

**SUBDIVISION BY-LAW
FOR
THE TOWN OF WESTVILLE**

NOVA SCOTIA

DEPARTMENT OF HOUSING AND MUNICIPAL AFFAIRS

This Sub-division By-law is effective on April 1, 1999.

Pursuant to sub-section 270(5) of the Municipal Government Act, subdivision approval is given pursuant to the municipal subdivision by-law.

**PROPOSED
PROVINCIAL SUBDIVISION REGULATIONS
NOVA SCOTIA**

DEPARTMENT OF HOUSING AND MUNICIPAL AFFAIRS

These Provincial Subdivision Regulations are proposed to become effective on April 1, 1999.

Subdivision approval is given pursuant to the municipal subdivision by-law and not these Provincial Subdivision Regulations.

Short title

1 These regulations may be cited as the *Provincial Subdivision Regulations*.

Interpretation

2 In these regulations,

(a) "Act" means the *Municipal Government Act*;

(b) "area of land" means any existing lot or parcel as described by its boundaries, except in Section 8;

(c) "engineer" means the engineer of the municipality and includes a person acting under the supervision and direction of the engineer;

(d) "lot" means any parcel to be created by the filing of a plan of subdivision or the registering of an instrument of subdivision;

(e) "municipal public street" means any street or road owned and maintained by a municipality;

(f) "private road" means any road which
Clause 2(f) amended: N.S. Reg. 111/2003.

(i) is not public,

Subclause 2(f)(i) amended: N.S. Reg. 111/2003.

(ii) is shown on an approved plan of subdivision,

(iii) extends to and has access to a public street, and

(iv) where not totally located within the area of land being subdivided, has an easement for right-of-way and access that is assignable and perpetual and has been clearly granted by deed, registered in the registry of deeds,

and includes any private road

(v) approved by the Department of Transportation and Public Works, and

(vi) shown on a plan of subdivision approved prior to the first day of August, 1987 and filed in the registry of deeds;

(fa) "proposed lot" means any lot being proposed to be created by a plan or instrument of subdivision, including a remainder lot;

Clause 2(fa) added: N.S. Reg. 111/2003.

(g) "Province" means Her Majesty the Queen in right of the Province of Nova Scotia;

(h) "Provincial public street" means any street or road owned and maintained by the Department of Transportation and Public Works excluding designated controlled access highways pursuant to Section 20 of the *Public Highways Act*;

(i) "registry of deeds" means the office of the registrar of deeds for the registration district in which the area of land being subdivided is situate;

(j) "Schedule "B" road" means a road approved by a district, county or regional municipality for indexing in a schedule of its subdivision by-law for the purpose of allowing subdivision on that road and includes any road which had been indexed in Schedule "B" of previous provincial subdivision regulations and listed in Schedule "B" of these regulations;

(k) "subdivider" means the owner of the area of land proposed to be subdivided and includes anyone acting with the owner's written consent;

(l) "subdivision" means the division of any area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels.

General Provisions

A - Lot requirements

3 All lots shall abut

(a) a public street;

or in a district, county or regional municipality,

- (b) a public street;
- (c) a private road; or
- (d) a Schedule "B" road.

4 Where a land use by-law is in effect

- (a) all lots shall meet the applicable requirements contained in such by-law; and
- (b) clauses 3(c) and 3(d), and Sections 5, 6, 8, 9, 10, and 11 are inoperative and do not apply unless the land-use by-law permits development on any lot created pursuant to these sections and the municipal planning strategy provides for both the subdivision and development of such lots.

5 (1) Notwithstanding the lot area and frontage requirements of clause 4(a), the development officer may approve a maximum of two lots, shown on a plan or instrument of subdivision, in accordance with Section 279 of the Act provided all other requirements of these regulations are met.

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

6 (1) For the purposes of this Section, "water frontage" means the distance measured as a straight line between the two points where the side lot lines meet a watercourse.

(2) Notwithstanding Section 3 and the lot frontage requirements of clause 4(a), the development officer may approve a subdivision on an island which does not contain a public street provided each lot has water frontage of 6 metres (19.7 feet) or more.

7 (1) Notwithstanding Section 3 and the lot area and frontage requirements of clause 4(a), the development officer may approve a subdivision altering the boundaries of two or more areas of land where

- (a) no additional lots are created;
- (b) each resulting lot
 - (i) meets the minimum dimension for lot frontage of the land-use by-law, or
 - (ii) has not had its frontage, if any, reduced; and
- (c) each resulting lot
 - (i) meets the minimum requirement for lot area of the land-use by-law, or
 - (ii) has not had its area reduced.

(2) Where the proposed lot is not surveyed, the final plan of subdivision prepared pursuant

to subsection (1) shall

(a) be certified and stamped by a Nova Scotia Land Surveyor that the boundaries of the parcel or area of land proposed to be added to the existing area of land have been surveyed and shown as a heavy solid line, except the common boundary between the existing areas of land, which is surveyed and certified as being the common boundary and shown as a heavy broken line;

(b) notwithstanding clause 49(1)(b), other than the new boundaries which have been surveyed pursuant to clause (a), show the remaining boundaries of the resulting lot for which approval is requested described graphically as a lighter solid line; and

(c) have the following notation, completed and signed by the surveyor, affixed to the plan adjacent to the certification required by the *Land Surveyors Act* and its regulations:

"NOTE: The only boundaries shown on this plan which have been surveyed are the boundaries of _____. The common boundary between the existing areas of land identified by _____ and _____, which is shown by a heavy broken line, is hereby certified as having been the common boundary.

The remaining boundaries of resulting Lot _____ shown on this plan are a graphic representation only and do not represent the accurate shape or position of the lot boundaries which are subject to a field survey."

8 (1) For purposes of this Section, "area of land" means any lot or parcel as described by its boundaries as they existed on August 1, 1987 notwithstanding that the area of land has been subdivided subsequent to August 1.

(2) One lot that does not meet Section 3 and the lot frontage requirements of clause 4(a) may be created within an area of land, provided no such lot has already been subdivided within the area of land.

(3) Notwithstanding the limitation to one lot contained in subsection (2), two lots may be created, including any remainder lot, where

(a) the area of land does not abut a public street, a private road, or a Schedule "B" road; or

(b) the area of land has less than 6 metres (19.7 feet) of frontage on a public street, a private road, or a Schedule "B" road.

9 (1) Notwithstanding the lot area and frontage requirements of clause 4(a), where a development component of a permanent nature such as a structure, driveway, well, or on-site sewage disposal system is encroaching in or upon an immediately adjacent area of land, the development officer may approve a plan of subdivision to the extent necessary and practical to remove the encroachment.

(2) Where a lot created pursuant to subsection (1) is not surveyed, the provisions of subsection 7(2) shall apply.

Section 10 repealed: N.S. Reg. 111/2003.

11 (1) For purposes of subsection (2), "main building" is a building which is not an accessory building to another building on the area of land.

(2) Notwithstanding the lot area and frontage requirements of clause 4(a), where an area of land contains more than one main building built or placed on the land prior to August 6, 1984, the development officer may approve a final plan of subdivision creating the same number of lots or fewer as there are main buildings provided that each proposed lot is served by a central sanitary sewer or meets the applicable requirements of the Department of Environment and Labour.

12 Lots shall not be subdivided to create a width or depth of less than 6 metres (19.7 feet).

B - Public streets

13 (1) All proposed municipal public streets shall be approved by the engineer.

Subsection 13(1) amended: N.S. Reg. 111/2003.

(2) Where a proposed municipal public street intersects a provincial public street, that intersection shall be approved by the Department of Transportation and Public Works.

14 A proposed lot which abuts a public street shall have access to a public street approved by the authority having jurisdiction for the public street which will be accessed.

Subsection 14(1) renumbered Section 14: N.S. Reg. 111/2003.

Subsection 14(2) repealed: N.S. Reg. 111/2003.

15 Where a plan or instrument of subdivision shows a proposed lot abutting an existing public street, the authority having jurisdiction shall verify that the street is a public street.

C - Private roads

16 A private road may be approved as a separate lot on a plan of subdivision and is deemed to meet minimum lot area and lot frontage requirements of clause 4(a).

17 A private road shall have a minimum width of 20 metres (65.6 feet), or such lesser width as adopted by the municipality.

18 The intersection of a private road with a public street shall be approved by the authority having jurisdiction for the public street.

19 (1) Where the boundary of a private road shown on a plan of subdivision is not intended to be a lot boundary, it shall be shown as a lighter solid line or a dashed line.

(2) No part of a private road shall be included in the calculation of lot area for the purposes of meeting the lot area requirements of clause 4(a).

Preliminary Plans of Subdivision - Optional

A - Requirements

20 (1) A person proposing to subdivide an area of land may submit to the development officer four copies of a preliminary plan of subdivision drawn to scale showing

Subsection 20(1) amended: N.S. Reg. 111/2003.

- (a) the name of the owner of the area of land being subdivided;
 - (b) the names of all owners of all properties abutting the area of land being subdivided;
 - (ba) the unique parcel identifier (PID) of all areas of land being subdivided;
Clause 20(1)(ba) added: N.S. Reg. 111/2003.
 - (c) the civic number of main buildings on the area of land being subdivided;
Clause 20(1)(c) amended: N.S. Reg. 111/2003.
 - (d) a location plan showing the approximate distance between the area of land being subdivided and the nearest prominent landmark;
 - (e) the shape, dimensions, and area of the proposed lots;
Clause 20(1)(e) amended: N.S. Reg. 111/2003.
 - (f) each proposed lot identified by a number except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where available, and the letter;
 - (g) no duplication of lot identifiers;
 - (h) the approximate location of railways and railway rights-of-way;
 - (i) the location of existing and proposed public streets, private roads, and Schedule "B" roads;
 - (j) the name of existing and proposed public streets (and the public street number), private roads, and Schedule "B" roads as issued pursuant to the civic addressing system;
 - (k) the graphic representation of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated or both, shown as broken lines;
Clause 20(1)(k) amended: N.S. Reg. 111/2003.
 - (l) the location of existing buildings within 10 metres (32.8 feet) of a property line;
 - (m) the general location of watercourses and wetlands;
 - (n) the north point;
 - (o) the scale; and
 - (p) any other information necessary to determine whether this subdivision conforms to these subdivision regulations.
- (2) Where a preliminary plan of subdivision is to be forwarded to the Department of Environment and Labour pursuant to clause 23(a), the information required by subsection (3) is required for the following proposed lots:

(a) a proposed lot that is being created for a purpose that will require the construction of an on-site sewage disposal system; or

(b) a proposed lot that is being divided from an existing area of land, contains an on-site system, and

(i) is 9000 square metres (96,878.4 square feet) or less in area, or

(ii) has a width of less than 76 metres (249.3 feet).

Subsection 20(2) replaced: N.S. Reg. 111/2003.

(3) Unless the information already has been submitted to the Department of Environment and Labour, the following additional information is required for proposed lots referred to in subsection (2):

(a) the lot layout including any proposed building, on-site sewage disposal system, driveway and water well;

(b) the location of any watercourse, wetland, marine water body and other features that may influence the design of the on-site sewage disposal system, including any ditch, road, driveway or easement;

(c) the surface slopes and directions;

(d) the location of any test pit;

(e) the proposed on-site sewage disposal system, selected or designed;

(f) an explanation of the extent, volume and type of usage to which the on-site sewage disposal system will be subjected;

(g) an assessment report of the lot respecting its suitability to support an on-site sewage disposal system including the results of a soil evaluation test; and

(h) any other information necessary to determine whether the subdivision meets the *On-site Sewage Disposal Systems Regulations*.

Subsection 20(3) added: N.S. Reg. 111/2003.

(4) For a proposed lot that is being divided from an existing area of land, contains an existing on-site sewage disposal system and is more than 9000 square metres (96,878.4 square feet) in area with a width of 76 metres (249.3 feet) or more, the lot layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

Subsection 20(4) added: N.S. Reg. 111/2003.

(5) For a proposed lot 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 feet) that is being created for a purpose that will not require the construction of an on-site sewage disposal system, the certification section of the application form must be completed.

Subsection 20(5) added: N.S. Reg. 111/2003.

B - Procedure

21 Application for an evaluation of a preliminary plan of subdivision shall be made to the development officer in the form specified in Schedule "A" of these regulations.

22 The development officer shall comply with the notification and approval provisions of the Act.

23 A copy of the preliminary plan of subdivision shall be forwarded to

(a) in areas not served by a central sewer, the Department of Environment and Labour to determine compliance with the *On-site Sewage Disposal Systems Regulations*, except where the proposed lot

(i) is greater than 9000 square metres (96,878.4 square feet), has a width of 76 metres (249.3 feet) or more, and the applicant has certified on the application that the proposed lot is not intended for a purpose requiring an on-site sewage disposal system, or

(ii) contains an on-site sewage disposal system and is being increased in size, provided all other proposed lots shown on the plan meet the requirements listed in subclause (i);

Clause 23(a) replaced: N.S. Reg. 111/2003.

(b) in areas served by a central sewer, the authority having jurisdiction for central sewers;

(c) the authority having jurisdiction for public streets; and

(d) any other agency of the Province or the municipality which the development officer deems necessary.

Section 23 amended: N.S. Reg. 111/2003.

23A A preliminary plan of subdivision that shows a proposed lot referred to in subsection 20(5) shall be forwarded to the Department of Environment and Labour for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system.

Section 23A added: N.S. Reg. 111/2003.

24 Any agency which has been forwarded a copy of the preliminary plan of subdivision pursuant to Section 23 shall forward a written report of their assessments or recommendations to the development officer.

25 The development officer shall inform the applicant in writing of the results of the evaluation of the preliminary plan of subdivision.

Section 25 amended: N.S. Reg. 111/2003.

Concept Plans - Optional

A - Requirements

26 Where an area of land is being subdivided in phases and will contain new streets, a person may submit to the development officer eight (8) copies of a concept plan of the entire area of land.

Section 26 amended: N.S. Reg. 111/2003.

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

- (a) the words "Concept Plan" located in the title block;
- (b) name of property owner(s) and name of all abutting land owners;
- (c) the proposed internal street system with connections to existing streets;
- (d) the proposed location of public open space;
- (e) the location of existing development, if any;
- (f) the location of any municipal service boundary;
- (g) the north point;
- (h) contours at five metre (16.4 foot) intervals; and
- (i) any other information necessary to determine if the subdivision meets with municipal standards and accepted engineering practice as determined by the engineer.

28 A subdivision by-law need not provide for concept plans.

B - Procedure

29 Application for approval of a concept plan shall be made to the development officer in the form specified in Schedule "A" of these regulations.

30 The development officer shall comply with the notification and approval provisions of the Act.

31 The development officer shall forward the concept plan and any supplementary information to appropriate agencies in order to evaluate the concept plan in terms of:

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

32 Any agency which has been forwarded a copy of the concept plan pursuant to Section 31 shall forward a written report of their assessments or recommendations to the development officer.

33 Approval of a concept plan may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment and Labour, the Department of Transportation and Public Works or of any other agency of the Province or the municipality unless the concept plan is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province.

34 Where the development officer refuses to approve a concept plan, the development officer shall give notice of the refusal to all agencies which were forwarded a concept plan pursuant to Section 31.

35 Where the development officer refuses to approve a concept plan, the development officer shall inform the applicant of the reasons for the refusal in writing and advise the applicant of the appeal provisions of Section 284 of the Act.

Section 35 amended: N.S. Reg. 111/2003.

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

- (a) "This concept plan is approved." (b) the date of the approval of the concept plan; and
- (c) "This concept plan shall not be filed in the registry of deeds as no subdivision takes effect until a final plan of subdivision is approved by the development officer and filed in the registry of deeds."

37 The development officer shall forward an approved copy of the concept plan to the applicant.

Section 37 amended: N.S. Reg. 111/2003.

Tentative Plans of Subdivision - Optional

A - Requirements

38 A person proposing to subdivide an area of land may submit to the development officer eight (8) copies of the tentative plan of the proposed subdivision meeting the requirements of Section 39 of these regulations.

Section 38 amended: N.S. Reg. 111/2003.

39 (1) Tentative plans of subdivision submitted to the development officer shall be

- (a) drawn to a scale or scales sufficient for clarity of all particulars on the tentative plan of subdivision;
- (b) based on a description of the area of land to be subdivided, preferably but not necessarily as surveyed; and
- (c) folded to approximately 20x30 cm (8x12 in.) with the face of the folded print being the title block which is located in the lower right-hand corner of the tentative plan of subdivision.

(2) Tentative plans of subdivision shall show the following

- (a) the words "PLAN OF SUBDIVISION" located in the title block;
- (b) the words "TENTATIVE PLAN" located above the title block;
- (c) a clear space for stamping being a minimum of 225 square centimetres (36 square inches) with a minimum width of 8 centimetres (3 inches);
- (d) the name of the subdivision, if any, and the name of the owner of the area of land;
- (e) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the registry of deeds;
- (f) the unique parcel identifier (PID) of all areas of land being subdivided;
Clause 39(2)(f) replaced: N.S. Reg. 111/2003.
- (g) the civic number of main buildings on the area of land being subdivided;
Clause 39(2)(g) amended: N.S. Reg. 111/2003.
- (h) the names of all owners or the identifiers of all properties abutting the proposed subdivision;
- (i) a location map, drawn to a scale not smaller than 1:50,000 (such scale to be shown on the map), preferably with the same orientation as the area of land and, if possible, showing the location of the closest community to the area of land proposed to be subdivided;
- (j) the shape, dimensions, and area of the proposed lots;
Clause 39(2)(j) amended: N.S. Reg. 111/2003.
- (k) each proposed lot identified by a number, except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where applicable, and the letter;
Clause 39(2)(k) amended: N.S. Reg. 111/2003.
- (l) no duplication of lot identifiers;
- (m) the boundaries of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated or both, shown as broken lines;
Clause 39(2)(m) amended: N.S. Reg. 111/2003.
- (n) the location of existing buildings within 10 metres (32.8 feet) of a property boundary;
- (o) the location of existing and proposed public streets, private roads, and Schedule "B" roads;
- (p) the name of existing and proposed public streets (and the public street number) private roads, and Schedule "B" roads as issued pursuant to the civic addressing system;
- (q) the width and location of railroads and railway rights-of-way;

- (r) the general location of watercourses, wetlands, or prominent rock formations;
- (s) the width, location, and nature of any easements on or affecting the area of land proposed to be subdivided;
- (t) where applicable, a notation stating the lots are serviced by a central sewer and/or water system;
- (u) the north point;
- (v) the date on which the plan of subdivision was drawn and the date of any revisions;
- (w) the scale to which the plan of subdivision is drawn; and
- (x) any other information necessary to determine whether or not the plan of subdivision conforms to these regulations.

(3) Where a tentative plan of subdivision is to be forwarded to the Department of Environment and Labour pursuant to clause 42(a), the information listed in subsection (4) is required for the following proposed lots:

(a) a proposed lot that is being created for a purpose that will require the construction of an on-site sewage disposal system; or

(b) a proposed lot that is being divided from an existing area of land, contains an on-site sewage disposal system, and

(i) is 9000 square metres (96,878.4 square feet) or less in area, or

(ii) has a width of less than 76 metres (249.3 feet).

Subsection 39(3) replaced: N.S. Reg. 111/2003.

(4) Unless the information already has been submitted to the Department of Environment and Labour, the following additional information is required for proposed lots referred to in subsection (3):

(a) the lot layout including any proposed building, on-site sewage disposal system, driveway and water well;

(b) the location of any watercourse, wetland, marine water body and other features that may influence the design of the on-site sewage disposal system, including any ditch, road, driveway or easement;

(c) the surface slopes and directions;

(d) the location of any test pit;

(e) the proposed on-site sewage disposal system, selected or designed;

(f) an explanation of the extent, volume and type of usage to which the on-site sewage

disposal system will be subjected;

(g) an assessment report of the lot respecting its suitability to support an on- site sewage disposal system including the results of a soil evaluation test; and

(h) any other information necessary to determine whether the subdivision meets the *On-site Sewage Disposal Systems Regulations*.

Subsection 39(4) added: N.S. Reg. 111/2003.

(5) For a proposed lot that is being divided from an existing area of land, contains an existing on-site sewage disposal system and is more than 9000 square metres (96,878.4 square feet) in area with a width of 76 metres (249.3 feet) or more, the lot layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

Subsection 39(5) added: N.S. Reg. 111/2003.

(6) For a proposed lot 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 feet) that is being created for a purpose that will not require the construction of an on-site sewage disposal system, the certification section of the application form must be completed.

Subsection 39(6) added: N.S. Reg. 111/2003.

(7) In addition to meeting the requirements of subsections (1), (2), (3), (4), (5) or (6), where the proposed lots front on a proposed public street or proposed private road, a tentative plan of subdivision shall

(a) show a boundary survey of the area of land proposed to be subdivided, excluding the remainder lot, certified and stamped by a Nova Scotia Land Surveyor in the manner required by the *Land Surveyors Act* and its regulations;

(b) except for private roads, be accompanied by four copies of a plan showing

(i) contours at 2 metre (6.6 foot) intervals, and drainage patterns,

(ii) the width and location of proposed public streets and their intersection with existing public streets, and

(iii) the location of existing and proposed central sewer and water systems and proposed connections thereto; and

(c) be accompanied by two (2) copies of centerline profiles of proposed public streets.

Original subsection 39(4) renumbered (7) and amended: N.S. Reg. 111/2003.

(8) For a proposed lot that will have access to a provincial public highway, the final plan of subdivision may be accompanied by or show stopping sight distances information in the form specified in Schedule "G" completed by a Nova Scotia Land Surveyor.

Subsection 39(8) added: N.S. Reg. 111/2003.

B - Procedure

40 Application for approval of a tentative plan of subdivision shall be made to the development officer in the form specified in Schedule "A" of these regulations.

41 The development officer shall comply with the notification and approval provisions of the Act.

42 A copy of the tentative plan of subdivision shall be forwarded to

(a) in areas not served by a central sewer, the Department of Environment and Labour to determine compliance with the *On-site Sewage Disposal Systems Regulations*, except where the proposed lot

(i) is greater than 9000 square metres (96,878.4 square feet), has a width of 76 metres (249.3 feet) or more, and the applicant has certified on the application that the proposed lot is not intended for a purpose requiring an on-site sewage disposal system, or

(ii) contains an on-site sewage disposal system and is being increased in size, provided all other proposed lots shown on the plan meet the requirements listed in subclause (i);

Clause 42(a) replaced: N.S. Reg. 111/2003.

(b) in areas served by a central sewer, the authority having jurisdiction for central sewers;

(c) the authority having jurisdiction for public streets; and

(d) any other agency of the Province or the municipality which the development officer deems necessary.

Section 42 amended: N.S. Reg. 111/2003.

42A A tentative plan of subdivision that shows a proposed lot referred to in subsection 39 (6) shall be forwarded to the Department of Environment and Labour for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system.

Section 42A added: N.S. Reg. 111/2003.

43 Any agency which has been forwarded a copy of a tentative plan of subdivision pursuant to Section 42 shall forward a written report of their assessments or recommendations to the development officer.

44 Approval of a tentative plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment and Labour, the Department of Transportation and Public Works or of any other agency of the Province or the municipality unless the tentative plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province.

45 Where the development officer refuses to approve a tentative plan of subdivision, the development officer shall inform the applicant of the reasons for the refusal in writing and advise the applicant of the appeal provisions of Section 284 of the Act.

Section 45 amended: N.S. Reg. 111/2003.

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

(a) "This tentative plan of subdivision is approved for Lots _____. Such approval lapses if the lots are not shown on a final plan of subdivision approved within two years of the date of the approval of the tentative plan.";

(b) the date of the approval of the tentative plan; and

(c) "This tentative plan of subdivision shall not be filed in the registry of deeds as no subdivision takes effect until a final plan of subdivision is approved by the development officer and filed in the registry of deeds."

47 The development officer shall forward a copy of the approved tentative plan of subdivision to the applicant and the surveyor.

Section 47 amended: N.S. Reg. 111/2003.

Final Plans of Subdivision

A - Requirements

48 A subdivider proposing to subdivide an area of land shall submit twelve (12) copies of the final plan of subdivision meeting the requirements of Section 49 of these regulations to the development officer for approval.

49 (1) Final plans of subdivision submitted to the development officer shall be

(a) drawn to a scale or scales sufficient for clarity of all particulars of the final plan of subdivision;

(b) certified and stamped by a Nova Scotia Land Surveyor that the lots for which approval is requested and any proposed street and road have been surveyed in the manner required by the *Land Surveyors Act* and its regulations, except for a final plan of subdivision prepared pursuant to subsection 7(2) of these regulations; and

(c) folded to approximately 20x30 centimetres (8x12 inches) with the face of the folded print being the title block which is located in the lower right-hand corner of the final plan of subdivision.

(2) Final plans of subdivision shall show the following:

(a) the words "PLAN OF SUBDIVISION" located in the title block;

(b) a clear space for stamping being a minimum of 225 square centimetres (36 square inches) with a minimum width of 8 centimetres (3 inches);

(c) the name of the subdivision, if any, and the name of the owner of the area of land;

(d) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the registry of deeds;

(e) the unique parcel identifier (PID) of all areas of land being subdivided;

Clause 49(2)(e) replaced: N.S. Reg. 111/2003.

(f) the civic number of main buildings on the area of land being subdivided;

Clause 49(2)(f) amended: N.S. Reg. 111/2003.

(g) the names of all owners or the identifiers of all properties abutting the proposed subdivision;

(h) a location map, drawn to a scale not smaller than 1:50,000 (such scale to be shown on the map), preferably with the same orientation as the area of land and, if possible, showing the location of the closest community to the area of land proposed to be subdivided;

(i) the shape, dimensions, and area of the proposed lots;

Clause 49(2)(i) amended: N.S. Reg. 111/2003.

(j) each proposed lot identified by a number, except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where applicable, and the letter;

Clause 49(2)(j) amended: N.S. Reg. 111/2003.

(k) no duplication of lot identifiers;

(l) the boundaries of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated or both, shown as broken lines;

Clause 49(2)(l) amended: N.S. Reg. 111/2003.

(m) the location of existing buildings within 10 metres (32.8 feet) of a property boundary;

(n) the geographical and mathematical location of all buildings within 3 metres (9.8 feet) of a proposed boundary;

(o) the location of existing and proposed public streets, private roads, and Schedule "B" roads;

(p) the name of existing and proposed public streets (and the public street number) private roads, and Schedule "B" roads as issued pursuant to the civic addressing system;

(q) the width and location of railroads and railway rights-of-way;

(r) the general location of watercourses, wetlands, or prominent rock formations;

(s) the width, location, and nature of any easements on or affecting the area of land proposed to be subdivided;

(t) where applicable, a notation stating the lots are serviced by a central sewer and/or water system;

(u) the north point;

(v) the date on which the plan of subdivision was drawn and the date of any revisions;

- (w) the scale to which the plan of subdivision is drawn; and
- (x) any other information necessary to determine whether or not the plan of subdivision conforms to these regulations.
- (3) Where a final plan of subdivision is to be forwarded to the Department of Environment and Labour pursuant to clause 52(a), the information listed in subsection (4) is required for the following proposed lots:
- (a) a proposed lot that is being created for a purpose that will require the construction of an on-site sewage disposal system; or
- (b) a proposed lot that is being divided from an existing area of land, contains an on-site sewage disposal system, and
- (i) is 9000 square metres (96,878.4 square feet) or less in area, or
- (ii) has a width of less than 76 metres (249.3 feet).
- Subsection 49(3) replaced: N.S. Reg. 111/2003.**
- (4) Unless the information already has been submitted to the Department of Environment and Labour, the following additional information is required for proposed lots referred to in subsection (3):
- (a) the lot layout including any proposed building, on-site sewage disposal system, driveway and water well;
- (b) the location of any watercourse, wetland, marine water body and other features that may influence the design of the on-site sewage disposal system, including any ditch, road, driveway or easement;
- (c) the surface slopes and directions;
- (d) the location of any test pit;
- (e) the proposed on-site sewage disposal system, selected or designed;
- (f) an explanation of the extent, volume and type of usage to which the on-site sewage disposal system will be subjected;
- (g) an assessment report of the lot respecting its suitability to support an on-site sewage disposal system including the results of a soil evaluation test; and
- (h) any other information necessary to determine whether the subdivision meets the *On-site Sewage Disposal Systems Regulations*.
- Subsection 49(4) added: N.S. Reg. 111/2003.**
- (5) For a proposed lot that is being divided from an existing area of land, contains an existing on-site sewage disposal system and is more than 9000 square metres (96,878.4 square feet) in area with a width of 76 metres (249.3 feet) or more, the lot layout including

buildings, driveway, on-site sewage disposal system and well shall be provided.

Subsection 49(5) added: N.S. Reg. 111/2003.

(6) For a proposed lot 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 feet) that is being created for a purpose that will not require the construction of an on-site sewage disposal system, the certification section of the application form must be completed.

Subsection 49(6) added: N.S. Reg. 111/2003.

(7) For a proposed lot that will have access to a provincial public highway, the final plan of subdivision may be accompanied by or show stopping sight distances information in the form specified in Schedule "G" completed by a Nova Scotia Land Surveyor.

Subsection 49(7) added: N.S. Reg. 111/2003.

(8) Unless they have already been submitted, final engineering design drawings for any services, including streets, to be conveyed to the municipality shall accompany the final plan of subdivision.

Original subsection 49(4) renumbered (8) and amended: N.S. Reg. 111/2003.

B - Procedure

50 Application for approval of a final plan of subdivision shall be made to the development officer in the form specified in Schedule "A" of these regulations.

51 The development officer shall comply with the notification and approval provisions of the Act.

52 A copy of the preliminary plan of subdivision shall be forwarded to

(a) in areas not served by a central sewer, the Department of Environment and Labour to determine compliance with the *On-site Sewage Disposal Systems Regulations*, except where the proposed lot

(i) is greater than 9000 square metres (96,878.4 square feet), has a width of 76 metres (249.3 feet) or more, and the applicant has certified on the application that the proposed lot is not intended for a purpose requiring an on-site sewage disposal system, or

(ii) contains an on-site sewage disposal system and is being increased in size, provided all other proposed lots shown on the plan meet the requirements listed in subclause (i);

Clause 52(a) replaced: N.S. Reg. 111/2003.

(b) in areas served by a central sewer, the authority having jurisdiction for central sewers;

(c) the authority having jurisdiction for public streets; and

(d) any other agency of the Province or the municipality which the development officer deems necessary.

Section 52 amended: N.S. Reg. 111/2003.

52A A final plan of subdivision that shows a proposed lot referred to in subsection 49(6) shall be forwarded to the Department of Environment and Labour for confirmation that the

Department is in agreement that the proposed lot does not require an on-site sewage disposal system.

Section 52A added: N.S. Reg. 111/2003.

53 Any agency which has been forwarded a copy of the final plan of subdivision pursuant to Section 52 shall forward a written report of their assessments or recommendations to the development officer.

54 Approval of a final plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment and Labour, the Department of Transportation and Public Works or of any other agency of the Province or the municipality unless the final plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province.

55 (1) At the time of application for approval of a final plan of subdivision, the subdivider shall submit to the development officer

(a) the fees contained in the *Costs and Fees Act* and its regulations for filing the approved final plan of subdivision and registering a notice of approval of the plan; and

(b) a processing fee of \$50.00 per application for approval of a final plan of subdivision.

(2) Where the development officer refuses to approve a final plan of subdivision, the development officer shall return the fees referred to in clause (1)(a) to the subdivider.

56 Before approving a final plan of subdivision that adds or consolidates parcels or areas of land in different ownerships the development officer shall have received

(a) the executed deeds suitable for registering to effect the addition or consolidation;

(b) the fees for registering the deeds;

(c) the affidavit of value including particulars of any exemption, pursuant to Part V of the Act; and

(d) where applicable, the deed transfer tax.

Section 56 amended: N.S. Reg. 111/2003.

57 The development officer shall forward an approved copy of the final plan of subdivision to the subdivider and the surveyor.

58 Where the development officer refuses to approve a final plan of subdivision, the development officer shall give notice of the refusal to all agencies which were forwarded a plan pursuant to Section 52.

59 Where the development officer refuses to approve a final plan of subdivision, the development officer shall inform the subdivider of the reasons for the refusal in writing and advise the subdivider of the appeal provisions of Section 284 of the Act.

60 A final plan of subdivision showing lots to be approved under circumstances described

in subsection 287(3) of the Act by special note on the plan shall

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

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

(a) "This final plan of subdivision is approved for Lots _____";

(b) where applicable,

(i) " _____ (is, are) suitable for the (lot(s) approved and/or remainder) construction or installation of an on-site sewage disposal system for _____ and any conditions which apply are (proposed use) contained in a report dated _____ and available from the Department of Environment and Labour.";

(ii) "**IMPORTANT NOTICE**

_____ (has, have) been created (lot(s) approved and/or remainder) for a purpose which does not require an on-site sewage disposal system and will not be eligible for a permit to install a system unless the requirements of the Department of Environment and Labour are met.";

(iii) " _____ (is, are) served by an (lot(s) approved and/or remainder) existing on-site system and should a replacement system become necessary in future, approval of the replacement system from the Department of Environment and Labour is required".

(c) where applicable,

(i) a notation stating that access to the public street as shown has been approved for the lots created by this final plan and any conditions which apply are listed on the plan or are contained in a report dated _____, available from the authority having jurisdiction for public streets;

(ii) where a lot which abuts a public street does not have an approved access point along the street, a notation stating that direct access to the street is not permitted; and

(iii) a notation stating which lots abut a private road and that no provincial or municipal services shall be provided to these lots.

62 Within seven days of approving the plan, the development officer shall forward to the registry of deeds

(a) one (1) approved copy of the final plan of subdivision and a notice of approval in the form specified in Schedule "C" of these regulations; and

(b) if applicable, the items required by Section 56 of these regulations.

Section 62 amended: N.S. Reg. 111/2003.

Subdivision by Instrument

A - Requirements

63 (1) In a district or county municipality a subdivider may subdivide an area of land by an instrument of subdivision where

(i) each lot has a minimum area of 9,290 square metres (100,000 square feet) and dimensions that would permit it to contain a circle of a diameter of 76 metres (249.3 feet) within its boundaries, or

(ii) an existing lot is being increased in size, and

the lot being decreased in size, if any, meets the requirements of these regulations other than those contained in clause (i).

Subsection 63(1) amended: N.S. Reg. 111/2003.

(2) All lots created by instrument of subdivision are required to be approved.

(3) In addition to the application form required by Section 64, the subdivider proposing to subdivide an area of land by instrument of subdivision shall submit to the development officer a completed instrument of subdivision in the form specified in Schedule "D" of these regulations.

(4) The graphic representation included as part of Schedule "D" shall show

(a) the name of the subdivision, if any, and the name of the owner of the area of land;

(b) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the registry of deeds;

(c) the unique parcel identifier (PID) of all areas of land being subdivided;

Clause 63(4)(c) replaced: N.S. Reg. 111/2003.

(d) the civic number of main buildings on the area of land being subdivided;

Clause 63(4)(d) amended: N.S. Reg. 111/2003.

(e) the names of all owners or the identifiers of all properties abutting the proposed subdivision;

(f) a location map, drawn to a scale not smaller than 1:50,000 (such scale to be shown on the map), preferably with the same orientation as the area of land and, if possible, showing

the location of the closest community to the area of land proposed to be subdivided;

(g) the shape, dimensions, and area of the proposed lots;

Clause 63(4)(g) amended: N.S. Reg. 111/2003.

(h) each proposed lot identified by a number, except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where applicable, and the letter;

Clause 63(4)(h) amended; N.S. Reg. 111/2003.

(i) no duplication of lot identifiers;

(j) the boundaries of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated or both, shown as broken lines;

Clause 63(4)(j) amended: N.S. Reg. 111/2003.

(k) the location of existing buildings within 10 metres (32.8 feet) of a property boundary;

(l) the location of existing public streets, private roads, and Schedule "B" roads;

(m) the name of existing public streets (and the public street number) private roads, and Schedule "B" roads as issued pursuant to the civic addressing system;

(n) the width and location of railroads and railway rights-of-way;

(o) the general location of watercourses, wetlands, or prominent rock formations;

(p) the width, location, and nature of any easements on or affecting the area of land proposed to be subdivided;

(q) where applicable, a notation stating the lots are serviced by a public sewer and/or water system;

(r) the north point;

(s) the date on which the instrument of subdivision was drawn and the date of any revisions;

(t) the scale to which the instrument of subdivision is drawn; and

(u) any other information necessary to determine whether or not the instrument of subdivision conforms to these regulations.

(5) Where an instrument of subdivision is to be forwarded to the Department of Environment and Labour pursuant to clause 66(a), the information listed in subsection (6) is required for a proposed lot that is being created for a purpose that will require the construction of an on-site sewage disposal system.

Subsection 63(5) replaced: N.S. Reg. 111/2003.

(6) Unless the information already has been submitted to the Department of Environment

and Labour, the following additional information is required for proposed lots referred to in subsection (5):

- (a) the lot layout including any proposed building, on-site sewage disposal system, driveway and water well;
- (b) the location of any watercourse, wetland, marine water body and other features that may influence the design of the on-site sewage disposal system, including any ditch, road, driveway or easement;
- (c) the surface slopes and directions;
- (d) the location of any test pit;
- (e) the proposed on-site sewage disposal system, selected or designed;
- (f) an explanation of the extent, volume and type of usage to which the on-site sewage disposal system will be subjected;
- (g) an assessment report of the lot respecting its suitability to support an on-site sewage disposal system including the results of a soil evaluation test; and
- (h) any other information necessary to determine whether the subdivision meets the *On-site Sewage Disposal Systems Regulations*.
Subsection 63(6) added: N.S. Reg. 111/2003.

(7) For a proposed lot that is being divided from an existing area of land and contains an existing on-site sewage disposal system, the lot layout including buildings, driveway, on-site sewage disposal system and well shall be provided.

Subsection 63(7) added: N.S. Reg. 111/2003.

(8) For a proposed lot 9000 square metres (96,878.4 square feet) or less in area or with a width of less than 76 metres (249.3 feet) that is being created for a purpose that will not require the construction of an on-site sewage disposal system, the certification section of the application form must be completed.

Subsection 63(8) added: N.S. Reg. 111/2003.

B - Procedure

64 Application for approval of an instrument of subdivision shall be made to the development officer in the form specified in Schedule "A" of these regulations.

65 The development officer shall comply with the notification and approval provisions of the Act.

66 A copy of the instrument of subdivision shall be forwarded to

(a) in areas not served by a central sewer, the Department of Environment and Labour to determine compliance with the *On-site Sewage Disposal Systems Regulations*, except where the proposed lot

(i) is greater than 9000 square metres (96,878.4 square feet), has a width of 76 metres (249.3 feet) or more, and the applicant has certified on the application that the proposed lot is not intended for a purpose requiring an on-site sewage disposal system, or

(ii) contains an on-site sewage disposal system and is being increased in size, provided all other proposed lots shown on the plan meet the requirements listed in subclause (i);

Clause 66(a) replaced: N.S. Reg. 111/2003.

(b) in areas served by a central sewer, the authority having jurisdiction for central sewers;

(c) the authority having jurisdiction for public streets; and

(d) any other agency of the Province or the municipality which the development officer deems necessary.

Section 66 amended: N.S. Reg. 111/2003.

66A An instrument of subdivision that shows a proposed lot referred to in subsection 63(8) shall be forwarded to the Department of Environment and Labour for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system.

Section 66A added: N.S. Reg. 111/2003.

67 Any agency which has been forwarded a copy of the instrument of subdivision pursuant to Section 66 shall forward a written report of their assessments or recommendations to the development officer.

68 Approval of an instrument of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment and Labour, the Department of Transportation and Public Works or of any other agency of the Province or the municipality unless the instrument of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province.

69 (1) At the time of application for approval of an instrument of subdivision, the subdivider shall submit to the development officer

(a) the fees contained in the *Costs and Fees Act*, and its regulations, for registering an instrument of subdivision; and

(b) a processing fee of \$50.00 per final application for subdivision approval or for repeal.

(2) Where the development officer refuses to approve an instrument of subdivision, the development officer shall return the fees referred to in clause (1)(a) to the subdivider.

70 Before approving an instrument of subdivision that adds or consolidates parcels or areas of land in different ownerships the development officer shall have received

(a) the executed deeds suitable for registering to effect the addition or consolidation;

(b) the fees for registering the deeds;

(c) the affidavit of value including particulars of any exemption, pursuant to Part V of the Act; and

(d) where applicable, the deed transfer tax.

Section 70 amended: N.S. Reg. 111/2003.

71 The development officer shall forward an approved copy of the instrument of subdivision to the subdivider.

72 Where the development officer refuses to approve an instrument of subdivision, the development officer shall give notice of the refusal to all agencies which were forwarded a instrument pursuant to Section 66.

73 Where the development officer refuses to approve an instrument of subdivision, the development officer shall inform the subdivider of the reasons for the refusal in writing and advise the subdivider of the appeal provisions of Section 284 of the Act.

74 An instrument of subdivision showing lots to be approved under circumstances described in subsection 287(3) of the Act by special note on the instrument shall

(a) identify such lots;

(b) state the names of the grantor and the grantee of such lots; and

(c) state the date, book and page number of the conveyance of such lots as recorded in the registry of deeds.

75 The following information shall be stamped or written and completed by the development officer on any instrument of subdivision which is approved:

(a) where applicable

(i) " _____ (is, are) suitable for the (lot(s) approved and/or remainder) construction or installation of an on-site sewage disposal system for _____ and any conditions which apply are (proposed use) contained in a report dated _____ and available from the Department of Environment and Labour.";

(ii) " **IMPORTANT NOTICE**

_____ (has, have) been created (lot(s) approved and/or remainder) for a purpose which does not require an on-site sewage disposal system and will not be eligible for a permit to install a system unless the requirements of the Department of Environment and Labour are met."; or

(iii) " _____ (is, are) served by an (lot(s) approved and/or remainder)

existing on-site system and should a replacement system become necessary in future, approval of the replacement system from the Department of Environment and Labour is required."

(b) where applicable,

(i) a notation stating that access to the public street as shown has been approved for the lots created by this instrument of subdivision and any conditions which apply are listed on the instrument or are contained in a report dated _____, available from the authority having jurisdiction for public streets;

(ii) where a lot which abuts a public street does not have an approved access point along the street, a notation stating that direct access to the street is not permitted; and

(iii) a notation stating which lots abut a private road and that no provincial or municipal services shall be provided to these lots.

76 Within seven days of approving the instrument, the development officer shall forward to the registry of deeds

(a) one (1) approved copy of the instrument of subdivision; and

(b) if applicable, the items required by Section 70 of these regulations.
Section 76 amended: N.S. Reg. 111/2003.

Repeal of a Subdivision

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

78 Any person requesting a repeal shall submit to the development officer an application in the form specified in Schedule "E".

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

80 When the development officer is satisfied that an application for repeal is complete, the development officer may forward a copy to any agency which provided an assessment or recommendations on the original plan or instrument of subdivision.

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

82 Sections 3 to 76 inclusive of these regulations do not apply to the repeal of a plan or instrument of subdivision.

83 The development officer shall forward to the registry of deeds the repeal in the form

specified in Schedule "F".

84 The development officer shall forward a copy of the repeal referred to in Section 83 to

(a) the subdivider, and

(b) any agency which provided an assessment or recommendations on the original plan or instrument of subdivision.

85 (1) At the time of application for the repeal of a subdivision the subdivider shall submit to the development officer

(a) the fees contained in the *Costs and Fees Act*, and its regulations, for registering a repeal of a plan or instrument of subdivision; and

(b) a processing fee of \$50.00 per final application for repeal of a subdivision.


(2) Where the development officer refuses to repeal a subdivision, the development officer shall return the fees referred to in clause (1)(a) to the subdivider.

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

Effective Date, Repeal

87 (1) These *Provincial Subdivision Regulations* are effective on April 1, 1999, or the date of prescription, whichever is later in time.

(2) On the effective date of these regulations the *Provincial Subdivision Regulations* which became effective on April 7, 1995, are repealed.

 [Back to list of regulations by Act](#)

 [Back to List of Acts by Department](#)



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