

# OAKLAND

(Municipality of the District of Lunenburg)

## SECONDARY PLANNING STRATEGY

In effect from October 22, 2003

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

1. Adoption  
Secondary Planning Strategy and Land Use By-law adopted by Municipal Council on September 9, 2003.  
Effective date: October 22, 2003.
  
2. Sept. 26, 2012  
Amendments to the Secondary Planning Strategy and Land Use By-law to reduce the number of dwelling units permitted as-of-right on a lot, in the rural zone, to 2 dwelling units; set a minimum lot size for new lots to 30,000 square feet; permit more than 2 dwelling units on a lot and/or new lots to be created less than 30,000 square feet by Development Agreement.
  
3. April 1, 2015  
Amendments to the Secondary Planning Strategy: SPS Policy 8.0.9 re-drafted, in reference to Municipality's Public Participation Program on Planning Manners policy (MDL-66), and repeal of Part 9, Procedure.
  
4. March 9, 2016  
Amendments to Part 3.1, Policy 3.1.14, Part 7, and Policy 7.0.3 of the Secondary Planning Strategy, and Land Use By-law section 5.2, section 5.2.3, and Definition 12.25, respecting references to telecommunications.

FIRST READING BY COUNCIL – JUNE 19, 2003

SECOND READING BY COUNCIL – SEPTEMBER 9, 2003

EFFECTIVE DATE: OCTOBER 22, 2003

LAST AMENDMENT: MARCH 9, 2016

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## PREFACE

Oakland is a rural community within the Municipality of the District of Lunenburg, situated on the coast to the east of the Town of Mahone Bay.

The detailed characteristics of existing land-use are shown on Map 2, Existing Land-use Map, which is attached to this Secondary Planning Strategy. As this map illustrates, residential use is a significant land-use component in the area while established business and industrial activities are relatively small and few in number. Forested areas are extensive and fields or grassland are also a major land-use feature.

Dependence on the sea by early settlers for food, transportation and income resulted in a linear development pattern, with housing and business uses concentrated along the coastal roadway. Inland areas were used for farms and wood lots and this has resulted in less dense development patterns than in the area adjacent to the shoreline.

Traditionally, typical of most rural areas, farming, fishing, boat building and other resource based business and industrial activities co-existed with residential development in these communities. Over the years there has been a decline of family based enterprises and self-sufficient homesteads in rural areas. Oakland is now very much a residential community with only a small increment of community based employment. Although the community still has a strong orientation toward the sea as it did in earlier times, the attraction now is chiefly aesthetic characteristics and recreational opportunities, rather than opportunities for gaining a livelihood.

A heightened awareness of the quality of the living environment and a desire to preserve that quality has been the impetus for creating a mechanism for planning and development control. This Secondary Planning Strategy and Land-Use By-law is the mechanism that the community has chosen to address land-use and development issues. Important aspects of the planning process that are embodied in this Strategy are the requirements for public disclosure of major development proposals through a public hearing process and the opportunities afforded through that process for residents to formally express their objections, concerns or support for development proposals.

Planning in the area began in 1992, when the original Planning Strategy and Land-Use By-law first came into effect. Council established the Oakland Area Advisory Committee to act as community representatives during the preparation of the planning documents and subsequent reviews, as well as for ongoing development consultation. The neighbouring community of Indian Point was included in the planning area until late 1990 when that community voted to withdraw from the planning process.

In 2000, Municipal Council initiated a review of the Planning Strategy and Land-Use By-law. The background studies and public meetings undertaken for the review process indicate that little has changed in the community since the implementation of land-use planning in 1992. The adoption of this document followed the repeal of the 1992 document.

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## 1.0 INTRODUCTION

This Secondary Planning Strategy and Land-Use By-law was adopted by Municipal Council on September 9, 2003, and became effective October 22, 2003. 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 includes the community of Oakland, hereinafter referred to in this document as "the planning area". The planning area, as defined by the planning area boundary, includes the Oakland Common Voting District as established by Statute (S.N.S. 1905, Chapter 106, as amended), the Oakland Common and Strum and Andrews Islands. Oakland composes a small geographic portion of Municipal Electoral District #5, as of the effective date of this Planning Strategy and Land-Use By-law.

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 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; energy; and public involvement in planning. The Municipal Government Act is, then, 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.

### General Policies

- 1.0.1 **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.**
- 1.0.2 **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.**
- 1.0.3 **The maps and schedules appended to this Secondary Planning Strategy shall form part of the Secondary Planning Strategy.**

**1.0.4 The 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.**

## 2.0 GOALS AND OBJECTIVES

### Goals

There is heightened awareness of the quality of the living environment in the community of Oakland 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. The goals of this planning strategy are two fold:

1. To manage growth and change in a manner that respects and enhances Oakland's natural and living environment; and
2. To provide a mechanism through which residents can become involved in the shaping of their community's future.

### Objectives

Municipal Council adopts the following policies as to achieve these goals:

#### **Policy 2.0.1**

**It shall be the policy of Council through this Planning Strategy and Land Use By-law to control land use and development in a manner that is compatible with a rural, coastal environment.**

#### **Policy 2.0.2**

**It shall be the policy of Council to control land use and development in a manner that will preserve and enhance the natural environment.**

#### **Policy 2.0.3**

**It shall be the policy of Council to ensure community input into how growth and development occur within the planning area by requiring development agreements for those developments that are of a nature that without stricter controls have the potential to negatively impact on the community.**

#### **Policy 2.0.4**

**It shall be the policy of Council that this Planning Strategy and Land-Use By-law shall control land use in a manner that encourages economic development.**

### 3.0 LAND-USE PLANNING AND DEVELOPMENT CONTROL

#### Introduction

Prior to adoption of the original Secondary Planning Strategy and Land-Use By-law in 1992, development controls existed only in the form of the Municipal Building By-law, the Municipal Subdivision By-law, and the Nova Scotia Regulations Respecting On-Site Sewage Disposal Systems. These development control mechanisms did have an influence on the location and characteristics of development and land-use, but they were not effective in preventing land-use conflicts nor did they address the land-use planning issues specific to the planning area.

The community is concerned that rapid development, in the absence of planning and land-use control, could have serious consequences for the living environment and for property values. There is very little commercial or industrial land-use in the planning area; however, a past proposal for a large resort complex was responsible for heightening awareness that the community could undergo rapid change that could have a negative impact on the living environment. Other potential developments have been identified that could likewise have an impact. These matters provided the impetus for the request to develop planning and land-use controls for the community in 1992. Since this date, the community has indicated a desire to continue accommodating growth and change through land-use controls.

The policies in this Planning Strategy and the Land-Use By-law requirements that will implement the policies, address these concerns by providing a development control mechanism that incorporates zoning, development standards and Development Agreements. These controls will address a broad range of planning and development control issues and will include provisions to ensure that residents of the community will have an opportunity to have a voice in planning for developments that could have a significant effect on the community.

In order to establish a framework for development control within the planning area, land-use designations will be given to the entire planning area. Land-use policies related to these designations will govern the types of land-use activities permitted within each designation. The land-use designations are set out on Map 1, Future Land-use Map.

This Secondary Planning Strategy is accompanied by a Land-Use By-law. The Land-Use By-law includes a zoning map, which sets out zones that relate to the land-use designation on the Future Land-use Map. Land-use control, in the form of zoning, imposes restrictions on land-use and development. Council may deviate or vary these land-use restrictions by way of rezoning or Development Agreement only where the Planning Strategy policies specifically enable these mechanisms.

The boundary of the planning area follows the ordinary high water mark. As the ordinary high water mark is moved seaward by infilling along the coastline, the jurisdiction of the Municipality also moves so as to coincide with the actual ordinary high water mark. The designation and zone boundaries will accommodate possible changes in the shape of the shoreline.

**3.0.1 It shall be the policy of Council that as the ordinary high water mark is altered as a result of infilling to create new areas of land, including wharves or piers, so to is the designation and zone boundaries as shown on Map 1, Future Land Use Map and the Zone Map, Schedule A of the Land Use By-law. The designation and zone boundaries shall show the direction and extension of the**

**designation and zones in the event of any future infilling , along the planning areas shoreline.**

**3.1 Rural Designation and Policies**

Although there is a significant residential land-use component within the planning area, there are extensive undeveloped areas that impart a rural characteristic to the area. The bulk of the undeveloped land is forested; however, there are a number of large fields, some of which are cropped for hay, while others are in various states of forest regeneration. The residential development is concentrated along the coastline, while the fields and forest dominate the landscape inland.

The residential areas and the expansive resource lands will be given a rural designation and a rural zoning classification. A mix of residential and non-residential uses will be permitted in the area as-of-right up to a maximum size or threshold, as specified in the Land-Use By-law, that reflects the existing scale and character of development in the community. Uses permitted as-of-right will be required to meet minimum development standards that address basic, practical planning issues such as parking and setback of buildings from property lines. Commercial and industrial developments that exceed the threshold will be permitted only by Development Agreement, whereby all such proposals will be subject to a thorough planning review and analysis. In keeping with the existing rural development form and in consideration of the living environment of tenants or residents, small-scale multi-unit residential buildings to a maximum of 12 dwelling units will be permitted only by Development Agreement. The Development Agreement process includes a public review process involving public information meetings and a formal public hearing.

In 2006 a development proposal raised concern among some community members who questioned the level of “as-of-right” land use control in Oakland through the Oakland Planning Strategy and Land Use By-law. As a result, Council directed the Oakland Area Advisory Committee to review the threshold for residential “as-of-right” development. In November 2009 the Oakland Area Advisory Committee mailed out a Survey to all assessed land owner’s in order to gauge the wider opinion of the community. The survey response rate was 51.5%. The survey indicated that 60%, of those who replied, felt that the “as-of-right” threshold for residential development was “not restrictive enough”. The survey asked how many buildings should be permitted on a lot. 62% of those who responded indicated either one or two buildings should be permitted on a lot. The survey asked how many living units should be permitted in a building. 64% of those who responded indicated that they wanted 2 or less living units permitted in a building with 50% of the response stating they felt 2 living units should be permitted per building. In 2010 the Oakland Area Advisory Committee recommended amendments forward to the Planning Advisory Committee and Council. However, when the proposal was considered by the Planning Advisory Committee and Council it was evident that the community did not have enough time to discuss the proposed amendments. As a result, Council refused the amendment and directed the Oakland Area Advisory Committee to conduct a more in-depth review with the community. In 2012 the Oakland Area Advisory Committee, after extensive discussion with the public at numerous Committee meetings, arrived at a consensus to request that the Oakland Land Use By-law be made more restrictive. The Rural (RU) Zone amendments reduced the number of dwelling units permitted as-of-right, implemented a lot area requirement, permitted more dwelling units to be located on a lot subject to a Development Agreement, and permitted lots to be created less than the minimum lot area requirement subject to a Development Agreement. [Amendment: Sept. 26, 2012]

Existing non-residential land-uses are small in scale and few in number in the area. Low-density residential use is by far the most dominant active land-use. While there are some areas that could be classified as distinct residential neighbourhoods, an exclusive residential designation or zoning of these areas is not considered appropriate at this time.

Although there has been no need, at this time, to rezone any land within the planning area to the Residential

Zone where there are existing or developing residential neighbourhoods, the Planning Strategy will enable these areas to be rezoned to a Residential Zone classification that prohibits or restricts non-residential land-use activities.

### **Policies for the Rural Designation**

#### **Policy 3.1.1**

**In recognition of the mixed low-density development within Oakland, it shall be the policy of Council to establish a Rural designation within the planning area, as shown on Map 1, Future Land-Use Map, which will accommodate the existing rural land-use patterns.**

### **Rural Zone**

#### **Policy 3.1.2**

**Within the Rural designation it shall be the policy of Council to establish a Rural (RU) Zone as shown on the Zoning Map, Schedule A of the Land-Use By-law. It shall further be Council's policy to permit within the Rural (RU) Zone, residential uses to a maximum of two (2) dwelling units per lot; small-scale commercial, industrial, and institutional uses; and fixed roof accommodation and associated dining facilities for the travelling public. These non-residential uses shall be permitted as-of-right up to a threshold as specified in the Land-Use By-law and subject to the Land-use By-law requirements. [Amendment: Sept. 26, 2012]**

#### **Policy 3.1.3**

**It shall be the policy of Council that non-residential uses that are not considered to be commercial or industrial, such as recreational uses and cemeteries, shall be permitted as-of-right within the Rural (RU) Zone established by Policy 3.1.2, subject to the Land-use By-law requirements.**

#### **Policy 3.1.4**

**It shall be the policy of Council that agricultural and forestry activities and uses, including the growing of agricultural and forestry products and the sale of these products by producers, as well as primary processing of products at the farm site or harvest site, shall be permitted as-of-right.**

Certain agricultural uses that have the potential to create land-use conflicts or that may be considered nuisances by surrounding non-agricultural uses, such as farm animal shelters and manure storage facilities, will be subject to special setback requirements, as specified in the Land-Use By-law. The required setbacks from these agricultural uses will help to minimize land-use conflicts within this mixed-use Rural (RU) Zone.

#### **Policy 3.1.5**

**Within the Rural (RU) Zone established in Policy 3.1.2, it shall be the policy of Council that the location of farm animal shelters, and areas used for storage of farm animal manure and bedding shall be setback from property lines so that there will be a minimum separation between these uses and non-farm uses on abutting properties. The purpose of these setback requirements is to reduce the potential impact that these uses can have because of inherent characteristics that can be an irritant or nuisance.**

#### **Policy 3.1.6**

**Notwithstanding Policy 3.1.4, within the Rural (RU) Zone established by Policy 3.1.2, it shall be the policy of Council that round wood processing and sawmill operations shall be permitted up to a maximum size or threshold, as specified in the Land-Use By-law. Resource-based activities listed in this policy that exceed the maximum threshold established in the Land-Use By-law shall**

only be permitted by Development Agreement. Before entering into a Development Agreement for these uses, Council shall ensure that the conditions and criteria set out in Policy 3.1.8 have been satisfied.

**Policy 3.1.7**

Within the Rural (RU) Zone, it shall be the policy of Council that within the Rural (RU) Zone, any form of residential development which exceeds the thresholds established in the Land-use By-law for residential uses permitted by Development Permit pursuant to Policy 3.1.2, may be permitted by Development Agreement provided that the development satisfies the following criteria:

[Amendment: Sept. 26, 2012]

- a) a multi-unit residential development shall not be permitted on a site that is subject to nuisances or conditions that would negatively affect the quality of the living environment of residents or tenants;
- b) the development shall include usable outdoor recreational space that is suitable for erection of playground equipment or active and passive recreational uses;
- c) the site shall be landscaped with trees, shrubs, lawns, fencing 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 that 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;
- g) no residential building shall contain more than twelve (12) dwelling units; and
- h) the development shall conform to the relevant criteria of Policy 8.0.5 in the Implementation Section of this Secondary Planning Strategy

**Policy 3.1.8**

Within the Rural (RU) Zone, it shall be the policy of Council that commercial, industrial and institutional uses that exceed the thresholds established in the Land-Use By-law, pursuant to Policy 3.1.2, may be permitted by Development Agreement provided that Council is satisfied that the following conditions and criteria are satisfied:

- a) the development shall not create undue traffic hazards, traffic congestion or pedestrian hazards;
- b) the use shall not have a negative impact on the surrounding properties due to hours of operation;
- c) there shall be no emission generated from the development such as noise, dust, radiation, light or other such emission to either the air, water or ground that would have a negative effect on existing residential uses or other land-uses in the immediate vicinity of the development or within the planning area to the extent that a nuisance or health hazard

- would be created or the living environment deteriorated in any way. Further, emissions from the development or activities on the site shall not have any undue negative effect upon the development potential or value of properties in the vicinity;
- d) where any development site abuts a residential property, a property that has been subdivided for residential purposes, or any other non-industrial or non-commercial property, the use shall be located on the site such that the maximum separation of the use from the abutting property is achieved; and, subject to the physical characteristics of the site and the characteristics of the use or uses on the site, screening in the form of fencing, vegetation or berms, as appropriate, shall be constructed or installed between the abutting properties and the development in order to minimize impact on the abutting uses;
  - e) all structures shall be built of durable, weather-resistant building material and exposed surfaces shall be stained, painted or clad with materials that do not require painting or staining, 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 Agreement shall be approved until all necessary permits as required by Federal, Provincial and Municipal government agencies have been issued, or Council is satisfied that the required permits will be issued;
  - h) no development shall be permitted that would result in an increase in traffic volume or other change in traffic characteristics on any street, to the extent that the traffic generated would unduly increase the risk of vehicular or pedestrian accidents, or the traffic, due to noise or other traffic disturbances, would have a discernible negative effect on properties that are served by the street;
  - i) it shall be clearly demonstrated by the applicant that the development can be serviced with central or on-site sewer and water and that the disposal of sewage or other effluent, or the demand on the water source, will not have a negative impact on the environment or the quality and quantity of the water resources;
  - j) 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; and
  - k) the development shall conform to the relevant criteria of Policy 8.0.5 in the implementation section of this Planning Strategy.

Certain land-uses that are considered to be hazardous or that have potential to create land-use conflicts, due to the nature of the operation, will be permitted only by Development Agreement, regardless of their size. The Development Agreement process will ensure that the local residents are involved in the decision-making process and will ensure that the proposal impacts minimally on surrounding properties in order to reduce land-use conflicts. Included are such uses as bulk storage of petroleum products, smelting and ore refining, tanning, asphalt production and others that are deemed to be potentially incompatible uses within the mixed use Rural Zone. These land-uses shall only be permitted as-of-right when they are clearly secondary, incidental or accessory to a main use that is permitted as-of-right.

**Policy 3.1.9**

**Notwithstanding Policies 3.1.2, 3.1.6 and 3.1.8, it shall be the policy of Council that, within the Rural (RU) Zone, certain industrial and commercial uses that are considered to be hazardous or**

that have the potential for creating land-use conflicts or nuisances, and as identified in the Land-Use By-law, shall only be permitted by Development Agreement. 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 3.1.8 and 8.0.5.

**Policy 3.1.10**

Notwithstanding Policy 3.1.9, those uses identified in the Land-Use By-law as hazardous or that have the potential for creating land-use conflicts or nuisances, regardless of size, shall only be permitted as-of-right in the Rural (RU) Zone where they are clearly secondary, incidental or accessory to a permitted main use on the same lot.

**Non-Conforming Uses of Land and Structures within the Rural Zone**

Uses of land and structures that are not permitted within the Rural Zone 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 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.

**Policy 3.1.11**

**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 primarily rural and residential environment of Oakland, it shall be the policy of Council to permit within the Rural 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 Policy 3.1.8.**

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 within the Rural Zone, 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.

**Policy 3.1.12**

**It shall be the policy of Council to permit, within the Rural (RU) 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 of a structure has not been discontinued for a period in excess of 12 continuous months.**

**Development Constraint Areas Within the Rural (RU) Zone**

Within Oakland, there are areas where the topography or lay of the land has slopes in excess of 20 percent (%). Land this steep has the potential to cause soil erosion and subsequent siltation of watercourses, regardless of the soil types that are covering the ground. However, the potential is greater when the steep areas entail certain soil types. Most of the steeper areas are covered by Wolfville soils, which are erodible, especially when coupled with steep slopes. Similarly, development near watercourses usually entails excavation and in-filling, which also requires disturbance of the natural vegetation. The Environmental Section, Part 4 of this Planning Strategy, outlines the importance of implementing erosion control measures to prevent soil erosion and other negative impacts on watercourses. In order to prevent or minimize erosion in areas with excessive slopes and near watercourses, Council will subject developments in these areas to erosion control standards.

**Policy 3.1.13**

**Pursuant to Policies 4.0.2, 4.0.4, 4.0.5, 4.0.7 and 4.0.8, it shall be the policy of Council that any development within the Rural (RU) Zone that is also within an area of excessive slopes or within a specified distance from a significant watercourse, as shown on the Development Constraints Map, Schedule B of the Land-Use By-law, shall be subject to erosion control standards as outlined in the Land-Use By-law to minimize the impact of development on fish, wildlife, aquatic ecosystems and the natural aesthetic characteristics of water bodies and the immediate shoreline**

**Utilities within the Rural (RU) Zone**

**Commercial Radio Communication Towers**

**Policy 3.1.14**

**(Repealed by Amendment - March 9, 2016)**

### **Wind Turbines**

A recent interest in wind turbines in Nova Scotia has prompted Council to consider the potential damaging impacts that wind turbines may have in the planning area. More specifically, Council is concerned with the visual, noise and safety impacts. Council recognizes that wind turbines are an environmentally healthy and renewable energy source, and prefer to be forward thinking in planning for this form of energy and in allowing these structures in the planning area. However, without control over how and where wind turbines locate within the planning area, the impacts can be damaging. To address the visual impacts Council will only permit these structures to locate away from the coastline in the Rural Zone, and subject to setback requirements. The setback requirements will also address Council's concerns regarding noise. To reduce the safety concerns that arise from ease of climbing these structures, Council will establish fencing and guarding requirements in the Land Use By-law that will discourage the climbing of these structures.

#### **Policy 3.1.15**

**To reduce the visual impacts of wind turbines on Oakland's coastline, it shall be the policy of Council to provide for the location and use of wind turbines within the Rural (RU) Zone only. It shall further be Council's policy to establish within the Land Use By-law setback requirements for wind turbines to reduce the visual and noise impacts on neighbouring properties and fencing requirements to discourage the climbing of the wind turbines.**

### **Residential Zone**

As mentioned in the introduction, there appears to be no need to establish a residential zone within the planning area at this time. However, in recognition of the dominance of residential development in the planning area and to incorporate flexibility into this plan, the following policies shall provide the community with the option of rezoning land from the Rural Zone to a Residential Zone, as long as the area satisfies the criteria provided. This will provide an opportunity to zone lands that have existing and proposed low-density residential uses as the major land-use as a Residential Zone, in order that the area may be protected as primarily a residential neighbourhood.

#### **Policy 3.1.16**

**It shall be the policy of Council to establish a Two-Unit Residential (TR) Zone within the Rural Designation. It shall further be Council's policy to permit within the Two-Unit Residential (TR) Zone, single-unit and two-unit dwellings and non-residential uses that are compatible with residential neighbourhoods.**

#### **Policy 3.1.17**

**It shall be the policy of Council that, at the time of adoption of this Planning Strategy and Land-Use By-law, land shall not be zoned residential. Notwithstanding this, Council may consider rezoning land within the Rural Designation to the Two-Unit Residential (TR) Zone provided that the following criteria are satisfied:**

- a) no rezoning shall be granted, unless the area of land to be rezoned involves the rezoning of an existing, developing or proposed residential neighbourhood;**
- b) where the area to be rezoned is land that is not currently used for residential purposes and is not contiguous with an existing developed residential neighbourhood, no rezoning shall be granted unless the land is shown on an approved tentative or final plan of subdivision, on which the number and characteristics of the lots and the expressed intentions of the subdivider indicates that the land is being subdivided for the purpose of residential development;**

- c) where the land to be rezoned encompasses an existing or developing residential neighbourhood, the characteristics of existing development and land-use shall clearly distinguish the area as a stable or developing residential neighbourhood in which the primary land-use activity is or will be residential. Where vacant land is to be included within the area to be rezoned, it must be clearly demonstrated that non-residential uses would not be compatible with existing residential uses in the rezoned area;
- d) in the case of a rezoning of vacant land that is not within an established residential neighbourhood, no rezoning shall be granted where any existing non-residential use or development would be a hazard or nuisance to residential uses in the rezoned area; and
- e) all relevant criteria of Policies 8.0.5, and 8.0.6 are satisfied.

**Policy 3.1.18**

It shall be the policy of Council that in the Two-Unit Residential Zone established by Policy 3.1.16, small-scale home occupation business activities shall be permitted in dwellings and residential accessory buildings. The range of business activities permitted in dwellings and accessory buildings shall be limited in size and to activities that are considered to be compatible with residential uses. The type, size and scale of these uses shall be specified in the Land-Use By-law. With the exception of catalogue sales, retail sales shall be limited to sale of goods that are produced on the premises or to goods used in the production of saleable goods. Parking shall be provided for customers or clients and signs shall be non-illuminated and of a size in keeping with residential signs.

**Policy 3.1.19**

Notwithstanding Policy 3.1.16, it shall be the policy of Council that small-scale multi-unit residential dwellings that can be compatibly integrated into areas that will be occupied primarily by low-density residential uses shall be permitted only by Development Agreement in the Two-Unit Residential (TR) Zone provided that the development satisfies the following criteria:

- a) the use shall not create a traffic hazard, traffic congestion or pedestrian hazard;
- b) traffic generated by the development shall not have a negative impact on the residential neighbourhood due to noise, congestion, parking or other nuisances;
- c) the maximum number of dwelling units in a building shall be twelve (12) units;
- d) space on the lot shall be provided for useable, active and passive recreational uses, and the characteristics of this space, including size, dimensions and other characteristics related to usability of the space, shall be appropriate to the intended occupancy of the dwelling;
- e) in the locating of buildings on the lot, consideration shall be given to environmental factors, aesthetics, safety, maintenance of buildings and grounds, servicing and other factors or conditions that influence quality of the living environment;
- f) the development shall include a comprehensive landscaping plan that includes functional and ornamental elements that will enhance the living environment for occupants and complement the living environment of the neighbourhood;
- g) provision shall be made for parking for the development in accordance with the requirements of the Land-Use By-law, except that where the development involves housing for senior citizens, parking standards may be varied to a standard appropriate to meet anticipated parking demands;

- h) the design of the buildings and the characteristics of materials used for construction of exterior surfaces shall reflect and complement the character and quality of buildings in the general area;
- i) fencing or screening of driveways, parking areas or recreational areas serving the development shall be required where activities or conditions are such that the privacy and enjoyment of abutting lower density residential uses would be negatively affected;
- j) all areas on the site that are subject to vehicular traffic shall be surfaced with materials that remain stable and passable during all seasons and that will prevent the raising of dust and allow efficient drainage and snow removal; and
- k) the development shall conform to the relevant criteria of Policy 8.0.5 in the Implementation Section of this Secondary Planning Strategy.

**Policy 3.1.20**

It shall be the policy of Council that parks, children's playgrounds and cemeteries shall be permitted in all residential zones subject to the zone requirements.

**Institutional Development in the Two-Unit Residential (TR) Zone**

At the time of the adoption of this Planning Strategy, there were no Institutional uses within Oakland. However, since Council is providing for land to be rezoned to a low-density Residential Zone, and since many institutional uses are somewhat compatible with residential uses, Council will permit the development of public and private institutional uses in the Two-Unit Residential (TR) Zone by Development Agreement. The Development Agreement criteria to be satisfied by the proposals ensure that they will be incorporated into the residential surroundings with a minimum impact to the neighbouring properties. Fencing and screening, control of traffic generated by the use and location of structures on the lot will be addressed to minimize any proposal's effect on nearby residential uses.

**Policy 3.1.21**

It shall be the policy of Council that public and private institutional uses may be permitted by Development Agreement in the Two-Unit Residential (TR) Zone, provided that the development proposal satisfies the following criteria and conditions:

- a) traffic generated by the use shall not have a negative impact on the residential neighbourhood due to noise, congestion, parking or other nuisances;
- b) the use shall not create a traffic hazard, traffic congestion or pedestrian hazard;
- c) where the use includes facilities such as dance halls or entertainment facilities that have amplified music or sound, the building shall be located on the property and designed such that activities in the building will not disturb abutting residential uses;
- d) where the use includes facilities such as dance halls or entertainment facilities, hours of operation shall be controlled, so that the use shall not have a negative impact on surrounding properties;
- e) the building and parking areas shall be set back from property lines and screened from abutting residential properties by vegetation, fencing or berms, as necessary, to prevent nuisance, disturbance to the residential living environment and to protect the privacy of the abutting residential properties;
- f) parking and signs shall be subject to the applicable sections in the Land-Use By-law; and
- g) the development shall conform to the relevant criteria of Policy 8.0.5 in the

## Implementation Section of this Planning Strategy.

### Development Constraint Areas within the Two Unit Residential Zone

The Environmental Section, Part 4 of this Secondary Planning Strategy, outlines the importance of retaining natural vegetation to prevent soil erosion and sedimentation, as well as to minimize the overall impact of development on watercourses and water quality. Part 4 further outlines the importance of utilizing erosion control standards for development on steeper slopes to achieve these same goals. In order to prevent or minimize erosion in areas with excessive slopes and near watercourses, Council will subject developments in these areas to erosion control standards.

#### **Policy 3.1.22**

**Pursuant to Policies 4.0.2, 4.0.4, 4.0.5, 4.0.7 and 4.0.8, it shall be the policy of Council that any development within the Two – Unit Residential (TR) Zone that is within an area of excessive slopes or within a specified distance of a significant watercourse, as identified in the Land-use By-law and as shown on the Development Constraints Map, Schedule B of the Land-use By-law, shall be subject to standards, as outlined in the Land-use By-law, to minimize erosion and sedimentation and the impact of development on fish, wildlife, aquatic ecosystems and natural aesthetic characteristics of water bodies and the immediate shoreline.**

### Non-Conforming Uses of Land and Structures in the Two-Unit Residential Zone

At the time of adoption of this Planning Strategy and accompanying Land-use By-law, there were no areas zoned Two-Unit Residential. Rather this Planning Strategy provides for the future rezoning of land to the Two-Unit Residential Zone, subject to certain conditions and criteria being satisfied. At the time of a future rezoning, the possibility does exist for some existing uses that will fall under the Two-Unit Residential Zone to not be permitted within this same Zone. Those uses, which are lawfully in existence at the time of such a future rezoning, and which are not permitted with the Two-Unit Residential Zone, will become non-conforming uses of land and non-conforming uses of structures. The Municipal Government Act contains provisions regarding non-conforming uses of land and non-conforming uses of 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 Government Act concerning non-conforming uses of land and structures. The restrictions Council wishes to relax will enable the extension, enlargement and alteration of structures containing 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 uses within the Two-Unit Residential Zone, Council will require a Development Agreement for such proposals.

#### **Policy 3.1.23**

**In recognition of the need to not impose unreasonable restrictions on non-conforming uses within the Two-Unit Residential (TR) Zone, and at the same time the need to preserve, protect and enhance existing and future development within the Two-Unit Residential (TR) Zone, it shall be the policy of Council to permit, within the Two-Unit Residential (TR) 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 Policy 3.1.8 for commercial industrial or institutional non-conforming uses; and Policy 3.1.7 for residential uses.**

### **Institutional Zone**

Development and land-use patterns in the Oakland 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 Policies 3.1.21 and 3.1.8 permit institutional uses that exceed a specified threshold to be permitted by Development Agreement, where land-use conflicts may be minimized through the regulation of various aspects of the development.

The Development Agreement process for larger-scale institutional uses is not an effective mechanism when a municipal organization is the developer. This is primarily because a Municipality cannot enter into a Development Agreement with itself. Council recognizes that many Municipal developments are institutional in nature and further recognizes that Development Agreements are not possible under such circumstances. It is for this reason 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 becomes effective. Council will, however, provide policy to enable rezoning to the Institutional Zone (I) where the Municipality is proposing an institutional development.

#### **Policy 3.1.24**

**It shall be the policy of Council to establish an Institutional (I) Zone within the Rural Designation. It shall further be Council's policy to permit a range of institutional developments to accommodate publicly owned uses.**

#### **Policy 3.1.25**

**It shall be the policy of Council that, at the time of the adoption of this Planning Strategy and Land-Use By-law, land shall not be zoned Institutional. Notwithstanding this, where an institutional development is being proposed by the Municipality of the District of Lunenburg, in all zones except the Protected Water Area (PWA) Zone and the Environmental Protection (ENV) Zone, land may be rezoned to the Institutional (I) Zone. In considering a rezoning, Council shall ensure that the development proposal satisfies the conditions and criteria stated in Policies 3.1.8, 8.0.5 and 8.0.6.**

### 3.2 **Environmental Protection Designation and Policies**

The Municipal Government Act enables municipalities to assume the primary authority for planning within their respective jurisdictions and responsibility for controlling land-uses through the adoption of planning documents consistent with the interests and regulations of the Province.

A planning strategy provides a framework to manage the land base in a specified manner and to designate areas of land within the planning area boundary for appropriate uses. For example, undeveloped lands with an excellent soil capability for cultivation would ordinarily be designated as agricultural or rural resource within a Planning Strategy and placed into a corresponding zone in the Land-Use By-law with a list of development requirements and regulations. Undeveloped lands surrounded by residential development would likely be designated residential, unless special circumstances prevail and so on.

Council wishes to protect certain lands within the Oakland planning area that, because of their sensitivity or their protected standing by the Provincial government, will be afforded special protection within the planning area. These areas will be designated as Environmental Protection on Map 1, Future Land-use Map. Included in this designation are Protected Water Areas that are water supply watershed areas under Provincial Department of the Environment, and wetlands, which are ecologically fragile and contribute so many important functions within an ecosystem. The water supply watershed is the drinking water supply for the Town of Mahone Bay. Only a portion of this water supply watershed is located within the Planning Area. The boundaries of the water supply watershed within the Environmental Protection Designation are representative of the Natural Watershed area determined from topographic mapping, and correspond to the Provincial Protected Water Area Designation that has been placed upon this watershed under the Environment Act. Wetlands within the planning area were identified from the Provincial Topographic Series maps, produced by Services Nova Scotia and Municipal Relations and Nova Scotia Geomatics Centre, Amherst, Nova Scotia.

#### **Policy 3.2.1**

**To protect environmentally sensitive areas, it shall be the policy of Council to establish an Environmental Protection Designation as shown on Map 1, Future Land-use Map of this Secondary Planning Strategy. Council shall include within this Designation the Provincially protected water supply watershed lands within the planning area and all wetlands identified from the Provincial Topographic Series maps produced at the Nova Scotia Geomatics Centre.**

#### **Protected Water Area Zone**

The Nova Scotia Water Authority designated the waters of Oakland Lake and surrounding watershed lands as a Protected Water Area in 1963, in recognition of its use as the water supply for the Town of Mahone Bay. Part of the Provincially designated area lies within the planning area for Oakland. This area will be placed within a Protected Water Area (PWA) Zone, established within the Environmental Protection Designation.

Surface and groundwater sources in Nova Scotia that may be used as water supplies are limited, and if a water supply becomes contaminated, there is often not another nearby to use. This is the case for the Town of Mahone Bay. To reduce the potential for development to negatively impact the Oakland Lake Watershed, Council will limit the uses permitted to those uses that will have minimal impact on the lands and water quality of Oakland Lake, and incorporate standards into the Land-use By-law to minimize the impact of development on Oakland Lake.

**Policy 3.2.2**

It shall be the policy of Council to establish a Protected Water Area (PWA) Zone, as shown on Schedule A, Zoning Map of the Land-Use By-law, within the Environmental Protection Designation. It shall further be Council's policy to include in this zone, that portion of watershed lands of Oakland Lake prescribed as a Protected Water Area by the Minister of the Environment, that is also within the planning area.

**Policy 3.2.3**

Within the Protected Water Area (PWA) Zone, established by Policy 3.2.2, it shall be the policy of Council to permit single unit dwellings and structures essential to the operation of a water supply. It shall further be Council's policy to also permit within the Protected Water Area (PWA) Zone, uses associated with private rural lands, including but not limited to multi-use recreation trails, forestry and the keeping of farm animals, provided that the uses do not involve the placement, erection or alteration of structures other than raised boardwalks for multi-use trails. Council shall establish minimum lot area requirements within this zone to reduce the density of development and its impacts on the water quality of Oakland Lake.

**Policy 3.2.4**

It shall be the policy of Council that in the Protected Water Area (PWA) Zone, established by Policy 3.2.2, small-scale home occupation business activities shall be permitted in dwellings and residential accessory buildings. The range of business activities permitted in dwellings and accessory buildings shall be limited in size and to activities that are considered to be compatible with residential uses. The type, size and scale of these uses shall be specified in the Land-use By-law. With the exception of catalogue sales, retail sales shall be limited to sale of goods that are produced on the premises or to goods used in the production of saleable goods. Parking shall be provided for customers or clients and signs shall be non-illuminated and of a size in keeping with residential signs.

**Policy 3.2.5**

It shall be the policy of Council that the Protected Water Area (PWA) Zone established by Policy 3.2.2 shall include development standards for the keeping of farm animals to ensure minimal impact from development on the Oakland Lake Watershed.

**Policy 3.2.6**

It shall be the policy of Council to co-operate with the Town of Mahone Bay on matters related to their public water supply and the portion of the Protected Water Area that lies within the planning area.

**Development Constraint Areas Within the Protected Water Area (PWA) Zone**

The Environmental Section, Part 4 of this Secondary Planning Strategy, outlines the erosion control measures to prevent soil erosion and sedimentation as well as to minimize the overall impact of development on watercourses and water quality. Part 4 further outlines the importance of utilizing erosion control standards for development on steeper slopes to achieve these same goals. In order to prevent or minimize erosion in areas with excessive slopes and near watercourses, Council will subject developments in these areas to erosion control standards.

**Policy 3.2.7**

Pursuant to Policy 4.0.2, 4.0.4, 4.0.5 and 4.0.8, it shall be the policy of Council that any development within the Protected Water Area (PWA) Zone that is within an area of excessive

slopes or within a specified distance of a significant watercourse as identified in the Land-use By-law and as shown on the Development Constraints Map, Schedule B of the Land-use By-law, shall be subject to erosion control standards as outlined in the Land-use By-law to minimize erosion and sedimentation and to minimize the impact of development on Oakland Lake, a public drinking water supply.

### **Environmental Protection (Wetland) Policies**

In the Oakland planning area those areas with organic soils have been given a swamp classification on the Federal Department of Agriculture soils mapping (1958). This type of soil is prominent in wetlands and should generally be avoided as development sites because of their limitations. Aside from the high expense in order to excavate and fill these areas, it is ecologically harmful to develop in wetlands. Wetlands provide many valuable functions to natural communities, including groundwater recharge areas, habitat for many forms of wildlife, water purification and stream and riverbank stabilization. Wetlands act like sponges and often help to control flooding of watercourses, a function that is lost if these areas are excavated and in-filled.

Council recognizes that there is a general lack of municipal mandate to protect environmentally sensitive areas, such as wetlands, 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. Council will establish an Environmental Protection (ENV) Zone within the Environmental Protection Designation. Included within this zone shall be the wetlands identified on the Provincial Topographic Series maps produced at the Nova Scotia Geomatics Centre. The Environmental Protection (ENV) Zone shall be a “no build” zone permitting only structures such as raised boardwalks for multi-use trails and those uses associated with private rural lands that do not require buildings, such as recreation and low impact agricultural uses.

#### **Policy 3.2.8**

**In recognition of the need to preserve and protect wetlands, it shall be the policy of Council to establish an Environmental Protection (ENV) Zone within the Environmental Protection Designation, as shown on Schedule A, Zoning Map of the Land-Use By-law. All wetlands identified on the Provincial Topographic Series maps produced at the Nova Scotia Geomatics Centre shall be included in this zone.**

#### **Policy 3.2.9**

**Pursuant to Policy 3.2.8, it shall be the policy of Council to permit within the Environmental Protection (ENV) Zone uses that will not negatively impact on the ability of wetlands to function as filters for watercourses, as a habitat for wildlife and a recharge area for ground water. These uses shall include pasturage and grazing of farm animals, walking and, shared use trails and nature interpretative areas. Furthermore, Council shall prohibit all buildings or structures, excepting raised boardwalks for walking trails, within the Environmental Protection (ENV) Zone.**

### 3.3 Ocean Shoreline Designation and Policies

Public roads skirt much of the ocean shoreline within the planning area. In some cases, the highway right-of-way encompasses the actual beach and in others, the roadway lies in close proximity to the shoreline with only a narrow strip of privately owned land between the beach and road right-of-way. Where these conditions exist, the ocean and beaches have an immediate presence that is enjoyed by the general public and by residents whose homes are established on the opposite, inland side of the public road.

The shoreline plays a major role in defining Oakland's community character. Development and land-use that could occur in this shoreline area, either on existing land or on land created by infilling of the ocean, is a planning concern. Although the shoreline in its natural state has inherent development constraints, there are development possibilities that, if realized, could substantially alter the character of the community and public use and enjoyment of the shoreline and ocean. Uncontrolled development will, over the long-term, limit opportunities for public access to the shoreline and eliminate or interfere with views of the ocean. Prohibition of certain types of development and development controls in the form of development standards and Development Agreements will help preserve those features of the shoreline that are strongly held to be community assets. To achieve this and to make as much land as possible available for uses and activities that provide opportunities for public access and enjoyment of the shoreline and water, Council will create an Ocean Shoreline Designation and accompanying Zone. This Designation and Zone will include only continuous stretches of waterfront land that have a depth of less than 45.7 metres (150 feet).

Traditionally, the land and beaches between the public roads and the water have been used for a variety of non-residential uses that required direct access and proximity to the water. Boat building establishments, storage buildings, wharves and boat-launching facilities are common waterfront structures. These structures have been built on land, on in-filled areas and on pilings. Uses such as these that are traditional and customary on the waterfront are considered to be appropriate waterfront developments and will be permitted in the Zone. These types of uses will be permitted within a designation and zone that will apply to those sections of the shoreline that abut or lie in close proximity to public roads and will include only continuous stretches of waterfront land that have a depth of less than 45.7 m (150 ft), and that lie between a public highway and the ordinary highwater mark.

New residential uses are not permitted in the Ocean Shoreline (OS) Zone. At the time of adoption of this Planning Strategy and accompanying Land Use By-law there are three (3) existing residential uses within the Ocean Shoreline (OS) Zone. Elsewhere within the Planning Area, excluding the Two Unit Residential Zone, where residential uses are permitted there is the opportunity to convert an existing residential dwelling to a fixed roof accommodation (tourist accommodation). Give the small number of residential uses present in the Ocean Shoreline (OS) Zone, Council will provide this same economic opportunity to existing residential structures within the Ocean Shoreline (OS) Zone. However, in recognition that fixed roof accommodations have the potential to alter the character of Oakland's coastline and are incompatible with the existing pattern of development in the Ocean Shoreline (OS) Zone, Council will only enable the conversion of existing residential dwellings into a fixed roof accommodation to a maximum of one rental unit. For greater clarity fixed roof accommodations will be permitted to occur only in existing residential dwellings that are to be converted to a fixed roof accommodation.

Some lands within the Ocean Shoreline (OS) Zone have been identified as "areas of excessive slopes", as shown on Schedule B, Development Constraints Map of the Land-Use By-law. Erosion has been identified as a definite outcome of development on steeper slopes. Consequently, where land in the Ocean Shoreline (OS) Zone is located in an "area of excessive slopes", permitted developments shall be subject to erosion control standards.

**Policy 3.3.1**

In recognition of the significance of Oakland's coastline in shaping the character of Oakland as a community it shall be the policy of Council to establish an Ocean Shoreline Designation as shown on Map 1, Future Land Use Map. Further those areas of land that lie between a public highway and the ordinary high water mark of the ocean shoreline., excepting those areas of land with a continuous depth greater than 45.7 metres (150 feet), shall be included with in the Ocean Shoreline Designation.

**Policy 3.3.2**

It shall be the policy of Council that the areas designated Ocean Shoreline, as established in Policy 3.3.1, shall be zoned Ocean Shoreline (OS) as shown on Schedule A, Zoning Map. Land-uses and structures that will be permitted in this zone shall be limited to size, height and type in an effort to preserve views, access to the water and character of the shoreline. Uses permitted in this zone shall be limited to customary and traditional waterfront uses such as boat building and repair, storage, and uses involving the fishery and recreation. Existing residential dwellings will be permitted to be converted to a fixed roof accommodation

**Policy 3.3.3**

Pursuant to Policy 3.3.2, it shall be the policy of Council that commercial recreational water access uses as specified in the Land Use By-law, including but not limited to boat touring operations, boat rentals and marinas shall be permitted up to a maximum floor area and maximum site area thresholds, as established in the Land-Use By-law and subject to the Land Use By-law requirements. These uses may expand beyond the floor area and site area thresholds established in the Land-Use By-law by Development Agreement, provided that the development satisfies the conditions and criteria for Development Agreements included in Policies 3.1.8 and 8.0.5.

**Policy 3.3.4**

Pursuant to Policy 3.3.2, it shall be the policy of Council that commercial and industrial marine uses as specified in the Land Use By-law, including but not limited to fish processing, fish packing and industrial boat building and accessory commercial uses, shall be permitted with in the Ocean Shoreline Zone only by Development Agreement, provided that the development satisfies the conditions and criteria for Development Agreements included in Policies 3.1.8 and 8.0.5

**Developments Constraints Areas within the Ocean Shore (OS) Zone**

The Environmental Section, Part 4 of this Planning Strategy, outlines the importance of retaining natural vegetation to prevent soil erosion and sedimentation, as well as to minimize the overall impact of development on watercourses and water quality. Part 4 further outlines the importance of utilizing erosion control standards for development on steeper slopes to achieve these same goals. In order to prevent or minimize erosion in areas with excessive slopes and near watercourses, Council will subject developments in these areas to erosions control and sedimentation standards.

**Policy 3.3.5**

Pursuant to Policies 4.0.2, 4.0.4, 4.0.5, 4.0.7 and 4.0.8, to minimize the impact of development on fish, wildlife, aquatic ecosystems and the natural aesthetic characteristics and quality of water bodies and the immediate shoreline, it shall be the policy of Council that developments permitted in the Ocean Shoreline (OS) Zone that are within Development Constraints areas, identified on the Development Constraints Map, Schedule B of the Land-Use By-law, shall be

**subject to erosion control standards and watercourse setback requirements, as outlined in the Land-Use By-law.**

**Non-Conforming Uses of Land / Non-Conforming Uses of Structures in the Ocean Shoreline (OS) Zone**

The Existing Land-use Inventory conducted on May 23, 2000, indicates that there are three existing residential uses within the Ocean Shoreline (OS) Zone. The Ocean Shoreline (OS) Zone established in this section does not permit new residential uses and the existing residential uses are therefore deemed to be non-conforming uses. These are the only types of non-conforming uses that were indicated by the Existing Land-use Inventory. The Municipal Government Act enables Council to provide for the continuance of the non-conforming uses 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. Although Council has relaxed these restrictions in the Residential and Rural Zones, Council does not deem it desirable to relax all the Municipal Government Acts restrictions for non-conforming uses of lands or non-conforming uses in a structure within the Ocean Shoreline (OS) Zone. More specifically, the Ocean Shoreline (OS) Zone has been established for non-residential, marine access uses such as boat building, wharves, and boat launching. Such uses do not negatively impact on the public's access or enjoyment of the Ocean shoreline in Oakland. As noted above, the only non-conforming uses in the Ocean Shoreline (OS) Zone are residential. Council considers residential uses to negatively impact on the public's enjoyment and access to the ocean shoreline. It is for these reasons that Council has incorporated policy into this Planning Strategy that will prevent non-conforming uses from being enlarged, altered or extended. However, in recognition of the need to not impose unreasonable limitations on these uses, Council will enable structures containing non-conforming uses to be reconstructed in the event of destruction, provided that the reconstructed structure has the same foot print, floor area and volume as the original structure.

**Policy 3.3.6**

**It shall be the policy of Council that non-conforming uses in the Ocean Shoreline Zone shall be subject to the non-conforming use provisions of the Municipal Government Act.**

**Policy 3.3.7**

**Notwithstanding Policy 3.3.6, it shall be the policy of Council that structures containing non-conforming uses shall be permitted to be reconstructed in the event of destruction, provided that:**

- a) the reconstructed structure shall have the same or smaller foot print, floor area and volume as the original structure; and**
- b) the reconstruction of the structure is commenced within 12 months of the date of destruction.**

**Home Occupations in the Ocean Shoreline (OS) Zone**

All other zones that contain residential uses provide for the development of home occupations in association with these uses. Although Council has indicated the need to prohibit residential development in the Ocean Shoreline, Council recognises the economic importance of providing this same opportunity to the existing residential uses that are located in this zone. It is for this reason that Council will enable the development of a home occupation use on any lot that contains a residential use. The type and scale of the use will be compatible to that of a residential neighbourhood.

**Policy 3.3.8**

**It shall be the policy of Council that small scale home occupation business activities shall be permitted on any lot containing a residential use, provided that the home occupation use occurs within the dwelling located on the lot. The range of business activities permitted in the dwelling**

**shall be limited in size and to activities that are considered to be compatible with residential uses. The type, size and scale of these uses shall be specified in the Land-use By-law. With the exception of catalogue sales, retail sales shall be limited to the sale of goods that are produced on the premise or to goods used in the production of saleable goods. Parking shall be provided for customers or clients as specified in the Land-Use By-law.**

## 4.0 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 effect 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 may be irreversible.

#### **Policy 4.0.1**

**It shall be the policy of Council that, based on the advice of a qualified person, the impact of development and land-use on the natural and living environment shall be a consideration in all decisions concerning the amendment of this Planning Strategy or the Land-Use By-law or the entering into of a Development Agreement pursuant to the policies of this Strategy.**

### **Development Constraints – Excessive Slopes**

The background report completed for the plan review initiated in June 2000 supported the soils findings of the research compiled for the original Planning Strategy and By-law. The three main soil types in the planning area are Wolfville Loam – Drumlin Phase, Farmville Sandy Loam and those classified as Swamp. Wolfville soils are some of the most fertile in the Municipality; however, there is the potential for erosion and sedimentation of these soils, especially when they are in association with steep slopes. Wolfville soils are the most prominent type south of the rail bed, on the two islands in the planning area and in the eastern section of the Oakland Commons.

Farmville soils are another type of soil within the planning area. These are generally found north of the rail bed in a wide belt surrounding Oakland Lake. Farmville soils are not fertile and have poor agricultural capability; these soils are not as susceptible to erosion as Wolfville soils.

In the reference guide Landscape Planning - Environmental Applications, William Marsh articulates several points that are important to this section. In his discussion on soil stability (page 44), Marsh states that there are several resisting forces to keep soil from washing away. These include gravity, chemical cementing agents, and vegetation; and of the three resisting forces, living plants are the most effective in holding the soil in place. Thus, the erosion control standards as outlined in the Land-Use By-law for developments in areas with excessive slopes will contain specifications for replanting of natural vegetation, placement of ground cover and bank stabilisation where soils have been disturbed.

There are areas within Oakland with slopes in excess of 20%. These areas shall be identified and shown on the Development Constraints Map, Schedule B of the Land-Use By-law, as "areas with excessive slopes". It shall be the intention of Council to subject developments within the "areas of excessive slopes", as shown on Schedule B, Development Constraints Map of the Land-Use By-law, to erosion control standards, which shall be outlined in the Land-Use By-law. This will ensure that when development occurs, there are sufficient development control measures applied to the site to prevent or minimize erosion and sedimentation and the subsequent siltation of nearby watercourses. The consequence of siltation of a watercourse is the degradation and destruction of fish and wildlife habitat and the overall quality of the watercourse.

**Policy 4.0.2**

**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 proposals 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 proposals are located. Development control standards and requirements to prevent or minimize erosion and sedimentation shall include the retention or replanting of natural vegetation, placement of ground cover and other measures to stabilize disturbed soils.**

**Policy 4.0.3**

**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.**

**Water Resources**

The background report indicates that one of the main environmental concerns within the planning area is related to the soils, geology and topography of the region, or soil types and lay of the land, which translates into a high potential for the erosion of soils and sedimentation of watercourses. These concerns were addressed in the original plan to the extent permitted under the provisions of the Planning Act. With the coming into force of the Municipal Government Act on April 1, 1999, municipalities are endowed with greater powers with respect to protection of the environment and, in particular, water resources.

Land-use activities and development near or adjacent to watercourses have potential to effect water quality through surface runoff or damaging the natural vegetation immediately adjacent to the watercourse or water body, to name just a few. Land-use and development can exacerbate an already high natural tendency for the soils in the area to erode, especially in the areas of steeper slopes. Vegetation plays an important role in minimizing the amount of erosion and sedimentation caused by development near watercourses. The roots of vegetation help stabilize the soils by using their root systems to hold soils in place. Disturbing the natural vegetation along a watercourse increases the erosion of soil and thus the sedimentation of a watercourse. The best method of erosion control is to prohibit the removal of vegetation. However, Council is cognizant of the fact that this restriction is prohibitory to the development of various parcels of land within the planning area. As a compromise, erosion control standards will be utilized to minimize the impact of erosion and sedimentation of a watercourse caused from disturbing the soils in close proximity to a watercourse.

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 is set back from significant watercourses and, in relation to a development, that the removal of natural vegetation in close proximity to significant watercourses is subject to erosion control standards. Where developments are permitted by a Development Agreement or by an amendment to the Land-Use By-law, environmental protection will be a consideration in the granting of approvals and agreements will contain provisions that address environmental concerns.

The Significant Watercourses shown on the Development Constraints Map of the Land-Use By-law were identified from the Provincial Topographic Series maps produced by the Nova Scotia Geomatics Centre in Amherst.

**Policy 4.0.4**

**It shall be the policy of Council to protect the water resources within the planning area boundaries. Further, it shall be the policy of Council that development near Significant Watercourses, as shown on Schedule B, Development Constraints Map of the Land-Use By-law, shall be set back from the ordinary high watermark of the watercourse in order to minimize the impact of development on fish, wildlife, aquatic ecosystems and the natural aesthetic**

characteristics and quality of water bodies and the immediate shoreline.

**Policy 4.0.5**

Pursuant to Policy 4.0.4, to minimize the impact of development on fish, wildlife, aquatic ecosystems and the natural aesthetic characteristics and quality of water bodies and the immediate shoreline it shall be the policy of Council that, in relation to a development, the removal of natural vegetation within 10 metres (30 feet) of the ordinary high water mark of any 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. 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.

**Policy 4.0.6**

It shall be the policy of Council that wherever the Secondary Planning Strategy provides for developments by Development Agreement on lands abutting Significant Watercourses, as identified on the Development Constraints Map, Schedule B of the Land-Use By-law, the Agreement shall contain provisions respecting land-use, excavation and infilling, and erosion control to ensure that the use will not have any undue negative effect on the aquatic and wildlife habitat that exists in or abutting a watercourse, as well as the overall quality of the watercourse.

Although it is Council's intention to require that development be set back from watercourses, there is some development that by its very nature is dependent upon its close proximity to a water body. Such land uses include wharves, piers, slipways, boathouses, boat building shops and fishing gear sheds. Consequently, Council will exempt those land uses dependent upon access to waterways from the watercourse setback requirement of policy 4.0.4.

**Policy 4.0.7**

**Notwithstanding Policy 4.0.4 it shall be the policy of Council that uses of land that are dependent upon a close proximity to watercourses, such as but not limited to, fishing gear sheds, boat houses, wharves, slipways and piers shall not be subject to the watercourse setback requirement established in policy 4.0.4.**

The abandoned rail bed which is presently owned by the Department of Natural Resources is located in close proximity to Oakland Lake and crosses several watercourses throughout the Planning Area. The Department of Natural Resources has authorized various trail associations to develop abandoned rail beds as a walking or multi-use trails throughout the Municipality. The Municipality is actively promoting the development of the abandoned rail beds as walking or multi-use trails.

The Dynamite Trail Association was formed on June 5, 2000 with the mandate of developing the abandoned rail bed from Martins River to Mahone Bay, a portion being in the Oakland Planning Area. Policy 4.0.4 restricts the use of land within close proximity to a watercourse. In many spots the abandoned rail bed will be required to be widened to meet minimum provincial standards for multi-use trails. Consequently in many instances, Policy 4.0.4 will be prohibitive to the development of this abandoned rail bed as a walking or multi-use trail in close proximity to a significant watercourse. In addition, trail development throughout the planning area for public use, on lands other than the abandoned railbed, will be impacted by Policy 4.0.4.

Municipal Council recognizes the overall community benefit of the development of a walking or multi-use trail for the use of residents in the Oakland area and beyond. Council views this as serving the overall public interest as opposed to individual interest. It is for this reason that council will allow the development of a walking or multi-use trail and incorporate into the Land-Use By-law provisions for ensuring that erosion control and sedimentation standards are applied to the development. These erosion and

sedimentation control standards will minimize the impact of development on Oakland Lake, a public drinking water supply and nearby water access.

**Policy 4.0.8**

**Notwithstanding Policy 4.0.4 it shall be the policy of Council to enable the development of single and multi-use trails adjacent to or in close proximity of a significant watercourse subject to erosion control standards established within the Land-Use By-law.**

## 5.0 SERVICES

Municipal Council provides a variety of services within the planning area that are either funded by the general tax base or by area rates.

The RCMP provides police protection to the planning area as in the balance of the Municipality. Fire protection is provided to Oakland by the Mahone Bay Fire Department. An area rate is collected in the community by the Municipality to pay for fire protection 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.

### **Policy 5.0.1**

**It shall be the policy of Council to continue its current role in fire protection in the community by way of collection of 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.**

### **Policy 5.0.2**

**It shall be the policy of Council to endeavour to maintain the current level of services that are funded by the Municipality within the planning area, as in other areas of the Municipality, subject to available funding.**

### **Policy 5.0.3**

**It shall be the policy of Council to consider any request from residents of the planning area for any services that may be provided by the Municipality.**

## 5.1 Transportation Policies

The Municipal Government Act enables Municipalities to establish transportation reserves in planning strategies and lists 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 Oakland. Further consultation with the Department of Transportation and Public Works has confirmed that there are no capacity or service volume problems existing on the public roads in the planning area. The Department conducted a traffic count (AADT – Annual Average Daily Traffic) along the Oakland Road in the vicinity of Hyson Point Road in June 1996. The results of the study conveyed that the AADT count was at acceptable levels for capacity and service volume. 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.

### **Policy 5.1.1**

**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.**

**Policy 5.1.2**

**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.**

**5.2 Recreation Policies**

The background report compiled for the review of these planning documents indicates that Oakland is a bedroom community as well as somewhat of a retirement community. Statistics indicate that there is an ageing population trend in the nation that is mirrored in the Oakland area. As a population ages, its needs change and people often become more aware of the importance of health and well being. The quality of life is enhanced for an ageing population when recreation and healthcare facilities are made more accessible.

Currently, there are no recreational or institutional structures within the planning area. Numerous recreational amenities are present in the adjoining Town of Mahone Bay, including the following: baseball field, soccer pitch, walking trails and pond used for skating, outdoor swimming pool, tennis courts and public and private marinas. Residents of Oakland-use the surrounding church halls and the Fire Hall in Indian Point for social and community events. The ocean shoreline within Oakland also presents opportunities for recreation, such as boating or sailing and provides aesthetic appeal for homeowners and travellers along the shore.

A new P3 (Public-Private Partnership) School has recently been built for the area. With the closure of the old school in Mahone Bay, this structure may be used as a resource, either as a community centre or recreational facility. A user agreement has been negotiated between the Province of Nova Scotia and the builder of the new P3 School to ensure that a certain amount of time will be allotted for community recreational use of this facility.

The abandoned rail bed in the Oakland area is a recreational amenity within the community itself. The Dynamite Trail Association has been formed to initiate the process of developing the rail bed as a recreational trail from Martin's River to north of the Town of Mahone Bay. Since the Oakland community has few recreational opportunities, Council desires to encourage and support this initiative in any way feasible, subject to financial constraints.

**Policy 5.2.1**

**It shall be the policy of Council to seek ways to enhance the recreational opportunities in Oakland.**

**Policy 5.2.2**

**It shall be the policy of Council to support efforts to develop the abandoned rail bed as a recreational trail.**

**Policy 5.2.3**

**It shall be the policy of Council to encourage negotiations with the Nova Scotia Department of Education and the District School Board concerning the use of the schools as a recreational or community resource.**

**Policy 5.2.4**

**It shall be the policy of Council to co-operate with other municipalities and levels of government to provide more recreational opportunities for the residents of Oakland to the extent that funding allows.**

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 water. At present there are no municipal recreational or provincial lands in the planning area.

**Policy 5.2.5**

**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 sections of the ocean shoreline to provide for public access to the marine environment within the planning area.**

**Policy 5.2.6**

**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 Oakland area are being met.**

**6.0 SIGNS, OUTDOOR STORAGE AND DISPLAY, OUTDOOR WOOD FURNACES, YARDS, LOT FRONTAGE AND LOT AREA**

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

**Policy 6.0.1**

**It shall be the policy of Council to regulate or prohibit signs with respect to height, sign area, illumination and location in all zones to ensure that signs will not create hazards or nuisance, and to control the impact of signs on the landscape, streetscape and skyline.**

Outdoor storage and display of goods, materials, and equipment that could create a nuisance or that would negatively affect the enjoyment of abutting non-commercial or non-industrial properties will be controlled. Also, minimum requirements for lot area, lot frontage and building setback from property lines will be established for structures and uses. These requirements will address concerns related to safety, health, privacy and nuisances. Structures that existed on or before the effective date of the Land-Use By-law that do not satisfy the requirements of the Land-use By-law for minimum area, frontage or yards are nonconforming structures within the meaning of the Municipal Government Act. 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.

**Policy 6.0.2**

**It shall be the policy of Council to regulate or prohibit outdoor storage and display in the planning area. The Land-Use By-law shall contain provisions that regulate the amount, type and location of outdoor storage and display on a lot.**

**Policy 6.0.3**

**It shall be the policy of Council that minimum requirements for lot area, lot frontage and setback shall be established for all zones. These minimum requirements shall provide for adequate fire separation between structures, on-site parking, maintenance of buildings and land, private outdoor space, solar exposure, air circulation and separation of land-uses to minimize land-use conflicts.**

In 2012, after extensive discussion at numerous Oakland Area Advisory Committee meetings the Oakland Area Advisory Committee arrived at a consensus to recommend that Council make the Land Use By-law more restrictive. The amendments reduced the number of dwelling units permitted as-of-right and implemented a minimum lot area requirement for all new lots being created in the in the Rural (RU) Zone regardless of the type of sewage disposal system. Lots which are smaller in area are still permitted to be created however those proposals will be subject to the Development Agreement process.

The density that could have occurred “as-of-right” in the community was reduced by the amendments. Developments that exceed the “as-of-right” thresholds will be permitted by Council subject to a Development Agreement. It is not Council’s intention to prohibit denser developments from occurring in Oakland rather Council will ensure that the Community is consulted, via the Development Agreement process. The Development Agreement process requires Council to consult the community and consider any public input prior to approving a proposal.

Those property owners who own large parcels of land (at least twice the size of the minimum lot area requirement as set in the Land Use By-law) may be able to develop more dwelling units without going through the Development Agreement process. The owners of large parcels of land could divide their lot to create a second lot. The “as-of-right” threshold applies to each lot that is created. Therefore if a large parcel of land can be divided into two lots the property owner could double the number of dwelling units permitted “as-of-right”, without the need for a Development Agreement. [Amendment: Sept. 26, 2012]

**Policy 6.0.3A**

**Pursuant to the lot area requirements established by Policy 6.0.3, it shall be the policy of Council that, in the Rural (RU) Zone, lots which meet all other requirements of the Subdivision By-law and the Land Use By-law except for the minimum lot area requirements of the Land Use By-law may be subdivided subject to a Development Agreement that conforms to the relevant criteria of Policy 8.0.5.** [Amendment: Sept. 26, 2012]

**Policy 6.0.4**

**It shall be policy of Council that notwithstanding any lot area, lot frontage and lot access requirements set out in the Land-Use By-law in accordance with Policy 6.0.3, a lot that either:**

- a) **was created prior to the effective date of the Land-Use By-law;**
- b) **was created by an instrument to which the Municipal Government Act does not apply; or**
- c) **was created in accordance with a Plan of Subdivision approved in accordance with the Municipal Government Act**

**may be used for any purpose permitted in the zone in which the lot is located, provided that all applicable By-law requirements are satisfied.**

**Policy 6.0.5**

**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**

During the development of this plan in 2001, the Area Advisory Committee requested that controls be introduced into the planning area for a type of outdoor wood furnace being distributed in Nova Scotia. These appliances heat water (or air) that is, in turn, piped into dwellings for the use of home or water 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 atmospheric conditions. For this reason, they have the potential to become nuisances and, therefore, likely to cause unacceptable conflicts. Consequently, policy and regulations to control the use of outdoor wood furnaces were introduced into these planning documents to minimize land-use conflicts.

**Policy 6.0.6**

**It shall be the policy of Council that the location of outdoor wood furnaces on a lot shall be regulated within the planning area to minimize nuisances and land-use conflicts.**

The Subdivision By-law for the Municipality of the District of Lunenburg 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 permits them to be developed. The Oakland Secondary Planning Strategy and the accompanying Land-Use By-law will contain policies and provisions that will make all of the provisions of the Subdivision By-law operative within the planning area.

**Policy 6.0.7**

It shall be the Policy of Council that all sections of the Subdivision By-law shall apply and are operative in the Oakland 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 applicable requirements of the Land-Use By-law.

**Policy 6.0.8**

It shall be the policy of Council that where the Subdivision By-law provides that lots may be created with frontage on a private right-of-way that is indexed on Schedule B of the Subdivision By-law, these rights-of-way shall also be identified on Schedule C of the Land-Use By-law before any division of land can be approved. Before Schedule C is amended to list a private right-of-way, Council shall be satisfied that the following conditions are satisfied:

- a) the road is constructed within a right-of-way which was being used to provide access to three or more developed lots prior to December 19, 1975;
- b) the right-of-way intersects with a public street owned and maintained by the Nova Scotia Department of Transportation and Public Works, and the intersection point has been approved by the Department;
- c) Council is satisfied that the minimum width of the right-of-way is 6 metres (19.7 feet) or such lesser width as is adequate to construct and maintain a sound, well-drained roadbed entirely within the right-of-way;
- d) no undue traffic hazard or congestion will result from the development of lots abutting the private road;
- e) the length of the right-of-way to be included in the schedules does not extend beyond the last existing residential use;
- f) the road, right-of-way, and all abutting landowners are shown on a survey plan prepared by a licensed Nova Scotia Land Surveyor, unless Council is satisfied that existing surveys of abutting lands are sufficient to determine the exact location and ownership of the right-of-way;
- g) Council is satisfied that 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;
- h) Council is satisfied that it is not feasible to provide a public highway to serve the proposed lots and that it is not feasible to provide a right-of-way with a minimum width of 20 metres (66 feet);
- i) Council is satisfied that the proposed increase in the use of the road and right-of-way will not have undue negative impact on existing residential land-uses in the immediate area.

## 7.0 LANDSCAPING, FENCING, LIGHTING, PARKING AND TEMPORARY USES

Establishment of turf, grading, planting of vegetation, installation of surfacing materials on walkways and driveways, and erection of structures such as fences and walls constitute the basic elements of landscaping. Sensitive landscaping can reduce any negative aspect of new development upon abutting properties and can generally improve the living environment. Well-established turf and ground covers, such as shrubs, will prevent serious erosion and control dust. Hedges can be effective in screening unattractive elements such as storage and parking areas, and pavement or gravel will control dust when applied to driveways and parking lots. Landscaping is particularly important when site conditions require major alterations to the topography. The Secondary Planning Strategy will provide for landscaping in developments which are subject to Development Agreement, whereby the details of various landscaping elements can be negotiated.

Fencing will be required for the purpose of screening unattractive or objectionable features of any development, such as open storage areas, to reduce any negative impact upon properties adjacent to the development. Hazardous fencing will be prohibited or regulated and fences that are high and imposing shall be treated as structures, whereby they will be required to meet minimum setback requirements.

In relation to *wind turbines* permitted in the Rural Zone, fencing or protective guards will be required primarily for safety reasons. Specifications to prevent the climbing of these structures will be outlined in the Land-Use By-law.

Amended March 9, 2016

Outdoor lighting, although necessary for safety and security reasons, can create a nuisance if it is improperly directed. Where lighting is proposed in any development subject to the parking standards of the Land-Use By-law or permitted by Development Agreement, consideration will be given to its proper installation, to avoid nuisance to abutting properties. On-site parking will be required for various types of land-uses to discourage traffic congestion in public roads and rights-of-way and to allow for the safe ingress to and egress from the site.

### **Policy 7.0.1**

**Pursuant to Policy 8.0.5, it shall be the policy of Council to require landscaping to be carried out in any development that is subject to a Development Agreement where landscaping is considered to be reasonably necessary. Landscaping may be required to enhance or preserve the character of the area, to provide screening or buffering or to reduce incompatibility with surrounding land-uses.**

### **Policy 7.0.2**

**It shall be the policy of Council, where Development Agreements are used to permit any development, to regulate the type, height, and location of fencing. Furthermore, fencing shall be required for the purposes of screening storage areas that contain unsightly materials, screening areas that are used for any purpose where it is considered to be reasonably necessary to enhance and preserve the character of the area, or to reduce incompatibility with the surrounding land-uses.**

### **Policy 7.0.3**

**It shall be the policy of Council to require fencing or guarding, for safety reasons, for wind turbines to discourage climbing.**

Amended March 9, 2016

### **Policy 7.0.4**

**It shall be the policy of Council that outdoor lighting requirements shall be incorporated into the Land-Use By-law and for developments subject to Development Agreements to minimize any nuisance created by such lighting to properties in the surrounding area.**

**Policy 7.0.5**

**It shall be the policy of Council that use-specific and zone-specific parking standards shall be required by the Land-Use By-law, and, pursuant to Policy 8.0.5, where uses are permitted by Development Agreement, the agreement shall make provision for adequate parking to serve the development proposal.**

**Policy 7.0.6**

**It shall be the policy of Council that temporary uses associated with a construction site, a special occasion or a holiday shall be permitted for a time period to be regulated in the Land-Use By-law. No Development Permit shall be required for a temporary use.**

## 8.0 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.

This section describes Council's specific policies with regard to the administration of the Secondary Planning Strategy and Land-Use By-law and with regard to amendments to them. During the review of the Oakland Secondary Planning Strategy and Land-Use By-law, the Area Advisory Committee requested that the process for consulting the Oakland Area Advisory Committee for proposals requiring amendments to the Planning Strategy and other planning matters be integrated into the Planning Strategy. To this end, a Procedure section has been inserted into the Planning Strategy (following this Implementation and Administration section) to outline the procedure for consulting the Area Advisory Committee when an application is submitted to the Municipality.

#### **Policy 8.0.1**

**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.**

#### **Policy 8.0.2**

**In addition to employing specific implementation measures, it shall be the intention of Council to maintain an ongoing monitoring and planning process through the Oakland Area Advisory Committee.**

#### **Policy 8.0.3**

**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.**

#### **Policy 8.0.4**

**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. Further, 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.**

#### **Policy 8.0.5**

**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 Planning Strategy, Council shall consider the following:**

- a) the proposal conforms to the intent of the Secondary Planning Strategy and to other applicable requirements of all Municipal By-laws, except where the application is for a Development Agreement, in which case the requirements of the Land-Use By-law need not be satisfied;
- b) pursuant to Policies 7.0.1 and 7.0.2 that the proposal shall be integrated into the surrounding area by means of appropriate landscaping and site orientation with screening provided by means of vegetation, fencing or berms as deemed necessary by Council.
- c) that the proposal shall not create a traffic hazard, traffic congestion, or pedestrian hazard, with particular regard to ingress and egress, both on- and off-site, traffic flows and parking areas;
- d) no Development Agreement shall be executed until any permit required by a Federal, Provincial or Municipal Government agency has been issued, or Council is satisfied that the required permit will be issued;
- e) sufficient parking shall be provided on the site to accommodate parking requirements in accordance with the parking requirements of the Land-Use By-law;
- f) that the proposal is not premature or inappropriate due to the following:
  - i) financial ability of the Municipality to absorb costs related to the development;
  - ii) adequacy of Municipal services;
  - iii) the adequacy of the physical site conditions for on-site services;
  - iv) creation or worsening of a pollution problem including but not limited to, soil erosion and siltation;
  - v) adequacy of storm drainage and effects of alteration to drainage patterns, including but not limited to potential for creation of flooding problems;
  - vi) adequacy and proximity of community facilities for education, recreation and emergency services, as well as other amenities;
  - vii) adequacy of street networks and site access;
  - viii) the suitability of the site regarding grades, soils, geological conditions, location of watercourses, flooding, marshes, bogs, swamps and proximity to natural or man-made hazards or land-uses that could present a health risk or result in a poor quality living environment; or
  - ix) any other matter of planning concern;
- g) the architectural features of the proposal including but not limited to, the bulk, scale, roof shape, building shape and exterior building materials shall be visibly compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition;

- h) pursuant to Policy 4.0.1, where Council determines on the advice of a qualified person that there is significant risk of environmental damage from any proposed development which does not require an assessment under the Environment Act, an environmental impact assessment shall be carried out by the developer for the purpose of determining the nature and extent of any environmental impact and no Development Agreement shall be approved until Council is satisfied that the proposed development will not result in undue environmental damage;
- i) pursuant to Policies 4.0.3 and 4.0.6 on lands abutting significant watercourses and lands with excessive slopes, as shown on Schedule B, Development Constraints Map of the By-law, the proposal shall contain provisions respecting land-use, excavation and infilling, and erosion control to ensure that the use will not have any undue negative effect on the environment; and
- j) pursuant to Policy 7.0.4, that outdoor lighting shall be directed away from roadways and adjacent properties to reduce traffic hazards and nuisances to surrounding land-uses.

**Policy 8.0.6**

It shall be the policy of Council that where a development requires an amendment to the Land-Use By-law, Council shall not adopt an amendment unless the application is for a specific development proposal. In assessing an amendment for a rezoning, Council shall consider the planning implications of the proposed use as well as other uses that are permitted in the requested zone.

**Policy 8.0.7**

Council may enter into Development Agreements pursuant to the Municipal Government Act on the terms and conditions set forth in the Planning Strategy.

**Policy 8.0.8**

It shall be the policy of Council that a Development Agreement, approved by Council under this Planning Strategy, may contain terms with respect to any or all matters specified in the Municipal Government Act.

**Policy 8.0.9**

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. Council shall meet with the Area Advisory Committee when Council is considering a proposal for a rezoning or Development Agreement, or an amendment to the Planning Strategy or the Land-Use By-law. Public Notice of any Area Advisory Committee meeting at which the proposal is to be discussed shall comply with the Public Participation Program policy as adopted by Council.

Amended April 1, 2015

**Policy 8.0.10**

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.

**Policy 8.0.11**

It shall be the policy of Council that the Development Officer for the area covered by this Secondary Planning Strategy, 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 Agreements.

**Policy 8.0.12**

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.

**Policy 8.0.13**

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.

**Policy 8.0.14**

It shall be the policy of Council that where this Secondary Planning Strategy and Land-Use By-law permits developments as-of-right up to a threshold that is based on floor area, site area, number of guest rooms 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 the effective date of this Planning Strategy, 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.

**Policy 8.0.15**

It shall be the policy of Council that, notwithstanding Policy 8.0.14, a dwelling unit or a residential accessory building may be used for non-residential home occupation business activities as provided for in Policy 3.1.17.

**Policy 8.0.16**

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) number of parking spaces and loading spaces required;
- b) height of a structure;
- c) floor area occupied by a home-based business / home occupation;
- d) height and area of a sign;
- e) minimum lot area;
- f) lot frontage;
- g) 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.

**Policy 8.0.17**

**It shall be the policy of Council to establish within the Land-Use By-law provisions enabling miscellaneous minor structures, such as but not limited to, fences less than 2 metres in height, children's play structures, pet houses, and accessory buildings less than 20 square metres (215 sq.ft.) in floor area, to be erected, located, constructed, or altered without the necessity of obtaining a development permit. This provision shall apply to all zones except the Protected Water Area (PWA) Zone and the Environmental Protection (ENV) Zone.**

**9.0 PROCEDURE**

(Repealed by Amendment, April 1 2015)

**PART 10 REPEAL OF OAKLAND SECONDARY PLANNING STRATEGY**

The Secondary Planning Strategy for the Oakland Planning, adopted by Council on June 1, 1992 and approved by the Minister of Municipal Affairs on August 6, 1992, is hereby repealed and this Secondary Planning Strategy substituted therefore

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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 in a true copy of the Secondary Planning Strategy for the Oakland Planning Area which was duly passed by the Council of the Municipality of the District of Lunenburg at a meeting duly held on the \_\_\_\_ day of \_\_\_\_\_, A.D., 2003.

DATEDE at Bridgewater , N.S. this \_\_\_\_ day of \_\_\_\_\_, A.D.,2003

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DOUGLAS E QUINN, CHIEF ADM. OFFICER