

# MUNICIPALITY OF THE DISTRICT OF LUNENBURG

## MUNICIPAL PLANNING STRATEGY

Approved by Council on September 24, 2018

### CONSOLIDATED EDITION

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

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Map 1: Land Use Control

## PART 1 OVERVIEW

### 1.0 INTRODUCTION

#### 1.1 BACKGROUND

The Municipality of the District of Lunenburg (MODL) is one of five municipal units found in Lunenburg County, Nova Scotia. The Municipality was first incorporated as a separate political entity with the concurrent incorporation of the District of Chester in 1879. The County itself was first established in 1759. Covering an area of approximately 1,760 square kilometres, the Municipality surrounds the three towns of Bridgewater, Mahone Bay and the Town of Lunenburg.

The Municipality consists of over 130 established communities, many of which date from the period of European settlement in the eighteenth and nineteenth centuries. Initial settlement created a dispersed community pattern, with many north-south roadways, reflecting the significantly higher degree of private land that was originally granted in Lunenburg County than can be found in other parts of Nova Scotia.

The 2016 Statistics Canada Census population for MODL was 24,863. Population decline for the Municipality has occurred in the last four census periods. Within the Municipality, there are identified areas of more recent population growth, with new subdivision and building occurring more intensively, while other communities are facing notable decline, specifically with a diminishment in average household sizes.

#### Population: 1991 to 2016 (taken from various Statistics Canada Censuses)

	1991	1996	2001	2006	2011	2016
Municipality	25,684	25,949	25,570	25,160	25,138	24,863
County	47,630	47,560	47,595	47,150	47,310	47,126
Province	899,945	909,280	908,005	913,465	921,725	923,598
Canada	27.2M	28.8M	30.0M	31.6M	33.4M	35.1M

Coupled with the evident stagnation in local population growth, the shift in local age demographics has also shaped the Municipality's development in the last two decades. Such shifts alter individual perspectives on both the use and type of services that a Municipality offers to residents.

#### Age: 1991 & 2016, Municipality & Nova Scotia Comparisons, Percentages

Municipality		Age Range	Nova Scotia	
1991	2016		1991	2016
26%	17%	0-19	28%	20%
30%	17%	20-39	33%	23%
29%	42%	40-64	26%	37%
15%	24%	65+	13%	20%

The Municipality's proximity to the Halifax Regional Municipality, which has acted as the employment and population growth centre for the province for the last two decades, has also had consequences on the Municipality's development. Where there has been a long history of interaction between the Towns the Municipality surrounds, in terms of employment and services, communities on the South Shore have increasingly identified where, as a region, local communities have been impacted by Halifax's predominance and economic growth. Continued change resulting from broader technological, cultural, and economic transitions in society are anticipated to bring opportunities and challenges.

## **1.2 AUTHORITY AND SCOPE**

The *Municipal Government Act* allows Council to adopt a Municipal Planning Strategy which sets out Council's policies for governing the Municipality. The Municipal Government Act also specifies how Council adopts or amends a Municipal Planning Strategy and how to present it for the review of the Director of Planning for Municipal Affairs.

Section 212 of the *Municipal Government Act* allows Council to adopt a Municipal Planning Strategy for all or for part of the Municipality. The Strategy can address problems and opportunities in the development of land, as well as the environmental, social and fiscal effects of developments. It can also establish programs for putting policies into effect.

Sections 213 and 214 of the Act allows a Municipal Planning Strategy to include policy statements on matters such as:

- a) the goals and objectives of the Municipality;
- b) the improvement of the physical and social environment;
- c) the use, protection, and development of lands;
- d) the protection of pits, quarries, and aggregate deposits;
- e) the provision of municipal services and facilities;
- f) environmental protection;
- g) municipal finances;
- h) land subdivision;
- i) use and conservation of energy;
- j) public involvement in planning;
- k) stormwater management and erosion control
- l) municipal investment in public and private development
- k) any other matter related to the physical, social, or economic environment of the Municipality.

Council's policies on these matters can be put into effect through resolutions of Council or through a wide range of municipal by-laws. The *Municipal Government Act* specifically enables Council to adopt two by-laws which have special relationships with the Municipal Planning Strategy: the Land Use By-law and the Subdivision

By-law. Under Section 210 of the *Municipal Government Act* a Land Use By-law cannot be adopted or amended contrary to the policies stated in the Municipal Planning Strategy. Under Section 271(2) of the *Municipal Government Act*, a Subdivision By-law cannot conflict with the Provincial Subdivision Regulations and may address some topics only if the Municipal Planning Strategy has policies to support the by-law. Council has adopted seven Land Use By-laws applying to various parts of the Municipality, and a Subdivision By-law applying to the whole of the Municipality.

## **2.0      PURPOSE AND STRUCTURE**

### **2.1      PURPOSE**

The following policies express Council's purposes in adopting this Municipal Planning Strategy:

2.1.1            This Municipal Planning Strategy provides a framework and a process to accommodate change in development, land use, and division of land in the Municipality.

2.1.2            This Municipal Planning Strategy applies to the whole of the Municipality and expresses those policies of Council which apply to the whole of the Municipality.

### **2.2      STRUCTURE**

2.2.1            This Municipal Planning Strategy applies to the whole of the Municipality, which is an area of land shown specifically on Map 1, the Land Use Control Map.

2.2.2            This Municipal Planning Strategy is a primary policy document through which the future growth and development of the Municipality will be encouraged, guided and controlled.

2.2.3            The Maps referred to in the various policies of this Municipal Planning Strategy form part of the Municipal Planning Strategy.

2.2.4            Throughout this Municipal Planning Strategy, the Subdivision By-law, and Land Use By-laws, the metric measurement system is used to show the required standards.

### 3.0 ADMINISTRATION

The Municipal Planning Strategy is adopted under the authority of the *Municipal Government Act*. It governs the subdivision of land and the use of land within the boundaries of the Municipality. The Planning Strategy expresses Council's intentions and policies. The Subdivision By-law and Land Use By-laws provide the detailed requirements and rules which carry out the intent of the Planning Strategy. Amendments to the Subdivision By-law and to the Municipal Planning Strategy follow the same procedure and any amendment may require the approval of the Minister of Municipal Affairs. Council may amend a Land Use By-law provided the amendment conforms with the policies in the Municipal Planning Strategy.

Council's specific policies for administration of the Municipal Planning Strategy, the Subdivision By-law and Land Use By-laws are:

- 3.1 When considering amendments to the Subdivision By-law or to Land Use By-laws, the Council shall consider the following:
  - a) that the proposal conforms to the intent of the Municipal Planning Strategy; and
  - b) that the proposal conforms to all applicable requirements of all municipal by-laws and the Provincial Subdivision Regulations.
- 3.2 A Public Participation Program shall be held prior to any proposed amendment to the Municipal Planning Strategy, to the Subdivision By-law, or to a Land Use By-law as well as in conjunction with the ten-year review of the Municipal Planning Strategy, and the purpose of the Public Participation Program shall be to hear the opinions of the public.
- 3.3 The Municipal Engineer appointed by Council shall be responsible for the review and approval of all engineering drawings and proposals for all municipal services, including proposals for central sewer and central water systems. Furthermore, the Municipal Engineer shall be responsible for the review and approval of all engineering drawings and proposals for private designed roads.
- 3.5 Amendment of this Planning Strategy shall be required where any policy expressed in the Planning Strategy is to be changed or where any amendment to a Subdivision By-law or a Land Use By-law would be in conflict with the policies expressed in this Planning Strategy.
- 3.6 This Municipal Planning Strategy and any subsequent amendments shall be reviewed as required by the *Municipal Government Act*, when requested by the Minister of Municipal Affairs, or when deemed advisable by Municipal Council, but in any case, not later than ten years from the date of its coming into force and effect.



## **PART 2      LAND USE CONTROL**

### **4.0      POWERS AND HISTORY**

#### **4.1      POWERS**

Although a Municipal Planning Strategy may state policies which are carried out through resolutions of Council or through by-laws other than the Land Use By-Law, the Land Use By-Law has a special relationship with the Municipal Planning Strategy. Section 210 of the Act forbids Council from adopting or amending a Land Use By-Law contrary to the policies stated in the Municipal Planning Strategy.

Sections 220 to 224 of the Act detail specific aspects of land use which a municipality can regulate through a Land Use By-Law. They include such things as:

- 1)      creating zones together with lists of structures and land uses permitted or prohibited in each zone;
- 2)      lot frontage, area, yard requirements and density;
- 3)      location, height, floor area, and external appearance of structures;
- 4)      population density;
- 5)      the nature, kind, size and description of advertising;
- 6)      fences, walks, landscaping and outdoor lighting;
- 7)      the excavation or filling in of land;
- 8)      development near watercourses, on unstable ground, or adjacent to pits and quarries;
- 9)      parking requirements; and
- 10)     temporary developments.

Where there is a Land Use By-Law in effect Section 244 of the Act states that a Municipal Development Permit is required for any development, but also allows the by-law to specifically exempt some developments from this requirement.

#### **4.2      HISTORY**

Council considered the possibility of regional planning in the middle 1970s, and rejected a proposal for land use control in the Village of Hebbville in 1977 after a lively public debate. Similar proposals for detailed land use control in other communities have resulted in similar lively public debates. Because of these experiences, Council has been unwilling to consider land use control under the authority of the *Municipal Government Act* unless a community requests such zoning.

Those communities which are subject to Planning Strategies and Land Use By-laws are discussed in Part 4, Secondary Planning Strategies.

## **5.0 INTENT AND METHOD**

### **5.1 INTENT**

The following policies express Council's intentions for the control of land use within the Municipality.

- 5.1.1 It is the policy of Council to refrain from imposing land use control through a Land Use By-law on any part of the Municipality unless a community specifically requests Council to adopt a Land Use By-law for that community.
- 5.1.2 Notwithstanding Policy 5.1.1, Council may prepare a Secondary Planning Strategy and a Land Use By-law on its own initiative where Council deems that such land use control is in the best interests of the community and of the Municipality.

### **5.2 METHOD**

Where Council wishes to regulate land use in accordance with Policy 5.1.1 or Policy 5.1.2, Council can do so only by adopting a Land Use By-law. As discussed in Subsection 4.1 above, these Land Use By-laws must conform with policies set out in a Municipal Planning Strategy. Policy 2.1.2 states that this Municipal Planning Strategy applies to the whole Municipality and so any land use by-laws must conform to the policies of this Municipal Planning Strategy.

The *Municipal Government Act* provides in Section 212 for Council to adopt Secondary Planning Strategies which form part of this Municipal Planning Strategy and which apply to specific areas of the Municipality. These Secondary Planning Strategies are discussed in Part 4, Section 12.0 (below) of this Municipal Planning Strategy, and will express Council's specific policies regarding land use control in specific areas of the Municipality.

- 5.2.1 It is the policy of Council to consider adopting a Secondary Planning Strategy and a Land Use By-law for the purpose of regulating land use in accordance with Policy 5.1.1 or Policy 5.1.2.

## **PART 3        SUBDIVISION CONTROL**

### **6.0        POWERS AND HISTORY**

#### **6.1        POWERS**

This Municipal Planning Strategy sets out Council's policies on the subdivision of land, in support of the Municipal Subdivision By-law.

The *Municipal Government Act* defines "Subdivision" in Section 191, Clause (q):

"'subdivision' means the division of any area of land into two or more parcels, and includes a re-subdivision or a consolidation of two or more parcels."

Subsection 268(2) of the *Municipal Government Act* reduces the impact of this definition by listing ways of dividing land which the Act specifically does not affect. The following divisions of land do not require approval by a Municipal Development Officer under a Municipal Subdivision By-law:

- (a) where all lots to be created, including the remainder lot, exceed ten hectares in area;
- (b) resulting from an expropriation;
- (c) resulting from an acquisition or disposition of land by Her Majesty the Queen in right of the Province or in right of Canada or by an agency of Her Majesty;
- (d) of a cemetery into burial lots;
- (e) resulting from an acquisition of land by a municipality for municipal purposes;
- (ea) resulting from an acquisition of land by a village for village purposes;
- (f) resulting from the disposal, by a municipality or Her Majesty the Queen in right of the Province, of a street or part of a street or a former street or part of a former street, including the consolidation of a street or part of a street or a former street or part of a former street with adjacent land;
- (fa) resulting from the disposal of a trail or part of a trail, including the consolidation of a trail or part of a trail with adjacent land;
- (g) of an abandoned railway right of way;
- (h) that is a consolidation of a part of an abandoned railway right of way with adjacent land;
- (i) resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;
- (ia) resulting from the acceptance for registration by the Registrar of Condominiums of a phase of a phased development condominium that meets the requirements, if any, prescribed by the regulations made pursuant to the *Condominium Act*;
- (ib) resulting from the quieting of a title; and
- (j) resulting from a devise of land by will executed on or before January 1, 2000.

The *Municipal Government Act* further restricts the powers of a Municipality's Subdivision By-law at Section 271(2), by requiring the by-law to include all applicable parts of the Provincial Subdivision Regulations. These may not be relaxed unless a Municipal Planning Strategy explains the relaxation. Relaxing the requirements is greatly restricted by Section 208(3) which allows the Minister of Municipal Affairs to refuse approval of a Municipal Planning Strategy if it conflicts with any provincial interest. The Provincial Subdivision Regulations express provincial interests and no relaxation of requirements will be permitted without background studies to show that those interests are protected and to support Municipal Planning Strategy policy statements.

Section 271(2) of the *Municipal Government Act* also allows Council to impose requirements which are more restrictive than the Provincial Subdivision Regulations. The use of this provision is also limited by the Minister's obligation to protect Provincial interests as expressed in the Provincial Subdivision Regulations and the Provincial Statements of Interest, see also section 208(3) of the *Municipal Government Act*.

Other subsections of Section 271 list matters of Municipal interest which are not addressed by the Provincial Subdivision Regulations but may be addressed in a Municipal Subdivision By-law, including but not limited to:

1. Public Street construction standards
2. Construction standards for private roads in a rural municipality
3. Standards for water mains, sanitary sewer, storm drainage and other utilities
4. Public Open Space for recreation purposes
5. Limits on the number of lots subdivided in one year from any property
6. Fees for review and approval of plans
7. Access to lots
8. Shapes of lots (including frontage and area)
9. Concept Plans
10. Transportation Reserves
11. Development on roads
12. Infrastructure Charges

The inevitable conclusion is in four parts: (1) that a Municipal Subdivision By-law must conform with the minimum requirements of the Provincial Subdivision Regulations regarding lot sizes, lot access, contents of a plan, and the procedure to be followed in approving a plan; (2) that the Municipal Planning Strategy and Subdivision By-law can be more restrictive than the Provincial Regulations; (3) that the Strategy and By-law can address subjects of Municipal interest such as recreation space and sewer, water, or road construction; and (4) that the Strategy and By-law can be less stringent than Provincial Subdivision Regulations only if they do not conflict with Provincial Interests.

## 6.2 HISTORY

The Minister of Municipal Affairs first prescribed Subdivision Regulations for the Municipality on 5 March, 1975 and soon afterward the Municipal Council adopted a Subdivision By-law which became law on 19 December, 1975. From that time, all subdivisions of land in the Municipality required the approval of the Municipal Development Officer.

From the time the former *Planning Act* was amended in 1987, every subdivision of land in the province has required approval. The Provincial Subdivision Regulations applied where there was no Municipal Subdivision By-law.

The *Municipal Government Act* stipulates that in those municipal units in which there is no Subdivision By-law, the Provincial Subdivision Regulations shall become the Subdivision By-law for these municipal units. Thus, under the *Municipal Government Act* subdivision controls are mandatory for all municipal units.

Since Municipal Council first adopted a Subdivision By-law in 1975 the construction and design requirements for private road design and construction have seen numerous changes.

The Subdivision By-law during the period of 1975-1993 enabled the creation of cottage lots on private “designed” roads. Cottage Subdivisions implied that the lots were to be used for seasonal or periodic occupancy. The Subdivision By-law enabled the creation of 10 lots on a private “designed” road, without the requirement that the designed road be constructed. Upon creation of the 11<sup>th</sup> lot, the road had to be constructed to the designed road construction standards of the Subdivision By-law for cottage subdivision roads.

In 1993, Municipal Council repealed the 1975 Subdivision By-law and adopted a new Subdivision By-law. The 1993 Subdivision By-law enabled the creation of lots on private “designed” roads, regardless of whether the intended occupancy of the lot was permanent or seasonal. The Subdivision By-law further exempted the developer from a requirement to construct the road if six or fewer lots were created on a private “designed” road. Upon the creation of the seventh lot, the developer was required to construct the road to the private “designed” road construction standards of the Subdivision By-law.

In 1997 Municipal Council amended the Subdivision By-law to remove the construction standards for private “designed” roads. The result was that private “designed” roads were no longer required to be constructed.

In late 1998 the former Nova Scotia *Planning Act* was replaced with the *Municipal Government Act*.

In 1999 Municipal Council updated the Subdivision By-law by repealing and replacing the previous version.

During the period from 2001 to 2004 Municipal Council conducted a review of both public and private “designed” road design standards. Although private “designed” road construction standards were proposed, Council did not implement private “designed” road construction standards. Private “designed” roads were required to be designed but not constructed to the design.

Private roads are sometimes difficult to maintain. The greater the number of lots using the roadbed, the greater the traffic and increased numbers of people who must be persuaded to share the maintenance costs.

Since the last review, the Municipality has received feedback from residents on private roads who are frustrated with the challenges of maintaining their private road. Identified challenges include the construction quality of private roads; maintenance costs associated with private roads; and residents being unaware of the potential issues associated with living on a private road.

With the adoption of the Subdivision By-law in 2018, Municipal Council has approved new design, construction, and inspection requirements for public and private designed roads. These new road standards respond to feedback by private road residents and emergency response providers and reflect Council’s desire to ensure adequate access by implementing road construction standards.

## **7.0 INTENT AND METHOD**

### **7.1 INTENT**

The following policies express Council's intentions in adopting this Municipal Planning Strategy for the subdivision of land:

- 7.1.1 This Municipal Planning Strategy provides a background and a rationale for the control of subdivision of lands in the Municipality, expressing Council's intentions for such control.
- 7.1.2 It is the intention of Council to control the subdivision of land in an orderly manner so as to: protect public health by promoting proper sewage disposal; promote public safety and cost-efficiency in the construction and use of new roads; ensure that new municipal services are constructed and maintained at minimum cost to the municipality; and provide essential information about land ownership within the municipality.

### **7.2 METHOD**

To carry out the intentions and purposes set out in Subsection 7.1 above, Council has adopted this Municipal Planning Strategy according to the following policies:

- 7.2.1 The Subdivision By-law applies to the whole of the Municipality, including any areas affected by a Secondary Planning Strategy.
- 7.2.2 This Municipal Planning Strategy is the policy document through which the subdivision of lands shall be guided and controlled.
- 7.2.3 The Subdivision By-law provides the principle means for control of land subdivision through which the intent of this Municipal Planning Strategy is put into effect.
- 7.2.4 The Development Officer of the Municipality appointed under the authority of the *Municipal Government Act* shall be responsible for the administration of the Subdivision By-law and shall issue or refuse subdivision approvals.

7.2.5

The Subdivision By-law regulates the subdivision of lands within the Municipal boundaries so as to ensure:

- (a) that such subdivisions of land conform with any applicable requirements of any applicable Land Use By-law for minimum lot area and lot frontage;
- (b) where there is no Land Use By-law and no central sewer system, that such subdivisions of land provide an adequate lot size for on-site sewage disposal while providing flexibility for the creation of very small lots where on-site sewage disposal is not required;
- (c) where there is no Land Use By-law but lots are served by a central sewer system, that such subdivisions of land provide an adequate lot size for ordinary residential purposes;
- (d) that such subdivisions of land provide for safe, adequate access from the Public Road network to each approved lot;
- (e) that any central sewer systems and central water systems are properly designed and constructed, as well as connected to existing municipal systems where possible;
- (f) that provisions are made for the contribution of cash in lieu of land for parks, playgrounds, and similar public purposes, or that land is contributed to provide public access to waterways;
- (g) that surveyors' plans of subdivision showing such subdivisions are approved and filed at the Registry of Deeds;
- (h) that where a plan of subdivision involves the addition or consolidation of parcels or areas of land the deeds to effect the addition or consolidation, along with the approved plan, are filed at the Registry of Deeds.
- (i) that sufficient information is shown on such surveyors' plans of subdivision to conform with the applicable requirements of the *Municipal Government Act* and the Provincial Subdivision Regulations as well as to enable evaluation of the proposal;
- (j) that engineering drawings are prepared by qualified persons and filed with the Municipal Engineer to show the construction details of any new central sewer or water services and of any new Public Roads and Private Designed Roads;



- (k) that the Municipal Engineer shall inspect the construction of any new central sewer or water services and of any new Public Roads;
- (l) that a Private Engineer shall inspect the construction of any new Private Designed Road;  
and
- (m) that consistent procedures are followed in the review and approval of such plans so as to conform with the requirements of the Municipal Government Act and the Provincial Subdivision Regulations.

## **8.0 PROCEDURE, LOT SIZE AND LOT ACCESS**

### **8.1 PROVINCIAL SUBDIVISION REGULATIONS**

As explained in Subsection 6.1 above, the Municipality must include in the Subdivision By-law all the crucial parts of the Provincial Subdivision Regulations as they are at the time the By-law is adopted. These parts govern the contents of subdivision plans and the procedure used in processing them, access to lots, and lot sizes. Where the Minister allows the Municipality to be stricter or less strict than these requirements, the variation is explained in this section of the Municipal Planning Strategy.

In the administration of regulations as complicated as the Subdivision Regulations there is always a need to interpret the meaning of various sections in order to guide the Development Officer in specific situations. Where the Municipality has adopted the exact wording of the Provincial Subdivision Regulations it is generally in the interests of developers, surveyors and lawyers to have consistent administration from one jurisdiction to another. In order to provide this consistency, Council must allow its Development Officer to follow the lead of the Department of Municipal Affairs in interpreting those parts of the By-law which directly copy the Provincial Subdivision Regulations.

In view of these considerations, Council has adopted the following policies:

- 8.1.1 To adopt a Subdivision By-law which is not inconsistent with the Provincial Subdivision Regulations and further, to include in the Subdivision By-law any provisions of the Provincial Subdivision Regulations which are applicable to the Municipality.
- 8.1.2 To be guided by any interpretation by the Department of Municipal Affairs of all provisions of the Provincial Subdivision Regulations which are directly incorporated into the Subdivision By-law.

### **8.2 PROCEDURE AND INFORMATION**

The compulsory procedures for reviewing and approving a subdivision plan are set out in the *Municipal Government Act* and the Provincial Subdivision Regulations. The Regulations also specify what information must be shown on or accompany a subdivision plan. Although these are incorporated into the Subdivision By-law, Council has additional requirements as set out in the following policies:

- 8.2.1 To allow subdivided land to be easily and accurately shown on maps, to require the subdivision plan to show the bearing and distance from the subdivided land to a Nova Scotia High Precision Network Monument or Nova Scotia Co-ordinate Referencing System Monument wherever possible, or in lieu of Monument ties, measurements to features which are defined on existing mapping.

8.2.2 In order to ensure efficient street networks, adequate storm water management measures, adequate layout of public open space and the suitability of subdivision for on-site or central services to require in the Subdivision By-law, that where new streets or roads are proposed, the subdivider be required to submit a Concept Plan. Furthermore, to specify in the Subdivision By-law the contents necessary in order to evaluate street networks, stormwater management, layout of public open space, and suitability of site for on-site or central services.

The Provincial Subdivision Regulations require, amongst other things, that Concept Plans show the estimated lot yield figure, based on zoning requirements or requirements of Nova Scotia Environment, and that a concept plan be evaluated in terms of any proposed community and commercial uses. Council feels that these items are necessary only in areas with larger developments, as opposed to the Municipality. In addition, most of the municipality does not have any zoning regulations and as such, for the majority of the subdivisions there would be no requirements upon which to evaluate commercial or community uses. It is for this reason that the Subdivision By-law is less stringent than the provincial subdivision regulations with regards to the required contents of Concept Plans, as indicated in the following policy of Council.

8.2.3 Due to sparsely zoned areas in the Municipality and the relatively small scale, low density residential nature of development in the municipality it is Council's policy to not require Concept plans to show the estimated lot yield or to be evaluated based upon a proposed commercial or community use.

### **8.3 LOT SIZE**

Minimum lot sizes for on-site sewage disposal by septic tank and disposal field are set by Nova Scotia Environment's "On-Site Sewage Disposal Systems Regulations". The Provincial Subdivision Regulations do not have a minimum lot area requirement, but rather rely on the results of an assessment conducted by Nova Scotia Environment to set the minimum lot area. In those areas in which a Land Use By-law exists that contain minimum lot area requirements, a lot being created must satisfy the more stringent requirement.

The Provincial Subdivision Regulations further require that in areas not served by a central sewer, all plans of subdivision shall be forwarded to Nova Scotia Environment to determine compliance with the 'On-Site Sewage Disposal Systems Regulations'. This requirement is waived, however, when the lot is in excess of 9,000 square metres; has a width of 75 metres or more; and, the applicant has certified that the lot is being created for a purpose which does not require an on-site sewage disposal system.

Council has experienced considerable difficulty over the years with "remainder lots", defined as "a lot for which subdivision approval is not requested or granted, but which results from the approval of lots shown on a plan of subdivision". Because these lots are not required to satisfy one or another of the By-law requirements (in particular the survey requirement) they are often created with an area, width or frontage which renders them unsuitable for on-site sewage disposal. Council sees a definite need to have these lots assessed for the suitability to install/construct an on-site sewage disposal system. This assessment is difficult when boundaries are not clearly defined. Nova Scotia Environment's 'On-Site Sewage Disposal Systems Regulations' require that any lot less than 9,000 square metres be assessed for the suitability of the lot for the installation / construction of an on-site sewage disposal system. Nova Scotia Environment advises that lots in excess of this are usually capable of supporting an on-site sewage disposal system. Council will, therefore, require all new lots under that size threshold to be surveyed, shown on a plan of subdivision, approved by the Development Officer and approved by Nova Scotia Environment as complying with the 'On-Site Sewage Disposal Systems Regulations'. This is intended to provide more useful information to the subdivider as well as subsequent purchasers of the land.

Where there is a central sewer system the minimum lot area will continue to be the standard established in the Municipal Subdivision By-law in 1975.

In most other respects, the Subdivision By-law follows the provisions of the Provincial Subdivision Regulations in accordance Policy 8.1.1 above.

To carry out these intentions, Council adopts the following policies:

- 8.3.1 In conformity with the Provincial Subdivision Regulations, to require plans of subdivision to be forwarded to Nova Scotia Environment to determine if the lots shown comply with the 'On-Site Sewage Disposal Systems Regulations.

- 8.3.2 To waive the requirements of Policy 8.3.1 where
- (a) the proposed lot:
    - (i) has an area in excess of 9,000 square metres,
    - (ii) has a width of 75 metres or more, and
    - (iii) is to be used for a purpose which does not require an on-site sewage disposal system,or
  - (b) the proposed lot:
    - (i) is served by a central sewer system and has the minimum lot area established in the Subdivision By-law, for lots served by a Central Sewer System.
- 8.3.3 In conformity with the Provincial Subdivision Regulations, to require all lots approved by the Development Officer on a Plan of Subdivision to be surveyed.
- 8.3.4 In addition to the requirements of the Provincial Subdivision Regulations, to require all new lots of less than 9,000 square metres area to be surveyed, and approved by the Development Officer, pursuant to Policy 8.3.1 and Policy 8.3.2.
- 8.3.5 To waive the requirements of Policies 8.3.3 where lot boundaries are being altered and no new lots are being created.

## **8.4 LOT ACCESS**

The Provincial Subdivision Regulations require that lots must abut a public highway; a right-of-way at least 20 metres wide, or a lesser width permitted by a Subdivision By-law; or an existing right-of-way which has been listed on a schedule in the Subdivision By-law (Schedule 'B'). There is also a provision for lots on an island and a provision for one division of any existing lot without any specific access requirement.

Although Policies 8.1.1 and 8.1.2 express Council's acceptance of this general arrangement, there are two road issues of concern to Council: Public Roads and Private Designed Roads.

Prior to 1995, new public roads in subdivisions were the responsibility of the Province. However, with servicing adjustments in 1995, new public roads became the responsibility of municipalities. Now, whenever a public road is built, it is turned over to the Municipality to maintain. In 2018, Council conducted a review of the Municipal Public Roads built since 1995 in the Municipality and determined that many of them cost more to maintain than the property taxes collected from the properties they serve. Council, therefore, feels that it is premature to allow the development of any new Municipal Public Roads without careful consideration of whether that new Municipal Public Road is economically sustainable. Council will only consider new Municipal Public Roads on a case-by-case basis through amendments to Schedule 'K' of the Subdivision By-law.

To ensure consistent design and construction quality for the creation of new roads in the Municipality as well as proper emergency vehicle access, Council has adopted Municipal Road Design and Construction Standards. These standards are based on a five-tiered road class designation system and recognize the different functions of roads in urban and rural contexts. The Municipal Road Design and Construction Standards recognize the challenges of building roads in the Municipality due to the topography in the area and therefore allow for a lower design speed road option for Private Designed Roads. In response to the challenges with topography, the Subdivision By-law also enables a limited number of flag lots and access exemption lots.

New Public Roads are to be constructed and conveyed to the Municipality prior to subdivision approval for any lots serviced by the Public Road. Alternatively, Council may enter into an agreement with the subdivider, which guarantees construction of a Public Road, and subdivision approval may be granted prior to construction provided that the agreement is backed by an appropriate bond or other security acceptable to Council. This agreement will also clearly define the subdivider's responsibilities for the work to be completed.

New Private Designed Roads shall conform to the design and construction standards of the Subdivision By-law.

Private roads are sometimes challenging to maintain. The greater the number of lots using the roadbed, the greater the challenge, with increased traffic and increased numbers of people who must be persuaded to share the maintenance costs. These challenges are sometimes solved by the Municipality, upon petition by lot owners, to build the road to the required municipal standard and recover the costs from the landowners abutting the road by

means of an area rate. In order to facilitate the construction of a Public Road at any future time, Council will require the subdivider to design the Private Road with a right-of-way width and drainage that satisfies the Municipal Road Design and Construction Standards of the Subdivision By-law.

In addition to road issues, another concern of Council is lots with no frontage. Council is aware of the provision within the Provincial Subdivision Regulations which allows for a lot with no frontage to be created within an area of land as it existed on August 1, 1987, and two lots with no frontage out of an area of land that does not meet the frontage requirements of the Subdivision By-law. However, it is Council's opinion that this provision discourages development and therefore, will enable one lot with no frontage to be created out of an area of land as it existed on December 30, 1994, and two lots with no frontage to be created out of an area of land which does not meet the frontage requirements of the Subdivision By-law.

These concerns give rise to the following policies:

- 8.4.1 Where the Subdivision By-law enables lots to be approved with frontage on a right-of-way 15.2 metres wide, to require such rights-of-way to be acceptable to the Municipal Engineer as having sufficient width and drainage provisions to satisfy Municipal Road Design and Construction Standards of the Subdivision By-law, in order to facilitate construction of a Public Road at any future time.
- 8.4.2 To enable the division of land into lots which do not have frontage on a Public Road provided that such lots have frontage on any private right-of-way which is indexed on Schedule "B" of the Subdivision By-law.
- 8.4.3 To consider proposals for indexing private rights-of-way on Schedule "B" of the Subdivision By-law provided Council is satisfied that:
  - (a) the existing road is constructed within a right-of-way which was being used to provide access to three or more developed lots prior to 19 December, 1975;
  - (b) the right-of-way intersects with a Public Road, and the intersection point has been approved by the authority having jurisdiction over the Public Road;
  - (c) the minimum width of the right-of-way was on 19 December, 1975, and is at the time of indexing, 7.62 metres;
  - (d) the length of the right-of-way to be included in the schedule does not extend beyond the last existing residential use;

- (e) the road and the right-of-way are shown on a survey plan prepared by a licensed Nova Scotia Land Surveyor, unless Council is satisfied that existing surveys are sufficient to determine the exact location of the right-of-way;
- (f) the road within the right-of-way is soundly constructed on a stable base, with a gravel or asphalt surface, well-drained by means of ditches, culverts or storm sewers as appropriate so that it is capable of carrying the anticipated traffic load;
- (g) it is not feasible to provide a Public Road to serve the proposed lots and it is not feasible to provide a right-of-way with a minimum width of 15.2 metres.

8.4.4 To include in the subdivision by-law standards for design and construction of Public Roads and Private Designed Roads.

8.4.5 To enable the approval of a final plan of subdivision prior to construction of the required Public Roads and Private Designed Roads where:

- (a) the developer has entered into an agreement, which is satisfactory to Council, to carry out and complete the required work within a period of time as specified in the agreement; and
- (b) the developer has posted a performance bond or other security acceptable to Council, and
- (c) the agreement provides that the developer may receive subdivision approval for lots after posting the performance bond or other acceptable security, but prior to construction of the proposed Public Roads and Private Designed Roads; and
- (d) the agreement provides for the conveyance of all road rights-of-ways and road beds necessary to the operation of the Public Road, together with easements sufficient for the maintenance of all associated road drainage systems.

8.4.6 Notwithstanding Policy 7.2.5 (d), to enable the division of one lot with no frontage from an area of land as it existed on December 30, 1994 and the division of two lots with no frontage from an area of land which does not meet the frontage requirements of the Subdivision By-law, as it existed on December 30, 1994.

8.4.7 To only permit the development of new Public Roads in areas identified in Schedule 'K' of the Subdivision By-law. In considering adding areas to Schedule 'K' of the Subdivision By-law, Council will evaluate whether or not the proposal for new Public Roads is economically-premature based on the density of development, required length of road, expected market uptake of created lots, proximity to existing Municipal Public Roads, and any other factor that Council deems relevant.



## 9.0 SEWER SERVICES

Other than specifying minimum sizes for lots in serviced areas, the Provincial Subdivision Regulations are silent about central sewer systems. These services are the responsibility of municipal government, and Council has a number of concerns as a result of experience.

The Municipality owns and operates central sewer systems and sewage treatment plants in the New Germany area, Cookville, and in the Riverside Subdivision in Conquerall Bank. In addition, the Municipality owns the sewage collection system including easements, pipes and pumping stations in Hebbville, but has connected this system to the Town of Bridgewater system for sewage disposal.

Council encourages the extension of the existing Municipally-owned sewer systems and encourages connection of future development to the existing municipal systems, subject to the operating capacity of these systems.

Past experience with privately-owned central sewer systems has convinced Council that these systems often cause maintenance problems for lot owners, especially if the construction of the system is inadequate in the first place.

Where there is no central sewer system available, Council will permit new lots to be serviced by on-site sewage disposal systems on each lot. A lot which satisfies the minimum lot size requirement of the "Regulations Respecting On-site Sewage Disposal Systems" may be perceived by the public to be suitable for on-site sewage disposal. However, because not all such lots are suitable due to shallow soil depth, proximity to watercourses, steep slopes, impermeable soil, development density, etc., Council wishes to ensure that these lots are assessed by Nova Scotia Environment and that their suitability or lack of suitability is shown on the Plan of Subdivision in accordance with Policies 8.3.1 and 8.3.4 above.

These concerns give rise to the following policies:

- 9.0.1 To enable the subdivision of land into lots serviced by any existing central sewer system owned and operated by the Municipality.
- 9.0.2 To enable the subdivision of land into lots which are to be serviced by a central sewer system where:
  - (a) the developer has entered into an agreement which is satisfactory to Council, to carry out and complete the required work within a specified period of time as set out in the agreement; and

- (b) the developer has posted a performance bond, or other security acceptable to Council;  
and
- (c) the agreement provides that the developer may receive subdivision approval for lots after posting the performance bond, or other acceptable security, but prior to construction of the proposed sewer system; and
- (d) the agreement provides for the conveyance of all assets necessary to the operation of central sewer systems, together with easements sufficient for the maintenance of all services.

## **10.0 WATER SERVICES**

The Municipality does not own or operate any central water supply. Dug wells and drilled wells on individual lots are the normal sources of drinking water in the Municipality and this is likely to continue. A limited area of the Municipality has access to central water systems. The Municipality will consider the creation of new lots on these existing systems according to the standards of the Subdivision By-law.

In view of these possibilities, Council's policies are:

- 10.0.1 To permit the subdivision of land into lots which are to be serviced by on-site wells.
- 10.0.2 To permit the subdivision of land into lots serviced by an existing central water system provided that the system is constructed to the standards of the Subdivision By-law.

## 11.0 PUBLIC OPEN SPACE

The Municipality is responsible for providing recreation services. To this end, the Municipality offers public recreational services and programs through the Municipal Recreation Department. The Municipality also provides recreational opportunities through the provision of a recreation complex in Dayspring, as well as a Municipal Beach at Lake Mush-A-Mush, and walking trails at Miller Point Park, along the LaHave River. In addition to these facilities and parklands, the Municipality has acquired numerous parcels through the former Public Open Space requirements of the Subdivision By-law.

The Municipality had been acquiring Public Open Space within their Subdivision By-law for developments that have occurred between the years 1975 and 2001. The *Municipal Government Act* enables Council to require, within the Subdivision By-law, that a subdivider convey land, equivalent value to land, or a combination of both for public open space purposes. Council is also able to specify those instances where land or an equivalent value is required. Prior to July 2001, Council required that the developer convey useable land or cash-in-lieu of land.

Between June 1999 and March 2000 municipal staff undertook research related to Public Open Space. The objective of this research was to determine whether the former public open space requirements were satisfying the needs of the Municipality, based upon the past 25 years of development and the anticipated development pattern. This report concluded that the recreational needs of the Municipality were not being satisfied (Public Open Space Study, March 2000). The report further recommending that Council adopted a municipal wide approach to public open space, being that Public Open Space should benefit all of the municipality's residents, not just those in a local subdivision. To this end, Council, in September 2001, removed the former public open space requirements of the Subdivision By-law, and has incorporated new policy and subdivision by-law requirements into this Planning Strategy and accompanying Subdivision By-law.

As provided for in the *Municipal Government Act* Council will require that a subdivider contribute two percent (2%) of the market value of all new lots created. Council does not wish to impose this requirement on any division in which the lot(s) created contains an existing main building, is a remainder lot, is a consolidation of two or more lots, is a private designed road approved as a separate lot, is an alteration of lot boundaries in which no new additional lots are created, or is on land owned by the Municipality.

Council also recognizes that some subdivisions may provide the opportunity to acquire waterfront land that was not necessarily considered and planned for through the Open Space Strategic Plan. Therefore, Council will consider proposals from subdividers for the contribution of at least 5% of the area of the subdivision lands in lieu of the cash dedication. Where accepted, open space lands must be usable and must include public access on a Public Road.

As required by the *Municipal Government Act*, Council shall use the funds for no other purpose other than the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on the funds not expended for these purposes for the operation and maintenance costs of parks, playgrounds,

and similar public purposes. This will enable Council to strategically acquire and develop recreational lands in a location and of a quality and quantity that will benefit the municipality as a whole. To ensure that land is strategically acquired, Council will develop a strategic plan for the acquisition of future land. As part of this strategic plan, Council will review the existing municipal land inventory to determine the usefulness of these parcels in relation to the Strategic Plan. This plan will include estimated time frames and budget expenditures necessary to reach Councils' goals.

To provide the residents in the Municipality with reasonable access to park, playground and similar public areas, Council's policies are:

- 11.0.1 To require subdividers to contribute cash in the amount of two percent of the market value of all new lots created and for which subdivision approval has been requested or is required.
- 11.0.2 To waive the requirements of Policy 11.0.1 where:
  - (a) a lot created contains an existing main building;
  - (b) a lot created is a remainder lot;
  - (c) an approval is for the consolidation of two or more lots;
  - (d) lot boundaries are altered and no new additional lots are created;
  - (e) an approval is for a designed road as a separate lot; or
  - (f) the Municipality owns the property being subdivided.
- 11.0.3 To develop a Strategic Plan for the acquisition and disposition of land by the Municipality, which will identify Councils' goals with respects to recreational lands and incorporate projected budget expenditure estimates and the time frames necessary to reach these goals.
- 11.0.4 To consider proposals for usable land consisting of at least 5% of the subdivided lands, by area, in lieu of the cash dedication. Such lands shall include water access and shall include frontage on a Public Road.

## **PART 4      SECONDARY PLANNING STRATEGIES**

### **12.0      ADOPTION OF SECONDARY PLANNING STRATEGIES**

#### **12.1      BACKGROUND**

Where Council has adopted a Municipal Planning Strategy for the whole municipality such as this one, the Municipal Government Act provides that Council may adopt a secondary planning strategy which applies, as part of the Municipal Planning Strategy, to specific areas within the municipality. Where planning strategies are put in place in conformance with Policy 5.1.1 as a consequence of a request from a community for land use control, or in conformance with Policy 5.1.2, they will be secondary planning strategies included within this Municipal Planning Strategy.

Considering the powers set out in the *Municipal Government Act*, and in order to carry out intentions and policies set out in Section 5.0 of this Municipal Planning Strategy, Council has adopted the following policies:

- 12.1.1            It is the policy of Council to provide planning staff and to consider adopting a Secondary Planning Strategy for any community which specifically requests Council for such services and consideration.
  
- 12.1. 2            The Land Use Control Map (1) which is attached to this Municipal Planning Strategy is a generalized representation of the location of areas affected by Secondary Planning Strategies and Land Use By-laws.
  
- 12.1. 3            The exact boundaries of the areas affected by Secondary Planning Strategies are shown on the Future Land Use Maps and Zoning Maps appended to the Secondary Planning Strategies and Land Use By-laws in effect in various parts of the Municipality.
  
- 12.1. 4            Where there is any conflict between the policies expressed in this Municipal Planning Strategy and the policies expressed in any Secondary Planning Strategy, the latter shall prevail only in the area specifically defined in the Secondary Planning Strategy.

## **12.2 VILLAGE OF HEBBVILLE**

On February 14, 2012, Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for the Village of Hebbville. The Minister of Services Nova Scotia and Municipal Relations reviewed these documents and deemed them not to require ministerial approval. The Secondary Planning Strategy for the Village of Hebbville is to be included within this Municipal Planning Strategy as a Secondary Planning Strategy. On March 21, 2012 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

12.2.1 It is the policy of Council that the Secondary Planning Strategy for the Village of Hebbville as approved by Municipal Council, effective March 21, 2012, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **12.3 OAKLAND**

On September 9, 2003, Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for the community of Oakland. The Minister of Service Nova Scotia and Municipal Relations reviewed the Oakland Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On October 22, 2003 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

12.3.1 It is the policy of Council that the Secondary Planning Strategy for the community of Oakland as approved by Municipal Council, effective October 22, 2003, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **12.4 MUNICIPAL INDUSTRIAL PLANNING AREA**

On May 4, 1999 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for the Lunenburg Municipal Industrial Planning Area. The Minister of Service Nova Scotia and Municipal Relations reviewed the Lunenburg Municipal Industrial Planning Area Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On June 7, 1999 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

12.4.1 It is the policy of Council that the Secondary Planning Strategy for the Lunenburg Municipal Industrial Planning Area, as approved by Municipal Council, effective June 7, 1999, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **12.5 RIVERPORT AND DISTRICT**

On July 12, 2005 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Riverport and District plan area. The Minister of Service Nova Scotia and Municipal Relations reviewed the Riverport and District Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On August 10, 2005 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

12.5.1 It is the policy of Council that the Secondary Planning Strategy for Riverport and District as approved by Municipal Council, effective August 10, 2005, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

## **12.6 PRINCES INLET AND AREA**

On January 12, 2016 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Princes Inlet and Area. The Minister of Service Nova Scotia and Municipal Relations reviewed the Princes Inlet and Area Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On February 17, 2016 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

12.6.1 It is the policy of Council that the Secondary Planning Strategy for the Princes Inlet and Area, as approved by Municipal Council, effective February 17, 2016 is incorporated into this Municipal Planning Strategy for the Municipality, as a Secondary Planning Strategy.

## **12.7 BLOCKHOUSE**

On September 9, 2008 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Blockhouse. The Minister of Service Nova Scotia and Municipal Relations reviewed the Blockhouse Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On October 14, 2008 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.

12.7.1 It is the policy of Council that the Secondary Planning Strategy for the Blockhouse Area, as approved by Municipal Council, effective October 14, 2008, is incorporated into this Municipal Planning Strategy for the Municipality, as a Secondary Planning Strategy.

## **12.8 OSPREY VILLAGE**

On December 12, 2006 Municipal Council approved a revised Secondary Planning Strategy and Land Use By-law for Osprey Village. The Minister of Service Nova Scotia and Municipal Relations reviewed the Osprey Village Secondary Planning Strategy and Land Use By-law and deemed them not to require ministerial approval. On January 24, 2007 the first notice of Municipal Council's approval appeared in the local newspaper and is the effective date of the document.



12.8.1 It is the policy of Council that the Secondary Planning Strategy for Osprey Village as approved by Municipal Council, effective January 24, 2007, is incorporated into this Municipal Planning Strategy for the Municipality as a Secondary Planning Strategy.

The Municipal Planning Strategy of the Municipality, approved by Council and effective on May 4, 1999, and amendments thereto, is hereby repealed and this Municipal Planning Strategy substituted.

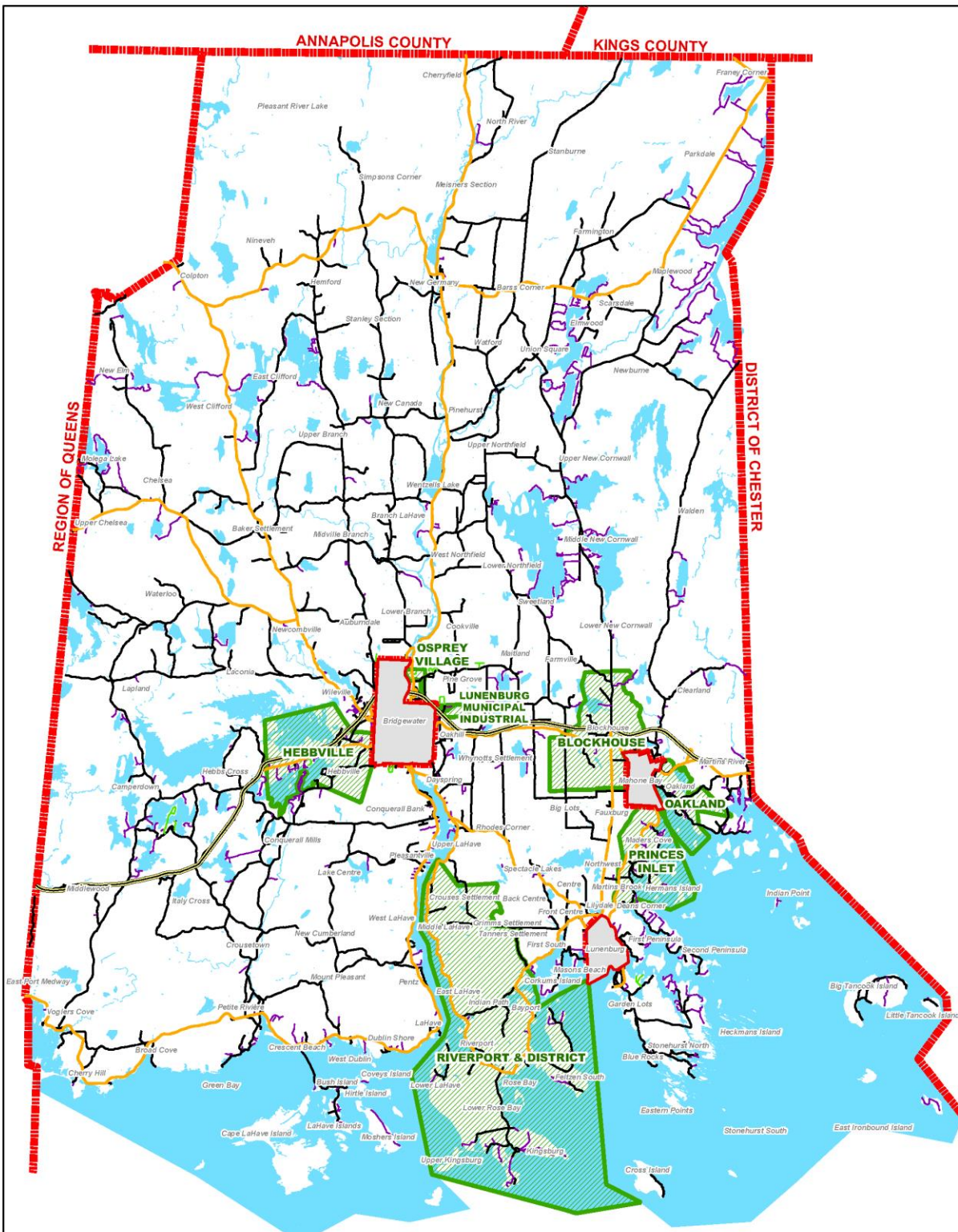
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Sherry Conrad, Municipal Clerk

I, Sherry Conrad, Municipal Clerk of the Municipality of the District of Lunenburg, do hereby certify that the above is a true copy of the Municipal Planning Strategy which were duly passed by the Council of the Municipality of the District of Lunenburg at a meeting duly held on September 24, 2018.

DATED at Bridgewater, Nova Scotia, September 25, 2018.

.....  
Sherry Conrad, Municipal Clerk

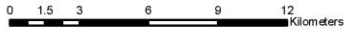


**MUNICIPALITY OF THE DISTRICT OF LUNENBURG**

**Municipal Planning Strategy  
MAP 1: Land Use Control**

- Towns Not Within the Municipality
- Areas With Zoning

- Highway 103 (Provincial)
- Collector Road (Provincial)
- Provincial Road
- Municipal Road
- Private Road
- Municipal Line
- Waterbody



1:192,000

Sources: Municipality of the District of Lunenburg, Service Nova Scotia & Municipal Relations, January, 2018