorb costs related to the development;

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- ii. adequacy of Municipal services;
 - iii. the adequacy of physical site conditions for on-site services;
 - iv. creation or worsening of a pollution problem including soil erosion and siltation;
 - v. adequacy of storm drainage and effects of alteration to drainage pattern including potential for creation of a flooding problem;
 - vi. adequacy and proximity of school, recreation, emergency services, and other community facilities;
 - vii. adequacy of street networks and site access regarding congestion, traffic hazards and emergency access.
- c) the development site is suitable regarding grades, soils, geological conditions, location of watercourses, flooding, marshes, bogs, swamps, and susceptibility to natural or man-made hazards as determined by a qualified person; and
 - d) all other matters of planning concern have been addressed.
- 7.1.5. Pursuant to Policy 4.1.4, Commercial, Industrial, and Institutional developments may be permitted by Development Agreement provided Council is satisfied that:
- a) the development shall not create undue traffic hazards, traffic congestion, or pedestrian hazards;
 - b) the development shall not generate emissions such as noise, dust, radiation, odours, liquids or light to the air, water, or ground so as to create a nuisance or health hazard or so as to compromise the development potential or value of properties in the vicinity;
 - c) subject to the physical characteristics of the site, the development shall achieve optimum separation from adjacent properties which are not in Commercial or Industrial use.
- Amended March 9, 2016**
- d) screening in the form of fences, vegetation, or berms as appropriate shall be constructed or installed wherever possible in order to minimize impact on the abutting uses and ensure public safety;

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- e) all structures shall be built, repaired, and maintained with durable, weather-resistant building material, such that the appearance complements the natural surroundings and existing built environment;
- f) signs shall satisfy the requirements of the Land Use By-law;
- g) no development shall increase traffic volume so as to have an undue negative effect on properties that are served by a residential street;
- h) the applicant has clearly shown both that the development can be serviced with central or on-site sewer and water and that the disposal of sewage or other effluent as well as the demand on the water source will not have a negative impact on the environment or the quality and quantity of the water resources; and
- i) driveways, parking areas, and any areas used for the open storage of equipment or stock shall be surfaced with stable materials to prevent dust from blowing onto adjacent properties.

7.1.6. Pursuant to Policy 4.1.4, Residential developments may be permitted by Development Agreement provided Council is satisfied that:

- a) any residential building is located on a site that is not subject to nuisances or conditions that negatively affect the quality of the living environment due to other land use activities that exist;
- b) the development shall include usable outdoor recreation space that is suitable for erection of playground equipment, or active and low impact recreational uses;
- c) the site shall be landscaped with trees, shrubs, lawns, fences, and hard surfaced walkways, as necessary to create a residential living environment;
- d) sufficient parking and adequate safe access to parking lots shall be provided for residents and guests;
- e) all areas intended for vehicular traffic shall be surfaced with materials that remain stable and dust free during all seasons and shall allow for adequate drainage and snow removal;
- f) fencing or screening of driveways, parking areas, or recreational areas shall be required where activities or conditions in these areas are such that the privacy and enjoyment of abutting low-density residential uses would be diminished;

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- g) the traffic resulting from the development will not create traffic hazards or unduly worsen traffic conditions or negatively affect the accustomed environment of existing residential uses on streets that would be affected by the proposed developments;
 - h) where municipal sewer services are not available, Council shall be satisfied that any requirements under the Environment Act and Regulations for on-site sewage disposal systems have been met and a permit has been obtained to install such a system;
 - i) the building or buildings shall be compatible with adjacent and nearby buildings in terms of design, architecture, roof shape, bulk, height, scale, window and door design and exterior cladding materials; and
 - j) the development density on the subject lot shall not exceed 20 dwelling units per acre.
- 7.1.7. It shall be the policy of Council that a Development Agreement, approved by Council pursuant to this Planning Strategy, may contain terms with respect to any or all matter specified in the Municipal Government Act for the matters that may be addressed by Development Agreement.
- 7.1.8. It shall be the policy of Council that, pursuant to the Municipal Government Act, a Public Participation Program (MDL-66) shall be held prior to any proposed amendment to the Secondary Planning Strategy, as well as in conjunction with the review of this Planning Strategy and Land Use By-law. The purpose of the Public Participation Program shall be to hear the opinions of the public.
- Amended April 1, 2015**
Further amended September 16, 2020
- 7.1.9. It shall be the policy of Council that a public hearing shall be held by Council, pursuant to the Municipal Government Act, prior to entering into any Development Agreement or prior to approving any amendment to the Land-Use By-law or the Subdivision By-law, and no Development Permit shall be granted until the appeal period and any appeals pursuant to the Municipal Government Act have been completed.
- 7.1.10. It shall be the policy of Council that the Development Officer for the area covered by this Secondary Planning Strategy and Land Use By-law, appointed under the Municipal Government Act, shall be responsible for the administration of the Land Use By-law and Development Agreements, and shall issue or deny permits under the terms of said By-law and Agreement.

- 7.1.11. It shall be the policy of Council that amendments to this Planning Strategy will be required where any policy is to be changed or where any amendment to the Land-Use By-law would contravene Map 1, the Future Land-use Map.
- 7.1.12. It shall be the policy of Council that any Development Permit issued under the Land Use By-law shall specify the development and the period for implementation. Any such permit shall automatically lapse and become null and void if the development has not commenced within one year of its issuance. It shall further be Council’s policy that the Development Officer may revoke a Development Permit where the permit was issued in error or on the basis of false or mistaken information.
- 7.1.13. It shall be the policy of Council that this Secondary Planning Strategy and any subsequent amendments shall be reviewed, pursuant to the Municipal Government Act, when deemed necessary by the Minister of Services Nova Scotia and Municipal Relations or by Council, but not later than ten years from the date of its coming into force and effect.
- 7.1.14. It shall be the policy of Council that where this Secondary Planning Strategy and Land-Use By-law permits developments up to a threshold that is based on floor area, site area, number of rental units or on the amount of goods or materials that are processed and produced annually, this threshold shall not be exceeded on any lot as it existed on **September 6, 1994**, regardless of the effect of any subsequent subdivision approval, except as may be permitted by Development Agreement where provided for in this Strategy and By-law.

Variance

- 7.1.15. It shall be the policy of Council to permit the Development Officer to grant a variance in one or more of the following Land-Use By-law requirements, pursuant to the Municipal Government Act:
- a) height of a structure;
 - b) height and area of a sign;
 - c) minimum lot area;
 - d) size or other requirements related to yards
- provided that a variance is not granted where the:
- a) variance violates the intent of the Land-Use By-law;
 - b) difficulty experienced is general to properties in the area; or
 - c) difficulty experienced results from an intentional disregard for the requirements of the By-law.

8. PROCEDURE

(Repealed by Amendment - April 1, 2015)

9. REPEAL OF DISTRICT THREE SECONDARY PLANNING STRATEGY

The Secondary Planning Strategy for the District Three Planning Area, adopted by Council on June 29, 1994 and approved by the Minister of Municipal Affairs on September 6, 1994, is hereby repealed and this Secondary Planning Strategy substituted therefore.

DOUGLAS E. QUINN, CHIEF ADMINISTRATIVE OFFICER

I, Douglas E. Quinn, Chief Administrative Officer of the Municipality of the District of Lunenburg, do hereby certify that the foregoing is a true copy of the Secondary Planning Strategy for the District Three Planning Area which was duly passed by the Council of the Municipality of the District of Lunenburg at a meeting duly held on July 12, 2005.

DATED at Bridgewater, N.S. _____, 2005.

DOUGLAS E. QUINN, CHIEF ADMINISTRATIVE OFFICER

RIVERPORT AND DISTRICT

Municipality of the District of Lunenburg

LAND USE BY-LAW

CONSOLIDATED EDITION

FIRST READING BY COUNCIL – JUNE 14, 2005
SECOND READING BY COUNCIL – JULY 12, 2005

EFFECTIVE DATE: AUGUST 10, 2005
LAST AMENDMENT: **OCTOBER 30, 2019**

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1. TITLE AND PURPOSE

Title

- 1.1. This By-law shall be known and may be cited as the "Riverport and District Land Use By-law", of the Municipality of the District of Lunenburg.

Purpose

- 1.2. The purpose of this By-law is to carry out the purpose and intent of the Secondary Planning Strategy for the Riverport and District planning area in accordance with the provisions of the Nova Scotia Municipal Government Act (Chapter 18, Acts of 1998) as amended, by regulating the use of land as well as the location, size, spacing, character and use of buildings and structures within the Riverport and District planning area. This By-law shall apply to the area of land shown specifically on Schedule "A", Zoning Map consisting of the February 2000 Municipal Polling District 3 boundary as approved by the Nova Scotia Utility Review Board, February 16, 2000.
- 1.3. This By-law does not exempt any person from complying with other by-laws or regulations in force within the Municipality of the District of Lunenburg or from obtaining any license, permission, permit, authority or approval required there under. Where any provisions of this By-law conflicts with those of any other Municipal, Provincial or Federal regulation, by-law or code, the more stringent requirement shall prevail.

2. ADMINISTRATION

2.1. DEVELOPMENT OFFICER

This By-law shall be administered by the Development Officer appointed by the Council of the Municipality of the District of Lunenburg, and the Development Officer shall issue Development Permits under this By-law.

2.2. ACTING DEVELOPMENT OFFICER

In the absence or incapacity of the Development Officer, the Acting Development Officer appointed by Council shall act in the Development Officer's stead.

2.3. REQUIREMENT FOR DEVELOPMENT PERMIT

No person shall undertake, or cause or permit to be undertaken, any development in the area to which this Land-Use By-law applies, unless a Development Permit has been obtained in relation to such development from the Development Officer or Acting Development Officer, as appointed by Council.

2.4. NO PERMIT REQUIRED

Notwithstanding Section 2.3, no Development Permit is required in relation to a particular development when such an exception is clearly stated elsewhere in this By-law.

2.5. REQUIREMENT FOR APPLICATION

Every person wishing to obtain a Development Permit must submit an application for such Development Permit to the Development Officer in the form prescribed from time to time by Council.

2.6. CONTENTS OF APPLICATION

Every application for a Development Permit shall be accompanied by a plan drawn to an appropriate scale and showing:

- a) the true shape and dimension of the lot to be used or upon which the development is proposed;
- b) the proposed location, height and dimensions of any building or structure for which the permit is applied and the location information shall include measurements of the lot frontage and front, side and rear yards;
- c) the location of every building or structure already constructed, or partly constructed, on such lot and the location of every building or structure existing upon abutting lots;
- d) the proposed location and dimensions of parking areas, parking spaces, loading spaces, driveway accesses and curbs;

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- e) the location of existing and proposed landscaping, fencing and outdoor storage;
- f) the location of any watercourse and location of any existing or proposed building or structure in relation to the watercourse; and
- g) other such information as may be necessary to determine whether or not the proposed development conforms with the requirements of this By-law.

2.7. SURVEY OF LANDS

Where the Development Officer is unable to determine whether the proposed development conforms to this By-law, the Development Officer may require that the plans submitted under Section 2.6 be based upon an actual survey by a Nova Scotia Land Surveyor.

2.8. SIGNATURES

The application for a Development Permit shall be signed by the owner of the lot, or by his or her authorized agent, and shall set forth in detail the current and proposed use of the lot and each building or structure, or part thereof, together with all information necessary to determine whether or not the proposed development conforms to the requirements of this By-law.

2.9. ISSUANCE OF DEVELOPMENT PERMIT

2.9.1 The Development Officer shall not issue a Development Permit unless:

- a) the proposed development is in conformance with this By-law;
- b) a Resolution pertaining to a Development Agreement has been passed by Council, pursuant to the Municipal Government Act, and the time for appeal has elapsed or the appeal has been disposed of and the Development Agreement has been executed; or
- c) the Development Officer has granted a variance from the terms of this By-law, pursuant to the Municipal Government Act and the time for appeal has elapsed or the appeal has been disposed of and the development is otherwise consistent with the requirements of this Land-Use By-law.

2.9.2 Following the issuance of a Development Permit for a development located within the Environmentally Sensitive Zone or located within 20 m (66 ft) of a significant watercourse, the Development Officer shall forward a copy of the Development Permit to the Regional Resource Manager at the Department of Natural Resources.

2.10. DEVIATIONS

No person shall deviate, or allow deviations to be made, from the description of the proposed development that is contained in the Development Permit, unless the developer has obtained a new Development Permit from the Development Officer.

2.11. RIGHT OF ENTRY

Pursuant to the Municipal Government Act, the Development Officer, at all reasonable times, may enter into or upon any property within the area to which this Land-Use By-law applies for the purposes of any inspection necessary in connection with the administration of this By-law.

2.12. LAPSE OF PERMITS

Every Development Permit issued under this By-law shall automatically lapse, and become null and void, if the development to which it relates has not commenced and one year has passed since its issuance.

2.13. DECISION IN WRITING

Any decision of the Development Officer to refuse the issuance of a Development Permit shall be given by written notice served by ordinary mail, whereas any decision to revoke a Development Permit shall be given by written notice served by registered mail, and such revocation shall become effective on the third business day after it was sent.

2.14. REVOCATION OF DEVELOPMENT PERMIT

The Development Officer may revoke a Development Permit where the development permit was issued based upon false or mistaken information.

2.15. VIOLATIONS

In the event of any alleged contravention of the provisions of this By-law, the Municipality of Lunenburg may take action as outlined in the Municipal Government Act, as amended from time to time.

2.16. EFFECTIVE DATE

Pursuant to the Municipal Government Act, this By-law shall take effect on the date a notice is published in a newspaper, circulating in the Municipality, informing the public that the Planning Strategy and its implementing Land-Use By-law are in effect.

2.17. SERVICE OF NOTICE OF LAND-USE BY-LAW AMENDMENT OR DEVELOPMENT AGREEMENT

Pursuant to the Municipal Government Act, where Council has given notice of its intention to adopt an amendment to Schedule A, Zoning Map of this By-law, which is not general in scope but which is in direct response to a specific development proposal, or has given notice of its intention to enter into a Development Agreement or to amend a Development Agreement, Council shall serve notice of the proposed amendment, Development Agreement or amendment thereto, upon affected property owners whose property lies within 305 m (1000 ft) of the property which is the subject of the proposed amendment, Development Agreement or amendment thereto. Such notice shall:

- a. set forth a synopsis of the proposed amendment, Development Agreement or amendment thereto;
- b. state the date, time, and place set for the public hearing on the amendment, Development Agreement or amendment thereto; and

- c. be served by ordinary mail.

A suitable notice, containing the above-mentioned information, shall also be erected upon the property that is the subject of the proposed amendment or Development Agreement or amendment thereto.

2.18. COST OF ADVERTISING AND NOTICE FOR AMENDMENTS OR DEVELOPMENT AGREEMENTS

Pursuant to the Municipal Government Act, an applicant for an amendment to this By-law or for a Development Agreement or amendment thereto shall deposit with the Clerk of the Municipality of Lunenburg an amount estimated by the Clerk to be sufficient to pay the cost of advertising and notices required by the Municipal Government Act and, after the advertising has been completed and the notice served, the applicant shall pay to the Clerk any additional amount required to defray the cost of advertising and notice or, if there is a surplus, the Clerk shall refund it to the applicant.

2.19. COST OF NOTICE FOR A VARIANCE

Pursuant to the Municipal Government Act, where a variance from the requirements of this By-law has been granted or refused, the Development Officer shall give notice to the persons required and in the manner prescribed by the Municipal Government Act, such notice to be served by ordinary mail, and the Municipality of Lunenburg may recover from the applicant the cost of giving such notice.

2.20. FEES (Amended May 10, 2011)

An application for a development permit, a variance, a development agreement, or an amendment to the Land Use Bylaw or an amendment to a Planning Strategy, shall include payment of fees prescribed by Council from time to time, by policy.

3. INTERPRETATION OF ZONES, MAPS, SYMBOLS AND WORDS

3.1. ZONES

For the purpose of this By-law, the Riverport and District planning area is divided into the following zones, the boundaries of which are shown on the attached Schedule "A". Such zones are also referred to by symbols as follows:

Rural Three.....RU-3
Environmentally Sensitive.....ES

3.2. ZONING MAP

The attached Schedule "A" is titled "Zoning Map" and forms a part of this By-law.

3.3. INTERPRETATION OF ZONE BOUNDARIES

For greater certainty, the boundaries of zones shall be as shown on Schedule A and shall be more precisely located as follows:

- a) where a zone boundary is shown as following a street, the boundary shall be the centre line of such street as shown;
- b) where a zone boundary approximately follows lot lines, the boundary shall follow such lot lines;
- c) where a street, railroad or railway right-of-way or watercourse is shown on Schedule A, it shall, unless otherwise indicated, be included in the zone of the adjoining property on either side thereof;
- d) where a railroad or railway right-of-way, electrical transmission line right-of-way or watercourse (other than a lake) is included on the zoning map and serves as a boundary between two or more different zones, a line midway on such right-of-way or watercourse and extending in the general direction of the long axis thereof shall be considered the boundary between zones unless specifically indicated otherwise;
- e) where a zone boundary is indicated as following the shoreline of a lake, ocean or harbour, the boundary shall follow the actual Ordinary High Water Line, including wharves and piers; but where the zone boundary is indicated as extending seaward of the Ordinary High Water Line, the zone boundary shall follow the actual Ordinary High Water Line included between the extensions indicated on the Zoning Map.
- f) where none of these above provisions apply, and where appropriate, the zone boundary shall be scaled from the attached Schedule "A" – Zoning Map.

3.4. ZONES NOT ON ZONING MAP

Schedule "A", Zoning Map of this By-law, may be amended in conformance with the Secondary Planning Strategy to any zone in this By-law, regardless of whether or not such zone had previously appeared on Schedule A.

3.5. INTERPRETATION OF CERTAIN WORDS

In this by-law, words used in the present tense include the future; words in the singular number include the plural; words in the plural include the singular number; the word "used" includes "arranged", "designed" or

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“intended to be used”; the word "shall" is mandatory and not permissive. All other words and phrases carry their customary meaning except for those defined in Part 9 of this By-law, entitled "Definitions".

3.6. **STANDARDS OF MEASUREMENT**

The Metric System of Measurement is used throughout this By-law and in all cases represents the required standard. Imperial measurements are approximate only, for convenience only, and are not to be regarded as precise.

4. GENERAL PROVISIONS

4.1. APPLICATION

The provisions of Part 4 General Provisions shall apply to all zones and prevail over all zone requirements except where a zone requirement expressly waives a specific section or specific sections of Part 4.

4.2. SCOPE

No person shall undertake a development, nor shall a Development Permit be issued unless the proposed development conforms to all of the provisions of this Land-Use By-law.

4.3. STRUCTURE TO BE MOVED

No structure, residential or otherwise, shall be moved within or into the area covered by this by-law without obtaining a Development Permit from the Development Officer.

4.4. SIGNS

All signs shall be subject to the applicable requirements of Part 8 of this By-law.

4.5. PERMITTED USES OR PROHIBITED USES

For the purposes of this By-law, if a development is not listed as permitted in any zone or if it is not an accessory to a permitted development in a particular zone, it shall be deemed to be prohibited in that zone, subject to the non-conforming use provisions of the Municipal Government Act.

4.6. HABITATION OF VEHICLES

None of the following nor any part thereof, with or without wheels, shall be used for human habitation within the area regulated by this By-law unless it is registered for highway use: automobile, truck, bus, coach, street car, shipping container.

4.7. STORAGE OF VEHICLES ON A LOT

Non-operational motor vehicles or parts thereof, with or without wheels, such as (but not limited to) automobiles, trucks, buses, coaches or street cars, excluding campers and recreational vehicles, shall be screened from a Public Highway or from a residence on an abutting property through the use of landscaping or opaque fencing.

4.8. NON-CONFORMING STRUCTURES

A structure that existed prior to the effective date of this By-law, which is located on a lot such that the distance between buildings, height, and minimum setbacks required by this By-law are not satisfied, is deemed to be a Non-Conforming Structure. Pursuant to the Secondary Planning Strategy Policy 6.1.7 and subject to Section 4.21, within any zone, Non-Conforming Structures may be extended, expanded, or altered, provided that the structure shall not increase the existing encroachment into the minimum distance between buildings, height, and minimum setbacks required in that zone, except by the operation of Section 4.19.

4.9. NON-CONFORMING USE OF LAND OR IN A STRUCTURE

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A use of land or a use in a structure, or both, that existed prior to the effective date of this By-law, and is not permitted in the zone in which the use is located, is deemed to be a non-conforming use of land or a non-conforming use in a structure, or both. A non-conforming use of land and a non-conforming use in a structure are subject to the non-conforming use of land and non-conforming use in a structure requirements of the zone in which they are located.

4.10. CEMETERIES - ABUTTING YARD REQUIREMENTS

- 4.10.1** Where a lot abuts a lot containing a cemetery, no building or structure may be placed, erected or altered unless:
- a) The lot has a minimum rear or front yard for the abutting rear or front yard of 6 m (19.7 ft);
 - b) The lot has a minimum side yard for the abutting side yard of 6 m (19.7 ft);
- 4.10.2** Notwithstanding Section 4.10.1, where a lot abuts a lot containing a cemetery, an open fence maybe erected within 0.3 m (1ft) of the property line to a maximum height of 1.2 m (4ft).

4.11. DEVELOPMENT NEAR A WATERCOURSE

4.11.1 Setbacks from Watercourses

In accordance with Secondary Planning Strategy Policy 4.3.2 and subject to Section 5.1.2, in all zones, development near a significant watercourse shown on Schedule B, Development Constraints Map, of the Land Use By-law, shall be setback a minimum of 20 m (66 ft) from the ordinary high water mark of the watercourse.

4.11.2 Removal of Natural Vegetation, Filling or Excavation Near a Watercourse

In accordance with Planning Strategy Policy 4.3.3, in all zones, and in relation to a development, the

- a) infilling
- b) excavation; or
- c) removal of natural vegetation,

within 20 m (66 ft) of the ordinary high water mark of a significant watercourse as shown on Schedule "B", Development Constraints Map, of the Land-Use By-law, shall be subject to the following erosion control standards:

- i. where works on the bank of a watercourse are to occur and the approval of the Nova Scotia Department of Environment and Labour, the Department of Fisheries and Ocean or the Nova Scotia Department of Natural Resources is required, the Development Officer shall be provided with a copy of this approval; or
- ii. where an approval is not required from the Nova Scotia Department of Environment and Labour, but siltation of a watercourse could result from exposing or placing uncovered soil:

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- A. the fill or exposed soil shall be temporarily covered by a suitable material consisting of straw matting, or similar material composed of interlocking, non-leaching natural, and or synthetic fibres, within 48 hours of the placement of the fill or disturbance of the soil;
 - B. erosion control structures, such as but not limited to, silt fences and silt dams shall be placed within the pathway of runoff. The erosion control structures shall be designed, constructed and maintained in accordance with the “Erosion and Sedimentation Control Handbook for Construction Sites”, 1988, Province of Nova Scotia, as amended;
 - C. permanent soil cover shall be placed, upon temporarily covered disturbed soil areas, within 18 weeks from the date the fill was placed or the soil disturbed; and
- iii. other than as required by an approval referred to in clause (a), erosion control structures and any accumulated silt shall be removed from the areas of work within 30 days of the placement of permanent ground cover, except where the removal of these structures would produce a negative impact.

4.12. STEEP SLOPES

In accordance with Secondary Planning Strategy Policy 4.3.4, in all zones, and in relation to a development, any development within an area in excess of 20 percent slopes, as identified on Schedule “B”, Development Constraints Map, of the Land Use By-law, shall be subject to site preparation and landscaping requirements, to prevent or minimize erosion, as follows:

- a) driveways shall be covered with gravel or hard-surfaced within 14 days of the start of the construction or excavation of the driveway;
- b) back slopes of driveways shall be sodded, seeded or covered with alternate forms of ground cover suitable to prevent erosion within 5 days of the start of construction or excavation of the driveway, or otherwise covered with material which will prevent soil erosion until such time as the sodding or seeding is complete or the alternate forms of ground cover are in place. Sodding, seeding, or placement of alternate forms of ground cover suitable to prevent erosion shall be completed within 18 weeks of the start of construction or excavation of the driveway;
- c) excavated soil awaiting to be back filled shall be covered, within 5 days of excavation, with material that will prevent soil erosion until such time as the soil is back filled or removed;
- d) areas of back filling around the foundation shall be sodded, seeded or covered with alternate forms of ground cover suitable to prevent erosion within 5 days after the back fill is in place, or otherwise covered with material which will prevent soil erosion until such time as the sodding or

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seeding is complete or the alternate forms of ground cover are in place. Sodding, seeding , or placement of alternate forms of ground cover suitable to prevent erosion shall be completed within 18 weeks of the start of construction or excavation of the foundation; and

- e) excavated soil material shall be either removed from the lot, or graded and shall be either sodded, seeded or covered with alternate forms of ground cover suitable to prevent erosion, as appropriate and within 18 weeks of the start of excavation. Graded soil material shall be covered with material that will prevent soil erosion until such time as the sodding or seeding is complete or alternate forms of ground cover suitable to prevent erosion is in place. Materials awaiting removal shall be covered with material that will prevent soil erosion until such time as the soil is removed.

4.13. ACCESSORY USES

No Development Permit shall be required for any use which is accessory to a permitted use; however, this exception shall not apply to parking areas where more than 2 parking spaces are required by this by-law, outdoor wood furnaces, or stationary electric generators.

4.14. CONSTRUCTION ACCESSORIES

Nothing in this By-law shall prevent the use of land or the use or erection of temporary structures incidental to construction, such as but not limited to, a construction camp, tool shed, scaffold, sales office or rental office incidental to construction and no development permit for such temporary uses or structures shall be required. Such temporary use shall be terminated no more than 60 days after the completion of the construction of the main structure.

4.15. SPECIAL OCCASIONS

Nothing in this By-law shall prevent the use of land or the erection of temporary buildings, structures or signs for special occasions and holidays and no development permit shall be required for such temporary uses, provided that such uses or structures remain in place for no more than 10 days following the termination of the special occasion or holiday.

4.16. APPLICABLE SECTIONS OF SUBDIVISION BY-LAW

Pursuant to Secondary Planning Strategy Policy 6.1.8, all sections of the Subdivision By-law shall apply within all zones of this By-law, and any lot created by a Plan of Subdivision approved in accordance with the Subdivision By-law maybe used for a purpose permitted in the zone in which the lot is located, provided all applicable provisions of this By-law are satisfied.

4.17. RESTORATION TO A SAFE CONDITION

Nothing in this by-law shall prevent the strengthening or restoring to a safe condition of any structure, provided in the case of a non-conforming use the provisions of Municipal Government Act shall prevail.

4.18. HEIGHT REGULATIONS

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The height regulations of this By-law shall not apply to church spires, water tanks, elevator enclosures, silos, flagpoles, television or radio antennae, commercial communication towers, ventilators, skylights, barns, chimneys, clock towers, wind turbines or solar collection devices.

4.19. VARIANCE FROM MINIMUM REQUIREMENTS

Pursuant to Policy 7.1.15 in the Secondary Planning Strategy and in accordance with the requirements of the Municipal Government Act, the Development Officer may grant a variance for one or more of the following Land-Use By-law requirements:

- a) height of a structure;
- b) height and area of a sign;
- c) size of yards; and
- d) minimum lot area

provided that a variance is not granted where the:

- i. variance violates the intent of this Land-Use By-law;
- ii. difficulty experienced is general to properties in the area; or
- iii. difficulty experienced results from an intentional disregard for the requirements of this Land-Use By-law.

4.20. VIEW PLANE (VP) OVERLAY

4.20.1 Overlay Standards

In addition to any other applicable requirements and subject to 5.1.2, for a development located in an area designated View Plane on Schedule "C", the View Plane Overlay Map, no development permit shall be issued except in conformity with the following minimum requirements:

- a) The height of structures shall not exceed 7.6 m (25 ft); and
- b) The minimum distance between buildings shall be 3 m (9.8 ft).

4.21. Notwithstanding Section 4.8 and pursuant to Secondary Planning Policy 4.4.2, the reconstruction of non-conforming structures, that existed on the effective date of this By-law, shall be permitted after destruction provided that the structure does not extend any encroachments and the reconstruction of the structure is commenced within 12 months of the date of destruction.

5. RURAL ZONES

5.1. GENERAL REQUIREMENTS FOR RURAL ZONES

5.1.1. Application

The provisions of this part shall apply to the Rural Three (RU-3) zone.

5.1.2. Exemption from Watercourse Setback / View Plane Overlay

a) **Wharves and Slipways**

Notwithstanding Subsection 4.11.1 and Section 4.20, wharves and slipways may be built to the front, side and rear property lines, where that property abuts the waters edge, and no Development Permit is required for their construction.

b) **Private Boathouse / Fishing Gear**

Notwithstanding Subsections 4.11.1, 5.1.6 and Section 4.20, private boathouses and fishing gear sheds may be built to the waters edge and are exempt from the height and minimum distance between building requirements of the view plane overlay.

c) **Boat Building and Boat Repair Shops**

Notwithstanding Subsection 4.11.1 and Section 4.20, boat building and boat repair shops may be built to the front, side or rear property line, where that property line abuts the waters edge and are exempt from the height and minimum distance between building requirements of the view plane overlay.

d) **Riverport District Fire Hall (PID 6018727)**

Notwithstanding Subsections 4.11.1., 5.1.6, and Section 4.20, the Riverport District Fire Hall (PID 60187267) may be built to the water's edge and is exempt from height and minimum distance between buildings requirements of the view plane overlay, provided it meets flood proofing standards as established through a report created by a qualified Professional Engineer licensed through Engineers Nova Scotia and submitted to the Development Officer, subject to Subsection 2.9.2.

e) the construction of the flood proofing standards, as outlined in the Engineer's report required in 5.1.2 (d) shall be inspected and certified by a qualified Professional Engineer licensed through Engineers Nova Scotia.

5.1.3. Existing Lot Development Limitation

Pursuant to Secondary Planning Strategy Policy 7.1.14, where any Rural Zone permits development as-of-right up to a threshold that is based on floor area, site area, number of rental units, or on the amount of goods or materials that are processed and produced annually, this threshold shall not be exceeded on any lot as it existed on September 6, 1994, regardless of the effect of any subsequent subdivision approval, except as may be permitted by Development Agreement where provided for in this By-law.

5.1.4. Outdoor Wood Furnaces / Water Stoves

Outdoor wood furnaces and the "storage" buildings in which they are housed, shall not be considered as accessory buildings or structures within the definition of accessory building or structures in this Land Use By-law, and thus their use will require a Development Permit. Outdoor wood furnaces shall only be permitted in the Rural zone and shall be required to be located a minimum of 38 m (125ft) from adjacent lot lines.

5.1.5. Stationary Electric Generators

Stationary electric generators shall not be considered as accessory buildings or structures within the definition of accessory building or structures in this Land Use By-law, and thus their use will require a Development Permit. Stationary electric generators shall only be permitted in the Rural zone provided that on each lot so used one of the following setbacks is adhered to:

- a) the sound level, generated by the stationary electric generator, at an adjacent property line shall not exceed 45dB(A) (decibels), determined using the manufactures sound level documentation at standby power and the “Sound Level by Distance from Source”, Table 1, below; or
- b) where the manufactures sound level documentation does not exist, the minimum setback from adjacent lot lines shall be 16 m (52 ft).

Table 1: Sound Level by Distance from Source

Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)
4.5	-24	100	-52	355	-63
9	-30	112	-53	398	-64
16	-35	126	-54	447	-65
28	-40	141	-55	502	-66
40	-43	159	-56	563	-67
50	-45	178	-57	632	-68
56	-46	200	-58	709	-69
63	-47	224	-59	795	-70
71	-49	251	-60	892	-71
80	-50	282	-61		
89	-51	317	-62		

Calculation Example:

A stationary electric generator that has a standby sound level of 74 dBA, measured at 7 m (23 ft) from the unit, will require a 16 m (52 ft) setback (from the unit to adjacent property lines) to reduce the noise level to 45 dBA at the property line

$$\begin{array}{rcl}
 \text{Maximum Sound Level} & - & \text{Standby sound level} & = & \text{Change in Sound Level} \\
 \text{at Property Line} & & & & \\
 45\text{dB(A)} & - & 74\text{dB(A)} & = & -29\text{dB(A)}
 \end{array}$$

The “**Change in Sound Level**” value (-29) can be entered into the “**Sound Level by Distance from Source**” table to determine the additional distance (9 m) to reduce the sound level to **45dB(A) at the property line**. The distance value read in the table (9 m) plus the distance the sound level was measured at (7 m) equals the setback distance (**16 m from adjacent property lines**).

Sound Level by Distance from Source.

Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)
4.5	-24	100	-52	355	-63
9	-30	112	-53	398	-64
16	-35	126	-54	447	-65
28	-40	141	-55	502	-66
40	-43	159	-56	563	-67
50	-45	178	-57	632	-68
56	-46	200	-58	709	-69
63	-47	224	-59	795	-70
71	-49	251	-60	892	-71
80	-50	282	-61		
89	-51	317	-62		

The above calculation example is intended for clarification and convenience and does not form part of this by-law

5.1.6. Non-Conforming Use of Land or in a Structure

- a) Pursuant to Secondary Planning Strategy Policy 4.1.10., within the Rural Three (RU-3) Zone:
 - i. the extension of a non-conforming use of land; and
 - ii. the extension, enlargement, alteration or reconstruction of a structure containing a non-conforming use

are permitted only by Development Agreement; and

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- b) Subject to clause a) and pursuant to Secondary Planning Strategy Policy 4.1.11, a non-conforming use of land or a non-conforming use in a structure that has been discontinued for a period less than 12 continuous months may recommence operation.

5.1.7. Private Storage Buildings

Where there is no other main building on the lot, private storage buildings, including but not limited to, private garages, private boathouses and fishing gear sheds shall be permitted in the Rural Three (RU-3) Zone, provided that the applicable zone requirements of the Rural Three (RU-3) Zone are satisfied as if the private storage building was regarded as the main building on the lot.

5.2. RURAL THREE (RU-3) ZONE

5.2.1. Special Requirements - Commercial, Industrial and Institutional Developments in (RU-3) Zone

Subject to subsection 5.2.3.b), Commercial, Industrial and Institutional uses are permitted in the Rural (RU-3) Zone provided that, on each lot so used:

- a) The maximum total indoor floor area occupied by such uses is 371.6 m² (4,000 ft²),
- b) The maximum total area devoted to the use (including indoor and outdoor areas) is 3716 m² (40,000 ft²); and
- c) Clauses a) and a) notwithstanding, fixed roof accommodation for the travelling public shall not exceed 15 rental units with associated dining facilities.

5.2.2. Special Requirements – Wind Turbines

Subject to Section 5.2.3.b)v, small scale Wind Turbines, capable of producing less than 12,000 kw.h per year, are permitted in the Rural Three (RU-3) Zone provided that, on each lot so used one of the following setbacks, which ever one is less, is adhered to:

- a) the minimum setback from adjacent lot lines, shall be a measurement equal to the length of 7 rotor blades, measurement.
- b) the sound level, generated by the wind turbine, at an adjacent property line shall not exceed 45dB(A) (decibels), determined using the manufactures peak acoustical emission documentation and the “Sound Level by Distance from Source”, Table 1, below:

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Table 1: Sound Level by Distance from Source

Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)
4.5	-24	100	-52	355	-63
9	-30	112	-53	398	-64
16	-35	126	-54	447	-65
28	-40	141	-55	502	-66
40	-43	159	-56	563	-67
50	-45	178	-57	632	-68
56	-46	200	-58	709	-69
63	-47	224	-59	795	-70
71	-49	251	-60	892	-71
80	-50	282	-61		
89	-51	317	-62		

Calculation Example:

A wind turbine with a manufactures maximum acoustical emission of 85dB(A) will require a 28 m setback to reduce the noise level to 45dB(A) at the property line.

$$\begin{array}{rclcl}
 \text{Maximum Sound Level} & - & \text{Wind Turbine Peak} & = & \text{Change in Sound Level} \\
 \text{at Property Line} & & \text{Emission} & & \\
 45\text{dB(A)} & - & 85\text{dB(A)} & = & -40\text{dB(A)}
 \end{array}$$

The “**Change in Sound Level**” value (-40) can be entered into the “**Sound Level by Distance from Source**” table to determine the **distance required** (28 m) to reduce the sound level to **45dB(A) at the property line**. The distance value read in the table is the setback value (28 m from adjacent property lines).

Sound Level by Distance from Source.

Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)	Distance m	Sound Level Change dB(A)
4.5	-24	100	-52	355	-63
9	-30	112	-53	398	-64
16	-35	126	-54	447	-65
28	-40	141	-55	502	-66
40	-43	159	-56	563	-67
50	-45	178	-57	632	-68
56	-46	200	-58	709	-69
63	-47	224	-59	795	-70
71	-49	251	-60	892	-71
80	-50	282	-61		
89	-51	317	-62		

The above calculation example is intended for clarification and convenience and does not form part of this by-law

- c) One of the following measures shall be employed to prevent climbing of the structures.

The support structure shall be:

- i. enclosed by fencing, or
- ii. enwrapped with sufficient guarding around the bottom of the structure to prevent climbing;

- d) Where fencing forms an enclosure or part thereof, the fencing shall:

- i. completely enclose the structure,
- ii. have a minimum height of 1.8 m (6 ft),
- iii. have no opening greater than 38 mm (1.5 in) in any part of the fencing,
- iv. not be electrified or incorporate barbed wire or other sharp dangerous materials unless they are situated more than 2 m (6 ft) above grade, and

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- v. gates that form part of the fencing shall be self-closing and securely locked, and be located:
 - A. at least 1.2 m (4 ft) from any condition that would facilitate the structure from being climbed from the outside; and
 - B. so that the bottom of the fence is elevated by no more than 10 cm (4 in) above grade; and
- e) Guards shall be designed so that no member, attachment or opening located between 10 cm (4 in) and 1.5 m (5 ft) above the ground, will facilitate climbing. Guards shall be constructed of thin metal sheeting form-fitted around the bottom of a tower from ground level to at least 2.5 m (8 ft) above the ground. An opening referred to here shall be no greater than 5 cm (2 in) in width.

5.2.3. Permitted Developments

On any lot in the Rural Three (RU-3) Zone, no development permit shall be issued except for one or more of the following uses:

- a) Developments permitted in the Rural Three (RU-3) Zone:
 - i. Residential uses to a maximum of 4 dwelling units,
 - ii. Non-commercial Recreational uses,
 - iii. Cemeteries,
 - iv. Agricultural, Forestry, and Fishery uses,
 - v. Sawmills and Planer Mills having an annual capacity of less than 100 Mfbm (100 000 board feet),
 - vi. Roundwood processing having an annual production of less than 1812.3 m² (500 cords),
 - vii. Subject to Subsection 5.2.1, All commercial, industrial and institutional uses which are not listed in Clause c),
 - viii. The erection, construction, alteration, replacement, relocation of or addition to any structure associated with items (i) to (vii) and (ix), and
 - ix. Riverport District Fire Hall (PID 60187267) expansion subject to section 5.1.2 (d) and policy 5.2.5 of the Riverport & District Secondary Planning Strategy.
 - x. Emergency Service Facility subject to section 5.1.2 € and policy 5.2.4 of the Riverport & District Secondary Planning Strategy.
- b) Developments Permitted by Development Agreement
 - i. Pursuant to Secondary Planning Strategy Policy 4.1.4, Commercial, Institutional and Industrial developments that exceed the maximum size requirements of Section 5.2.1;
 - ii. Pursuant to Secondary Planning Strategy Policy 4.1.4, Residential developments which do not satisfy Subsection 5.2.3.a);

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- iii. Pursuant to Secondary Planning Strategy Policy 4.1.4, Saw mills and planer mills having an annual capacity in excess of 100 Mfbm (100 000 board feet);
 - iv. Pursuant to Secondary Planning Strategy Policy 4.1.4, Roundwood processing having an annual capacity in excess of 1812.3 m² (500 cords); and,
 - v. Pursuant to Secondary Planning Strategy Policy 4.1.8, wind turbines or multiple wind turbines capable of producing in excess of a total of 12,000kW.h per year.
- c) **Restricted Developments permitted only by Development Agreement.**
Notwithstanding any other provisions of this by-law and pursuant to Secondary Planning Strategy Policy 4.1.5, the following developments are permitted only by Development Agreement, regardless of the size of the use:
- i. Animal by-products rendering plants;
 - ii. Asphalt production for off-site sales;
 - iii. Beverage rooms, Lounges, Clubs, Cabarets, and Taverns;
 - iv. Breeding or boarding of dogs other than within a dwelling unit or an animal hospital;
 - v. **(REPEALED BY AMENDMENT - MARCH 9, 2016;)**
 - vi. Commercial or recreational racing of animals;
 - vii. Commercial or recreational racing of motorized vehicles;
 - viii. Commercial slaughtering and butchering of animals;
 - ix. Correctional Centre;
 - x. Fish meal production;
 - xi. Hazardous products disposal;
 - xii. Land Leased Communities;
 - xiii. Lead & battery production;
 - xiv. Petroleum bulk storage plants where petroleum products are stored for off-site distribution;
 - xv. Ready-mix concrete production for off-site sales;
 - xvi. Salvage Operation;
 - xvii. Shooting ranges;
 - xviii. Smelting and ore refining;
 - xix. Solid Waste Management Facilities;
 - xx. Tanning for wholesale;
 - xxi. Uses associated with aggregate and mineral resource extraction operations;
 - xxii. Warehousing for wholesale of explosives, pesticides, herbicides, fungicides, biocides, and other poisonous or hazardous substances;
 - xxiii. Wholesale metal corrosion treatment;
 - xxiv. Wood debarking and chipping, except for temporary activities associated with harvesting operations; and
 - xxv. Wood preserving by pressure treatment.

6. ENVIRONMENTAL PROTECTION ZONES

6.1. General Requirements for Environmental Protection Zones.

6.1.1. Application

The provisions of this part shall apply to the Environmentally Sensitive (ES) zone and to all other zones as specified.

6.1.2. Non-Conforming Use of Land or in a Structure

A non-conforming use of land or non-conforming use in a structure within the Environmentally Sensitive Zone is subject to the Non-Conforming Use of Land or Non-Conforming Use in a Structure provisions of the Municipal Government Act.

6.2. ENVIRONMENTALLY SENSITIVE (ES) ZONE

6.2.1. Permitted Uses

Subject to Section 6.2.2, on any lot in the Environmentally Sensitive (ES) zone no development permit shall be issued except for uses as they are assigned below:

- a) Low impact, non-motorized recreational uses; and
- b) Environmental education and nature interpretation uses.

provided that the uses do not involve the placement, erection or alteration of structures other than raised boardwalks for walking trails or interpretation displays.

6.2.2. Environmentally Sensitive Zone Requirements

In the Environmentally Sensitive Zone, no Development Permit shall be issued for any structure, except for raised boardwalks for walking trails or interpretation displays.

7. INSTITUTIONAL (I) ZONE

7.1. GENERAL REQUIRMENTS FOR INSTITUTIONAL ZONES

7.1.1. **Application** The provisions of this part shall apply to the Institutional (I) Zone and to all other zones as specified in this By-law.

7.2. INSTITUTIONAL (I) ZONE

7.2.1. Permitted Developments

On any lot in the Institutional zone, no development permit shall be issued except for uses as they are assigned below:

- a) Public buildings and uses.

8. SIGNS

8.1. GENERAL REQUIREMENTS FOR SIGNS

8.1.1. Sign Location

No sign shall be erected or used for commercial advertising unless the sign is located: on the same lot as the establishment which it advertises; or on the same lot as the dealer for the product which it advertises; or within the boundaries of a Public Highway.

8.1.2. Signs for which no development permit is required

Signs less than 4.5 m² (48 ft²) in sign area on each side, and less than 8 m (26 ft) from ground level to the highest point on the sign may be placed or erected in a Rural Zone without a Development Permit.

8.1.3. Signs Permitted By Development Agreement

Signs which do not satisfy the requirements of Subsections 8.1.1 or of Subsection 8.1.2 may be permitted only when those signs are included in a Development Agreement under Subsections 5.2.3.b) or 5.2.3.c).

8.1.4. Signs Prohibited in All Zones

All other provisions of this By-law notwithstanding, the following signs shall not be erected or used in any zone:

- a) signs which incorporate in any manner any flashing or moving illumination which varies in intensity or which varies in colour, and signs which have any visible moving part or visible mechanical movement of any description except for signs which display only time, temperature or humidity;
- b) signs affixed to, applied to, or supported by the roof of any structure;
- c) signs which constitute a hazard to public safety or health;
- d) signs which by reason of size, location, content, colouring, or manner of illumination obstruct the vision of drivers or obstruct the effectiveness of any traffic sign or traffic control device on public highways;
- e) signs which obstruct the use of a fire escape door, windows, or other required exit;
- f) signs which make use of such words as "STOP", "LOOK", "ONE WAY", "DANGER", "YIELD", or any other similar words, phrases, or symbols so as to interfere with or confuse drivers on a public highway;

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- g) signs which advertise a product, service or business which is discontinued; or
- h) signs painted upon, attached to, or supported by a tree, stone, cliff, or other natural object.

9. DEFINITIONS

For the purposes of this By-law all words shall carry their customary meaning except for those words and phrases defined in this Part.

- 9.1. ABUTTING LOT – See: LOT, ABUTTING
- 9.2. ABUTTING YARD – See: YARD, ABUTTING
- 9.3. AGGREGATE means gravel, clay, earth shale, stone, limestone, dolostone, sandstone, marble, granite, rock.
- 9.4. AGGREGATE RESOURCE EXTRACTION OPERATION means the use of land and structures associated with the extraction of aggregates such as the storage of extracted aggregates, the crushing, screening or washing of extracted aggregates, the storage and maintenance of trucks, heavy equipment related to the aggregate extraction activity.
- 9.5. AGRICULTURAL USE – See: USE
- 9.6. ALTER means to make any change in the structural components of a building or structure, any increase or decrease in the volume of a building or structure, or any change made in the use of land or structures.
- 9.7. ANIMAL HOSPITAL means the premises where animals, birds or household pets are treated or kept during treatment and may include boarding facilities as an accessory use.
- 9.8. BEVERAGE ROOMS means a premise licensed as a Beverage room by the Liquor License Board of Nova Scotia
- 9.9. BOATHOUSE means a structure, whether permanent or temporary, which is roofed, which does not contain toilet facilities and which is used for the shelter or storage of boats, watercraft and associated marine accessories and equipment, but not for the accommodation of persons or animals, or for commercial purposes and does not include a garage.
- 9.10. BUILDING means a structure, whether permanent or temporary, which is roofed and which is used for the shelter or accommodation of persons, animals, materials or equipment and includes all additions, porches and decks attached thereto.
- 9.11. CABARETS means a premise licensed as a cabaret by the Liquor License Board of Nova Scotia.
- 9.12. CEMETERY means land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried and may include facilities for storing human remains in sealed crypts or compartments.

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- 9.13. CHANGE IN USE – See: USE
- 9.14. CLUB means a premise licensed as a club by the Liquor License Board of Nova Scotia.
- 9.15. COMMERCIAL USE – See USE
- 9.16. (REPEALED BY AMENDMENT - MARCH 9, 2016)
- 9.17. CORRECTIONAL CENTRE means a government operated or funded facility to house youth or adults in the custody of or sentenced by a Court of Law.
- 9.18. COUNCIL means the Council of the Municipality of the District of Lunenburg.
- 9.19. DEVELOPMENT includes any erection, construction, alteration, replacement or relocation of or addition to any structure and any change or alteration in the use made of land or structures.
- 9.20. DEVELOPMENT PERMIT means the permit issued by the Development Officer certifying that a proposed development complies with the provisions of the Land Use By-law.
- 9.21. DEVELOPMENT OFFICER, means the person appointed by Council under the authority of the Municipal Government Act to administer the provisions of the Land Use By-law.
- 9.22. DWELLING UNIT means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals, with a private entrance from outside the building or from a common hallway or stairway inside the building.
- 9.22A EMERGENCY SERVICE FACILITY means the use of land, buildings or structures or portions thereof to provide an emergency service to the public, and without limiting the generality of the foregoing may include uses such as Fire Protection, Police Protection, Emergency Measures Organizations, Ground Search and Rescue Operations and Ambulances but does not include uses accessory to an Emergency Service Facility, such as but not limited to places of assembly and entertainment. For greater clarity, only that portion of land, buildings or structures used for a purpose essential to the provision of an emergency service shall be considered an Emergency Service Facility.
- 9.23. ERECT means to build, construct, reconstruct, alter or relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, structurally altering any existing building or structure by an addition, deletion, enlargement or extension.

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- 9.24. EXISTING unless otherwise specified, means legally existing on the effective date of this by-law.
- 9.25. FENCE, OPEN – See: OPEN FENCE
- 9.26. FISHERY USE – See: USE
- 9.27. FIXED ROOF ACCOMMODATION means a building or part thereof, used to accommodate the travelling or vacationing public for gain or profit, by supplying them with sleeping accommodations, with or without meals or kitchen facilities.
- 9.28. FLANKAGE LOT LINE – See: LOT LINE, FLANKAGE
- 9.29. FLANKAGE YARD – See: YARD, FLANKAGE.
- 9.29A FLOOD PROOFING means any combination of structural and non-structural additions, changes or adjustments to structures, which will significantly limit flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents for a minimum storm with a 5% annual exceedance probability (i.e. a 1 in 20 return period).
- 9.30. FLOOR AREA means the total area of all floors of a building, above and below grade, measured between the exterior faces of the exterior walls of the building or from the centreline of a wall separating two buildings.
- 9.31. FORESTRY USE – See: USE
- 9.32. FRONT LOT LINE - See: LOT LINE, FRONT
- 9.33. FRONT YARD – See: YARD, FRONT.
- 9.34. GRADE means, with reference to a building or structure, the lowest elevation of the finished surface of the ground where it meets the exterior of the foundation of the building or structure and when used with reference to a street, road or highway means the elevation of the street, road or highway established by the municipality or other designated authority.
- 9.35. HEIGHT means the vertical distance on a building between the established grade and
- a) the highest point of the roof surface or parapet, whichever is greater, of a flat roof
 - b) the deck line of a mansard roof; or
 - c) the mean level between the eaves and ridges of a gabled, hip, gambrel or other type of pitched roof but shall not include any construction used as ornament or for the mechanical operation of the building, a mechanical penthouse, chimney, tower, cupola or steeple.
- 9.36. INDUSTRIAL USE – See: USE, INDUSTRIAL

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- 9.37. INSTITUTION means a building or part of a building used by an organized body or society for promoting a particular purpose with no intent of profit, such as churches, community centres, hospitals, and homes for special care, but not including private clubs.
- 9.38. INSTITUTIONAL USE –See: USE
- 9.39. LAND-LEASED COMMUNITY means an establishment comprising land or premises under single ownership, designed and intended for residential use, where residence is in 3 or more mobile homes, but does not include any camping establishment under the Camping Establishments Regulation Act.
- 9.40. LOT means any parcel of land as described in a deed or as shown on a registered plan of subdivision
- 9.41. LOT, ABUTTING means a lot having one or more boundaries coincident with one or more lots or zone boundaries.
- 9.42. LOT LINE means a boundary line of a lot.
- 9.43. LOT LINE, FRONT means the line dividing the lot from the street or other means of access; and
- a) in the case of a corner lot, the shorter boundary line abutting the street shall be deemed to be the front lot line and the longer boundary line abutting the street shall be deemed to be the flankage lot line; and where such lot lines are of equal length, the front lot line shall be either of the lot lines and the other lot line shall be the flankage lot line; boundaries dividing the lot from a street shall be deemed to be the front lot line;
 - b) in the case of a lot which abuts an access road and which has another of its boundaries adjoining the shoreline of a lake, river or stream, the lot line facing the access road shall be deemed to be the front lot line; or
 - c) in the case of a through lot, the lot line abutting the street providing the primary access shall be regarded as the front lot line.
- 9.44. LOT LINE, REAR means the lot line furthest from or opposite to the front lot line.
- 9.45. LOT LINE, SIDE means a lot line other than a front or rear lot line.
- 9.46. LOT LINE, FLANKAGE means a side lot line that abuts the street on a corner lot.
- 9.47. LOT, THROUGH means a lot that fronts upon two parallel roads or that fronts upon two roads that do not intersect at the boundaries of the lot.

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- 9.48. LOUNGES means a premise licensed as a lounge by the Liquor License Board of Nova Scotia.
- 9.49. MINERAL means a mineral as defined under the Mineral Resources Act of Nova Scotia, Chapter 18 of the Acts of 1990, as amended from time to time.
- 9.50. MINERAL RESOURCE EXTRACTION means the use of land and structures associated with the extraction of minerals such as the storage of extracted mineral, the crushing, screening or washing of extracted minerals, the storage and maintenance of trucks, heavy equipment related to mineral extraction activity.
- 9.51. MOBILE HOME means a non-motorized prefabricated detached dwelling designed for transportation on its own chassis and wheels, to a site where it is to be occupied as a dwelling complete and ready for occupancy (except for minor and incidental unpacking or assembling operations), and where it may be located on wheels, jacks, posts, piers, blocks, or permanent foundation, and which may be connected to utilities and sanitary services. This definition includes the "single wide" and "expandable single wide" types of mobile home, but excludes the "double wide" type and modular type of prefabricated dwelling where separate units are joined together to form the complete dwelling unit. A mobile home shall be considered to be a mobile home whether or not the chassis or wheels are removed.
- 9.52. MUNICIPAL GOVERNMENT ACT means the Act Respecting Municipal Government, Chapter 18, ACTS of 1998, as amended from time to time.
- 9.53. NONCONFORMING USE – See: USE, NONCONFORMING
- 9.54. NON-OPERATIONAL MOTOR VEHICLE means a motor vehicle which can no longer move on its own mechanical power.
- 9.55. OPEN FENCE means an artificially constructed barrier of any materials which are constructed in such a manner that the ratio between space and material of the fence is at least 50:50, or its equivalent, and may include, but not be limited to chain link fences, ornamental iron fences, rail and picket fences.
- 9.56. OUTDOOR WOOD FURNACE means any individual furnace designed to burn untreated wood and wood products and used for the purpose of heating water or air where the furnace is located outside the structure into which the hot water or air produced is piped.
- 9.57. PARK means an open area devoted to low impact recreational uses or conservation uses and which may include ornamental gardens and lawns, outdoor furniture and accessory structures and which may include a children's playground.
- 9.58. PERSON includes an individual, association, firm, partnership, corporation, trust, incorporated company, organization, trustee or agent, and the heirs, executors or other legal representatives of a person to whom the context can apply according to law.

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- 9.59. PUBLIC BUILDING means a building of the Public Authority of the Government of Canada, Province of Nova Scotia, or the Municipality of the District of Lunenburg, including any agency or commission or corporation of the Municipality.
- 9.60. REAR LOT LINE – See: LOT LINE, REAR
- 9.61. REAR YARD – See: YARD, REAR
- 9.62. RECREATIONAL USE – See: USE, RECREATIONAL
- 9.63. REPLACE when used with reference to a building or structure, means to build a completely or substantially new structure on a lot where the original structure has been partially or completely demolished.
- 9.64. SALVAGE OPERATION means land or buildings used for the storage or handling of scrap materials such as, but not limited to, autobodies and automobile parts, used building products and old metal where such materials are bought, sold, exchanged, baled, packed, disassembled, handled or processed for further use.
- 9.65. SECONDARY PLANNING STRATEGY means the Secondary Planning Strategy of the Municipality of the District of Lunenburg for the Riverport and District planning area.
- 9.66. SIDE LOT LINE – See: LOT LINE, SIDE
- 9.67. SIDE YARD – See YARD, SIDE
- 9.68. SIGN means any structure, device, light or natural object including the ground itself, or any part thereof, or any device attached thereto or painted or represented thereon, which shall be used to identify, advertise, or attract attention to any object, product, place, activity, person, institution, organization, firm, group, commodity, profession, enterprise, industry or business, or which shall display or include any letter, work, model, number, banner, flag, pennant, insignia, device or representation used as an announcement, direction or advertisement, and which is intended to be seen from off the premises or from a parking lot. A sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship or elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.
- a) SIGN AREA means the area of the smallest triangle, rectangle or circle or semi-circle which can wholly enclose the surface area of the sign.
- 9.69. SOLID WASTE MANAGEMENT FACILITY means a sanitary landfill licensed pursuant to the Environment Act, or a location not required to be licensed pursuant to that Act, a recycling facility, a

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transfer station, a waste separation facility, a household hazardous waste facility, an incinerator, a composting site or any other facility for the management of solid waste including collection, recycling, treatment and disposal. A solid waste management facility does not include the backyard composting of residential waste in which the annual volume of organic waste processed does not exceed 10 m³ (13.1 yd³).

- 9.70. SPS - See: SECONDARY PLANNING STRATEGY
- 9.71. STATIONARY ELECTRIC GENERATOR means a fuel powered generator that produces electrical energy which is fixed or mounted in place and is not located within a building or part thereof.
- 9.72. STRUCTURE means anything that is erected, built, or constructed of parts joined together or any such erection fixed to or supported by the soil or by any other structure, and this definition shall include buildings, walls, signs, and for the purpose of Section 4.10 structure shall include fence.
- 9.73. TAVERNS means a premise licensed as a Tavern by the Liquor License Board of Nova Scotia.
- 9.74. THROUGH LOT see LOT, THROUGH
- 9.75. USE means the purpose for which any land, building or structure is utilized, and also means the purpose for which any land, building or structure is designed, arranged, or intended or the purpose for which any land, building or structure is occupied or maintained or leased, and for further certainty:
- a) ACCESSORY USE means a use subordinate and naturally, customarily and normally incidental to, and exclusively devoted to, a main use of land or building located on the same lot.
 - b) AGRICULTURAL USE means the utilizing of land, buildings or structures to raise crops, animals or fowl and includes the harbouring or keeping of livestock regardless of its stage of development such as but not limited to: horse, pony, pig, cow, bull, goose, duck, hen, rooster, sheep, goat, ratite or camelid, and may include shipping. "Agricultural Use" shall include the accessory production, processing, treatment, storage and sale of the products on-site, but shall not include industrial uses such as slaughter houses.
 - c) CHANGE IN USE means any alteration in the use made of the whole or any part of a parcel of land, a building or a structure.
 - d) COMMERCIAL USE means the use of land, buildings or structures for the sale of goods or services carried out for profit.
 - e) FISHERY USE means uses supportive of the inshore fishery, including general storage, docks, boat launches and repair facilities, but shall not include industrial uses such as processing.

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- f) FORESTRY USE means the use of land, buildings, or structures to manage and harvest trees, and may include shipping, storage and sale of the products on-site, but does not include processing.
 - g) INDUSTRIAL USE means the use of land, buildings or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses.
 - h) INSTITUTIONAL USE means the use of land, buildings or structures for religious, educational, health or charitable purposes but does not include an emergency service facility.
 - i) NON-COMMERCIAL RECREATIONAL USE means the use of land, owned and operated by a public or private non-profit organization, for parks, playgrounds, tennis courts, lawn bowling greens, indoor and outdoor skating rinks, athletic fields, golf courses, picnic areas, swimming pools, day camps, community centres and uses similar to the foregoing, together with necessary and accessory buildings and structures, but not including: a track for the racing of animals or any form of motorized vehicles; recreational vehicle parks or campgrounds.
 - j) NON-CONFORMING USE means a use as described in Sections 238-241 of the Municipal Government Act.
- 9.76. WHOLESALE means selling of articles in large quantities to be retailed by others.
- 9.77. YARD means an open, uncovered space on a lot appurtenant to a building, and in determining yard measurements, the minimum horizontal distance from the respective lot lines shall be used; and for greater certainty:
- 9.78. YARD, FLANKAGE means the side yard on a corner lot, which side yard extends from the front yard to the rear yard between the flankage lot line and the nearest part of any building or structure on a lot.
- 9.79. YARD FRONT means a yard extending across the full width of a lot between the front lot line and the nearest part of any building or structure on a lot.
- 9.80. YARD, MINIMUM FRONT means the minimum depth of a front yard between the front lot line and the nearest part of any building or structure on a lot.
- 9.81. YARD, REAR means a yard extending across the full width of a lot between the rear lot line and the nearest part of any building or structure on a lot.
- 9.82. YARD, MINIMUM REAR means the minimum depth of a rear yard on a lot between the rear lot line and the nearest part of any building or structure on a lot.

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- 9.83. YARD, SIDE means a yard extending from the front yard to the rear yard of a lot between a side lot line and the nearest part of any building or structure on a lot.
- 9.84. YARD, MINIMUM SIDE means the minimum width of a side yard between a side lot line and the nearest part of any building or structure on a lot.
- 9.85. YARD, ABUTTING means a yard of an abutting lot that adjoins an adjacent lot or zone boundary.
- 9.86. ZONE means a specified area of land as shown on Schedule "A" of this By-law and more particularly referred to in Part 3 of this By-law.

10. REPEAL OF DISTRICT THREE LAND USE BY-LAW

The Land Use By-law for the District Three Planning Area, adopted by Council on June 29, 1994 and approved by the Minister of Municipal Affairs on September 6, 1994, is hereby repealed and this Land Use By-law substituted therefore.

DOUGLAS E. QUINN, CHIEF ADMINISTRATIVE OFFICER

I, Douglas E. Quinn, Chief Administrative Officer of the Municipality of the District of Lunenburg, do hereby certify that the foregoing is a true copy of the Land Use By-law for the District Three Planning Area which was duly passed by the Council of the Municipality of the District of Lunenburg at a meeting duly held on July 12, 2005.

DATED at Bridgewater, N.S. _____, 2005.

DOUGLAS E. QUINN, CHIEF ADMINISTRATIVE OFFICER