



WEST HANTS  
NOVA SCOTIA

**MUNICIPALITY OF THE DISTRICT OF WEST HANTS  
Planning/Heritage Advisory Committee Agenda  
September 19, 2019, 6:00 p.m.  
Sanford Council Chambers**

1. Call to order
2. Approval of Agenda & Additions
3. Approval of Planning/Heritage Advisory Committee Meeting Minutes of July 18, 2019
4. Public Information Meetings
  - (a) West Hants and Hantsport Land Use By-law and Subdivision By-laws amendments
  - (b) West Hants and Hantsport – Recreational Cabins
5. Business Arising from Public Information Meetings
6. Business Arising from the Minutes
  - (a) Dresser Minerals Land Use By-law Amendment (Saira Shah)
  - (b) Pioneer Drive Land Use By-law Amendment (Saira Shah)
  - (c) Cannabis in West Hants (Saira Shah)
  - (d) Fees (Madelyn LeMay)
7. Hantsport Area Advisory Committee Update from Chair  
Excerpts:
  - (a) Hantsport Land Use By-law Amendments
  - (b) Hantsport Subdivision By-law Amendments
  - (c) Recreational Cabins in Hantsport
8. Building and Development Activity Reports
  - (a) Monthly Report – July and August 2019
9. New Business
  - (a) Cannabis Odour Control By-law
10. Notices from adjacent municipal units
11. Miscellaneous
  - (a) Consolidation Update
12. Questions and comments from public



## MUNICIPALITY OF THE DISTRICT OF WEST HANTS RECOMMENDATION REPORT

To: Members of West Hants Planning Advisory Committee

Submitted by:

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Madelyn LeMay  
Director of Planning and Development

Date: September 19, 2019

Subject: Fees: West Hants Land Use Bylaw Amendment

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### 1.0 ORIGIN

At the July 18, 2019 West Hants Planning Advisory Committee (WHPAC) meeting, members agreed by consensus to have staff draft reports and begin the formal procedures to remove clauses regarding fees from both the West Hants and Hantsport Land Use By-laws and replace them with clauses noting that Council will set fees by policy from time-to-time.

This report begins the process required to amend the West Hants Land Use Bylaw (WHLUB).

### 2.0 LEGISLATIVE AUTHORITY

Municipal Government Act s. 49, *Power to make policies*

### 3.0 RECOMMENDATION

It is recommended that WHPAC/HAC recommend:

**... that Council give First Reading and hold a Public Hearing to consider amending the text of the West Hants Land Use By-law by removing the existing heading and section 2.8 from the West Hants Land Use By-law and replacing it with the following:**

**Application Fees**

**2.8**

**An applicant for a development permit, a development agreement, an amendment to a development agreement, a discharge of a development agreement, an amendment to the Land Use By-law, a site plan, a variance, or a zoning confirmation shall pay the fees prescribed by Council from time to time by policy.**

#### **4.0 BACKGROUND**

Background and discussion can be found in the July 18, 2019 report to WHPAC entitled *"Fees Related to Planning, Development and Building"* and the WHPAC/HAC minutes of July 18, 2019.

#### **4.1 Recommended West Hants Land Use By-law Amendments**

The ability to charge fees for development agreements, site plan approvals or variances should be included in the WHLUB in a way that ensures an amendment to the document is not required in order to charge a fee or to set or change the amount. The clause should cover all potential charges, leaving the specifics of what is charged for and what the fee is to the Fees Policy (COFN-005.03) established by Council. The proposed clause is:

*"Application Fees*

*2.8*

*An applicant for a development permit, a development agreement, an amendment to a development agreement, a discharge of a development agreement, an amendment to the Land Use By-law, a site plan, a variance, or a zoning confirmation shall pay the fees prescribed by Council from time to time by policy."*

#### **5.0 OPTIONS**

WHPAC/HAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the WHLUB amendment as drafted or as specifically revised by direction of WHPAC/HAC;
- provide alternative direction such as requesting further information on a specific topic.

#### **6.0 APPENDICIES**

Appendix A

Existing WHLUB

Appendix B

Proposed WLUB Amendment

## **APPENDIX A**

Taken from the West Hants Land Use By-law May 2019

### **Advertising and Notification Costs**

- 2.8 (a) Where an application is made to amend this By-law or to enter into or amend a development agreement, the applicant shall deposit with the Municipal Clerk at the time of application an amount estimated by the Municipal Clerk to be sufficient to pay the costs of any advertising and notification required.
- (b) If the amount paid under subsection (a) is not sufficient to cover the actual cost incurred, the applicant shall pay the additional amount required within 30 days of remittance of an invoice. If the amount paid exceeds the actual costs incurred, the Municipal Clerk shall refund the excess amount.

## APPENDIX B

### West Hants Land Use By-law Amendment

Amendment to clarify and broaden the items for which Council may charge fees.  
.....

Amend the text of the West Hants Land Use By-law by deleting the existing heading and section 2.8 and replacing it with the following section 2.8:

#### **Application Fees**

##### **2.8**

An applicant for a development permit, a development agreement, an amendment to a development agreement, a discharge of a development agreement, an amendment to the Land Use By-law, a site plan, a variance, or a zoning confirmation shall pay the fees prescribed by Council from time to time by policy.



## MUNICIPALITY OF THE DISTRICT OF WEST HANTS RECOMMENDATION REPORT

To: Members of West Hants Planning Advisory Committee

Submitted by:

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Madelyn LeMay  
Director of Planning and Development

Date: September 19, 2019

Subject: Fees: West Hants Subdivision By-law Amendment

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### 1.0 ORIGIN

At the July 18, 2019 West Hants Planning Advisory Committee (WHPAC) meeting, members agreed by consensus to have staff draft reports and begin the formal procedures to remove clauses regarding fees from both the West Hants and Hantsport Subdivision By-laws and replace them with clauses noting that Council will set fees by policy from time-to-time.

This report begins the process required to amend the West Hants Subdivision By-law (WHSUB).

### 2.0 LEGISLATIVE AUTHORITY

Municipal Government Act s. 49, *Power to make policies*

### 3.0 RECOMMENDATION

It is recommended that WHPAC/HAC recommend:

**... that Council give First Reading and hold a Public Hearing to consider amending the text of the West Hants Subdivision By-law by removing the existing Section 11 of the West Hants Subdivision By-law and replacing it with the following section:**

11. ***The subdivider shall pay:***
  - (a) ***the fees contained in the Costs and Fees Act and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan. Where the Development Officer refuses to approve a final plan of subdivision these fees shall be returned to the subdivider; and***
  - (b) ***any processing fees prescribed by Council from time to time by policy.***

#### **4.0 BACKGROUND**

Background and discussion can be found in the July 18, 2019 staff report to WHPAC entitled “Fees Related to Planning, Development and Building” and the WHPAC/HAC Minutes of July 18, 2019.

#### **4.1 Recommended Subdivision By-law Amendments**

Fees for subdivision are established within the WHSUB (Appendix A). In order to simplify future changes, these fees should be moved to the Fees Policy (COFN-005.03) established by Council. No changes in the amounts charged for subdivision are being recommended now. The proposed clause is:

11. ***The subdivider shall pay:***
  - (a) ***the fees contained in the Costs and Fees Act and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan. Where the Development Officer refuses to approve a final plan of subdivision these fees shall be returned to the subdivider; and***
  - (b) ***any processing fees prescribed by Council from time to time by policy.***

The proposed amendment is shown in Appendix B.

#### **5.0 OPTIONS**

WHPAC/HAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the WHSUB amendment as drafted or as specifically revised by direction of WHPAC/HAC;
- provide alternative direction such as requesting further information on a specific topic.

#### **6.0 APPENDICIES**

Appendix A	Existing WHSUB
Appendix B	Proposed WHSUB Amendment

## APPENDIX A

Taken from the West Hants Subdivision By-law May 2019

### Part 4 ...

11. (a) The subdivider shall pay:
- (i) the fees contained in the *Costs and Fees Act* and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan; and
  - (ii) for review and approval of a tentative plan of subdivision, a processing fee of \$25.00; and
  - (iii) for review and approval of a final plan of subdivision, a processing fee of \$75.00 plus \$4.00 for each lot for which approval is being requested; and
  - (iv) where a final plan of subdivision shows proposed public streets or private roads, an additional processing fee of \$200.00.
- (b) The fees referred to in subsection (a)(i) shall be paid at the time of application for approval of the plan of subdivision by cheque or money order made payable to the "Registry of Deeds".
- (c) The fees referred to in subsections (a)(ii) and (iii) shall be paid at the time of application for approval of the plan of subdivision by cheque or money order made payable to the "Municipality of the District of West Hants".
- (d) The fee referred to in subsection (a)(iv) is a one time fee which shall be paid, in the case of a proposed private road, at the time the application is submitted for approval of the first lots shown on a final plan of subdivision, and in the case of a proposed public street, prior to acceptance of the public street by the Municipality, by cheque or money order made payable to the "Municipality of the District of West Hants".
- (e) Where the Development Officer refuses to approve a final plan of subdivision, the Development Officer shall return the fees referred to in sub subsection (a)(i) to the subdivider.

## APPENDIX B

### Proposed West Hants Subdivision Bylaw Amendment

Amendment to clarify fees for subdivision.

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1. Amend the text of the West Hants Subdivision By-law by deleting the existing section 11 and replacing it with the following section 11:
  11. *The subdivider shall pay:*
    - (a) *the fees contained in the Costs and Fees Act and its regulations for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan. Where the Development Officer refuses to approve a final plan of subdivision these fees shall be returned to the subdivider; and*
    - (b) *any processing fees prescribed by Council from time to time by policy.*



## MUNICIPALITY OF THE DISTRICT OF WEST HANTS RECOMMENDATION REPORT

To: Members of West Hants Planning Advisory Committee

Submitted by:

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Madelyn LeMay  
Director of Planning and Development

Date: September 19, 2019

Subject: Recreational Cabins: West Hants Land Use By-law Amendment

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### 1.0 ORIGIN

In May 2019, changes to the Building Code Act Regulations included a provision for "recreational cabins". In a general sense, a "recreational cabin" is a single unit dwelling which is missing one or more components mandatory in the construction of a permanent dwelling, such as insulation.

This report begins the process required to amend the West Hants Land Use By-Law (WHLUB) to ensure permits for "recreational cabins" under the Building Code Act can only be issued where seasonal dwellings are envisioned in the West Hants Municipal Planning Strategy (WHMPS) and permitted in the WHLUB.

### 2.0 LEGISLATIVE AUTHORITY

Municipal Government Act s. 220

### 3.0 RECOMMENDATION

It is recommended that the West Hants Planning/Heritage Advisory Committee (WHPAC/HAC) recommend:

**... that Council give First Reading and hold a Public Hearing to consider amending the West Hants Land Use By-law by replacing the present definition of dwelling unit with the following:**

***Dwelling Unit means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of the individual or individuals for year-round occupancy as a***

***primary residence, with a private entrance from outside of the building or from a common hallway or stairway inside the building and excluding a recreational cabin as defined in the Nova Scotia Building Code Regulations.***

#### **4.0 DISCUSSION and DOCUMENT REVIEW**

##### **4.1 Need for Amendment**

Changes to the Building Code Act Regulations which took effect May 1, 2019, included a provision for "recreational cabins". These changes mean that anywhere a development permit can be issued for a single unit dwelling, a building permit can be issued for a "recreational cabin". In the WHLUB, "seasonal dwellings" are listed as a permitted use in the Rural Residential (R4), Manufactured Home Park (MHP) and the General Resource (GR) zones. Because of this, a building permit for a "recreational cabin" can only be issued where the development permit is for a seasonal dwelling. The WHLUB defines seasonal dwellings as *"a cottage or secondary residence used for recreation, rest or relaxation from time to time throughout any season of the year, but not used or intended to be used for year-round occupancy or as a principal residence."*

A recreational cabin is defined in the Building Code Act Regulations as: *a building with a residential occupancy which meets all of the following:*

- (a) it is used or intended to be used as a single dwelling unit;*
- (b) it is principally used for a seasonal recreational activity;*
- (c) it is two storeys in building height or less; and*
- (d) it is not used as a permanent residence.*

The Regulations also specify that *"Except as provided in Sentence (5), thermal insulation, vapour barrier, air barrier construction, interior finishes, plumbing, heating, mechanical ventilation, air-conditioning and electrical facilities need not be provided in a recreational cabin, but where any of these are provided, they shall comply with the requirements of this Part."* (n.b.: Sentence 5 covers only heating and air conditioning.)

Since the WHLUB lists seasonal dwellings, an amendment to the definition of dwelling unit is all that is required to ensure recreational cabins are restricted to the same zones as "seasonal dwellings". The current West Hants definition of dwelling unit is: *"one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping place in which separate kitchen and sanitary facilities are provided for the exclusive use of such individual or individuals, with a private entrance from outside the building or from a common hallway or stairway inside the building."* This definition does not require an intention of permanent occupancy.

In order to ensure that single unit dwellings in West Hants meet the Building Code Act requirements for a permanent residence rather than for a recreational cabin, an amendment to the WHLUB is recommended. Clarification can be achieved by an amendment to the definition of dwelling unit in the WHLUB as follows and shown in Appendix B (changes shown in blue):

**Dwelling Unit** means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping place establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of such the individual or individuals for year-round occupancy as a primary residence, with a private entrance from outside the building or from a common hallway or stairway inside the building for year-round occupancy as a primary residence, with a private entrance from outside of the building or from a common hallway or stairway inside the building and excludes a "recreational cabin" as defined in the Nova Scotia Building Code Regulations.

#### 4.2 WHMPS Criteria

The WHMPS does not provide background or policy for the definitions contained in the WHLUB. The definition of dwelling unit was included in the West Hants planning documents prior to the recent changes to the Building Code Act Regulations.

The WHMPS contains policy regarding seasonal dwellings. Policy 9.1.1 establishes the General Resource (GR) zone and notes that it will include, among other things "*areas of seasonal residential development which are accessed by private roads*".

Although Policy 9.1.8 limits as-of-right development on private roads to "*seasonal dwellings, single unit dwellings, home-based businesses and resource uses*," Policy 9.1.11 also allows Council to consider resort development on private roads by development agreement. Policy 16.4.4 again limits as-of-right development on private roads to "*seasonal dwellings, single unit dwellings or resource uses*".

The general criteria which Council must consider when amending the WHLUB are established in Policy 16.3.1 (Appendix A). None are relevant to the amendment of this WHLUB definition.

#### 4.3 WHLUB

As noted above, in accordance with the policy established in the WHMPS, the WHLUB lists seasonal dwellings as a permitted use in the Rural Residential (R4), Manufactured Home Park (MHP) and the General Resource (GR) zones.

#### 5.0 **CONCLUSION**

Although the proposed amendment has been considered within the context of the policies of the WHMPS, no criteria relate directly to the amendment of a definition in the WHLUB.

The proposed amendment is consistent with the overall intent, objectives and policies of the WHMPS. As a result, it is reasonable to consider approving the change in the WHLUB definition of "dwelling unit".

#### 6.0 **OPTIONS**

WHPAC/HAC may recommend that Council:

- hold First Reading and authorize a Public Hearing to approve the WHLUB amendment as drafted or as specifically revised by direction of WHPAC/HAC;
- provide alternative direction such as requesting further information on a specific topic.

## **7.0 APPENDICIES**

Appendix A

WHMPS Policy 16.3.1 and 16.3.2

Appendix B

Proposed Amendment: Definition of Dwelling Unit.

## APPENDIX A

### Taken from the West Hants Municipal Planning Strategy August 2019

**Policy 16.3.1** In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

- (a) whether the proposal is considered premature or inappropriate in terms of:
  - (i) the adequacy of sewer and water services;
  - (ii) the adequacy of school facilities;
  - (iii) the adequacy of fire protection and other emergency services; (Amendment WHMPS 14-01 Effective January 22, 2015)
  - (iv) the adequacy of road networks adjacent to, or leading to the development; and
  - (v) the financial capacity of the Municipality to absorb any costs relating to the development.
- (b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;
- (c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;
- (d) the adequacy of the dimensions and shape of the lot for the intended use;
- (e) the pattern of development which the proposal might create;
- (f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;
- (g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations; and
- (h) any other matter required by relevant policies of this Strategy.

**Policy 16.3.2** It shall be the policy of Council that, where considered necessary, a detailed site plan and architectural drawings shall be submitted by the developer as a component of the rezoning or development agreement application.

## APPENDIX B

### Proposed West Hants Land Use By-law Amendment

Amendment to clarify the definition of dwelling unit.

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1. In Section 35.1 of the West Hants Land Use By-law, delete the existing definition of "Dwelling Unit" and replace it with the following definition of Dwelling Unit:

**Dwelling Unit** means one or more habitable rooms designed or intended to be used by one or more individuals as a separate and independent housekeeping establishment in which separate kitchen and sanitary facilities are provided for the exclusive use of the individual or individuals for year-round occupancy as a primary residence, with a private entrance from outside of the building or from a common hallway or stairway inside the building and excludes a recreational cabin as defined in the Nova Scotia Building Code Regulations.



## MUNICIPALITY OF THE DISTRICT OF WEST HANTS RECOMMENDATION REPORT

To: Members of West Hants Planning Advisory Committee

Submitted by: \_\_\_\_\_  
Madelyn LeMay  
Director of Planning and Development

Date: September 19, 2019

Subject: Fees: West Hants Building Code Act By-law Amendment

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### 1.0 ORIGIN

At the July 18, 2019 West Hants Planning Advisory Committee (WHPAC) meeting, members agreed by consensus to have staff draft reports and begin the formal procedures to remove clauses regarding fees from the West Hants Building Code Act By-law (WHBCAB) and replace them with clauses noting that Council will set fees by policy from time-to-time.

This report begins the process required to amend the WHBCAB.

### 2.0 LEGISLATIVE AUTHORITY

Municipal Government Act s. 49, *Power to make policies*

### 3.0 RECOMMENDATION

It is recommended that WHPAC/HAC recommend:

**...that Council give First Reading and hold a Public Hearing to consider amending the text of the West Hants Building Code Act By-law by removing the existing Part 5, Permit Fees, and replace it with the following Part 5, Permit Fees:**

#### **Part 5, Permit Fees**

**5.1 An applicant for a building, occupancy or demolition permit shall pay the fees prescribed by Council from time to time by policy;**

- 5.2 For the purposes of calculating permit fees, square footage shall be based on:**
- (a) for buildings intended for human occupancy, the gross floor area of the building; including the floor area of a basement;**
  - or**
  - (b) for buildings not intended for human occupancy, the gross floor area of the main floor.**

**4.0 BACKGROUND**

Background and discussion can be found in the July 18, 2019 report to WHPAC entitled “Fees Related to Planning, Development and Building” and the WHPAC/HAC Minutes of July 18, 2019.

**4.1 Recommended Building Code Act By-law Amendments**

The fee to be paid for each type of permit issued under the WHBCAB is already included within the Fees Policy (COFN-005.03). In order to avoid duplication and ensure that conflicts don’t arise, fees should be removed from the WHBCAB and be replaced with a clause which covers all potential charges, leaving the specifics of what is charged for and what the fee is to the Fees Policy (COFN-005.03) established by Council. The clause regarding the calculation square footage is still needed in the WHBCAB. The proposed revised Part for the WHBCAB is:

**Part 5, Permit Fees**

- 5.1 An applicant for a building, occupancy or demolition permit shall pay the fees prescribed by Council from time to time by policy;
- 5.2 For the purposes of calculating permit fees, square footage shall be based on:
- (a) for buildings intended for human occupancy, the gross floor area of the building; including the floor area of a basement; or
  - (b) for buildings not intended for human occupancy, the gross floor area of the main floor.

The proposed amendment is shown in Appendix B.

**5.0 OPTIONS**

WHPAC/HAC may recommend that Council:

- not complete the process for amendment to the WHBCAB; or
- provide alternative direction, such as requesting further information on a specific topic.

**6.0 APPENDICIES**

Appendix A	Existing WHBCAB
Appendix B	Proposed WHBCAB Amendment

## APPENDIX A

### Taken from the West Hants Building Code Act May 2019

#### PART 5 PERMIT FEES

5.1 Fees for permits shall be as follows:

Class of Project	Fee
New construction of, and additions to, residential buildings, community centres, cottages and churches	\$25.00 + \$0.12ft <sup>2</sup>
New construction of, and additions to, commercial, industrial and other buildings not otherwise specified	\$50.00 + \$0.15ft <sup>2</sup>
New construction of, and additions to sheds, decks, storage buildings, garages, barns, and other farm, forestry or fishing buildings not designed for human occupancy	\$25.00 + \$0.06ft <sup>2</sup>
Repairs, renovations or alterations to all existing buildings	\$25.00 + \$2.50 per \$1,000 of value of construction; except that for non-structural repairs, renovations or alterations where the estimated value of construction is less than \$5,000.00, the fee shall be \$25.00.
Relocation of mobile homes and mini-homes where there is no finished basement	\$50.00
Additional fee where construction has been started prior to issuance of a building permit. This fee reflects heightened municipal costs and risks where a builder requests a permit (and therefore the associated inspection services) after already having started construction. It does not preclude prosecution for non-compliance, and does not prevent the Building Official from requiring construction work to be undone in whole or in part in order to inspect conditions not otherwise observable.	\$50.00 + applicable building permit fees
Tents or Air supported structures	\$50.00
Pools	\$25.00
Demolition of building/structure	\$25.00
Renewal or amendment of an approved permit, whether or not construction has commenced	\$25.00

- 5.2 For the purposes of calculating permit fees, square footage shall be based on:
- (a) for buildings intended for human occupancy, the gross floor area of the building; including the floor area of a basement; or
  - (b) for buildings not intended for human occupancy, the gross floor area of the main floor.
- 5.3 Fees, less a \$25.00 processing charge, shall be refunded where the application was not completed, was denied, or was withdrawn after the permits was issued and before construction has commenced.
- 5.4 The Municipality of the District of West Hants is exempt from the payment of building permit fees.

## APPENDIX B

### West Hants Building Code Act By-law Amendment

Amendment to remove specific fees from the Building Code Act By-law

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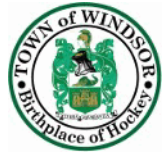
Amend the text of the Building Code By-law Act by deleting the existing Part 5 and replacing it with the following:

#### **Part 5, Permit Fees**

- 5.1 An applicant for a building, occupancy or demolition permit shall pay the fees prescribed by Council from time to time by policy;
- 5.2 For the purposes of calculating permit fees, square footage shall be based on:
  - (a) for buildings intended for human occupancy, the gross floor area of the building; including the floor area of a basement; or
  - (b) for buildings not intended for human occupancy, the gross floor area of the main floor.



**PLANNING & DEVELOPMENT SERVICES**  
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**ACTIVITY REPORT**

For Month of July 7/31/19

Type	Jul 2018			Jul 2019		
	Permits	Units	Value of Construction	Permits	Units	Value of Construction
*Single Unit	22	4	1,600,600	13	7	801,800
Duplex/Semi	1	2	400,000	1	0	47,500
Apartments	0	0	0	0	0	0
**Other Residential	23	0	315,100	17	0	182,000
Commercial	4	0	89,300	0	0	0
Industrial	0	0	0	1	0	200,000
Inst & Gov	0	0	0	5	0	208,537
Agriculture	5	0	78,500	3	0	120,000
Park/Recreational	0	0	0	4	0	34,000
<b>Total</b>	<b>55</b>	<b>6</b>	<b>2,483,500</b>	<b>44</b>	<b>7</b>	<b>1,593,837</b>
<b>Year To Date</b>	<b>251</b>	<b>61</b>	<b>14,083,474</b>	<b>238</b>	<b>57</b>	<b>21,442,438</b>
Demolition	1	0		1	1	
Sign Permits	0			0		
Sub Applications	2	2 (Lots Requested)		4	0 (Lots Requested)	

\*includes new construction, additions, renovations, repairs, and development permits.

\*\*includes garages/sheds/carports, decks, and swimming pools.



## MUNICIPALITY OF THE DISTRICT OF WEST HANTS RECOMMENDATION REPORT

**To:** Members of West Hants Planning Advisory Committee

**Submitted by:** \_\_\_\_\_  
Saira Shah, Planner

**Date:** 09-19-2019

**Subject:** Cannabis Odour Control By-law

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### **Origin**

On September 20, 2018 the Planning Advisory Committee (PAC) requested that staff investigate options to regulate odour from cannabis facilities. On November 15, 2018, staff recommended requiring applicants who wish to operate a standard-sized cannabis cultivation and/or production facility to submit an odour control plan (OCP) prepared or approved by a Registered Occupational Hygienist with the development permit application. Several PAC members had concerns about the added expense for applicants to provide an odour control plan at the development permit stage.

PAC passed a motion on November 15, 2018 directing that a requirement be added that applicants provide an odour control plan if the odour causes five (5) or more households or businesses to complain to the Municipality within a 30-day period.

Committee members felt the motion was too general and asked that a radius be included for neighbouring properties.

Staff have drafted an odour control by-law to address this request (Appendix A).

### **LEGISLATIVE AUTHORITY**

Municipal Government Act Section 172 *Power to Make By-laws*

### **RECOMMENDATION**

Based on the evaluation outlined in this report, staff recommend:

**That PAC determine that an odour control by-law related to cannabis cultivation or production facilities is not required.**

## **BACKGROUND**

An OCP is a document detailing how odour caused by the cultivation and/or production of cannabis will be minimized using Engineering and Administrative controls. Engineering controls are specific technology and equipment that can control odour while administrative controls are actions that control odour such as procedural activities, staff training and recordkeeping systems and forms.

OCPs are typically developed or evaluated by a Registered Occupational Hygienist (ROH). A ROH is registered through the Canadian Registration Board of Occupational Hygienists. There are six (6) currently registered in Nova Scotia and four (4) are based in the Halifax area.

Based on the by-law as it is drafted, if the municipality receives five (5) complaints about odour from a cannabis facility of any size from individuals representing separate households or businesses within a 1,000 ft. radius of the property, the owner of the facility must provide the Municipality with an OCP prepared or approved by a ROH at the expense of the facility owner.

The OCP must include the following:

- a facility floor plan with locations of odour-emitting activities specified;
- a list of specific odour-emitting activities;
- a schedule outlining the phases, frequency, and length of time for odour-emitting activities;
- a list of the Engineering Controls used to control odour;
- a list of the Administrative Controls outlining staff training procedures and recordkeeping systems for maintenance of Engineering Controls; and
- a timeline outlining the implementation of the OCP.

If an OCP has been created, persistent odour could be the result of faulty implementation of the OCP or a new modified OCP may be necessary to better address odour. In the interest of fairness to both residents and the cannabis facility owner, if a facility is still producing odour after an odour control plan is created and the municipality receives at least two (2) new complaints, the owner of the facility would be required to provide a recommendation report prepared by a ROH. The recommendation report must state if the OCP has been implemented correctly and if a new modified OCP is necessary.

The following are considered violations in the by-law as drafted:

- failure to submit an initial OCP;
- failure to implement the OCP;
- failure to notify the Municipality of any changes to the OCP or malfunctions impacting the implementation of the OCP; and
- failure to produce a modified OCP if recommended by a ROH.

The penalties for violating this by-law would be a Notice of Violation to the sum of \$500 after the first offense or a summary conviction to a penalty of not more than ten thousand dollars

(\$10,000) per offence and in default of payment to imprisonment for a term not exceeding sixty (60) days. As part of the staff investigation, a comparison chart of all penalties in West Hants by-laws was created to determine appropriate penalties for this By-law (Appendix B).

## **DISCUSSION**

This by-law has been reviewed by the By-Law Enforcement Officer, Municipal Clerk, the Development Officer, and the Chief Administrative Officer. Several concerns have been raised during the development of this by-law.

### *Federal Government Regulations for Odour*

In the Cannabis Regulations SOR/2018-144 (<https://laws-lois.justice.gc.ca/PDF/SOR-2018-144.pdf>) Section 85, any cannabis facility is required to be equipped with a system that filters air to prevent the escape of odours. Health Canada stated it will confirm before issuing a licence that the applicant has a system in place to help ensure sufficient air filtration is provided and prevent odours from escaping the facility. Health Canada will inspect all licence holders on a regular basis to assess and monitor compliance to ensure odour control technology is maintained.

If odour becomes an issue at a cannabis facility, complaints can be sent to the Federal government using the cannabis reporting form at:

<http://www.healthycanadians.gc.ca/en/health-canada/services/drugs-medications/cannabis/recalls-adverse-reactions-reporting/reporting-form.html>.

### *Implementation Costs*

An OCP would be required when complaints are received by the Municipality about an existing cannabis facility. The OCP may require the facility owner to install specific odour control technology. The cost to implement the plan would include the technology and the installation of the technology. The installation would be more expensive in an existing building as opposed to incorporating the technology during the construction process for a new building.

### *Effectiveness of a Complaint-based System*

Determining if odour is an issue can be very subjective. Developing a by-law based on complaints puts the onus on neighbours to file formal complaints against their neighbours. This creates an environment where municipal employees would be involved in civil disputes.

There are jurisdictions that have developed measurable amounts for odours. The technology to measure odour, known as the Nasal Ranger, is approximately \$3,075 with additional annual fees for maintenance. Denver Colorado's code enforcement officer uses this device when complaints are received and has not found that any marijuana facility violates the city's standard. This indicates that it is difficult to set a standard measure for odour that adequately appeases all individuals involved.

### *The Impact of Consolidation*

Any by-law approved by the West Hants Council will only apply to West Hants after consolidation. If the Regional council wishes this by-law to apply to the entire Region, it would have to go through the process to approve the by-law again for the Region. This duplication in process could be avoided if the by-law is considered after consolidation.

#### *Administrative Hurdles*

It would take a significant amount of time for the by-law enforcement officer to implement the by-law in terms of visiting the site and drafting notices to the facility owner. The by-law enforcement officer also raised concerns about administering an OCP without proper training. Staff amended the by-law to accommodate this by requiring a recommendation report from a ROH to determine if an OCP is implemented correctly. As there are only four (4) ROHs in the Halifax area, the recommendation report could be drafted by the same ROH that created the original OCP.

#### **Financial Implications**

There would be several added expenses to approve and implement this by-law. A lawyer would have to review the by-law before it can be approved by Council. Once the by-law is approved, additional staff time from the by-law enforcement officer would be required to administer the by-law. If the owner of a facility was in violation of the by-law, it would cost the municipality legal fees to prosecute.

#### **ALTERNATIVES**

In response to this report, PAC may:

- determine that an odour control by-law related to cannabis cultivation or production facilities is not required;
- follow the process to approve the by-law as drafted, pending review by legal staff;
- direct staff to revise the by-law and present the revised version to PAC at a later date; or
- provide alternative direction, such as requesting further information on a specific topic.

#### **ATTACHMENTS**

Appendix A Draft Cannabis Facilities Odour Control By-Law

Appendix B West Hants By-law Penalty Comparison

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Report Approved by: \_\_\_\_\_  
Madelyn LeMay, Director of Planning and Development



BY-LAW

X-XXX

**MUNICIPALITY OF THE DISTRICT OF WEST HANTS**  
*Cannabis Facility Odour Control By-Law*

**1 AUTHORITY**

Section 172 (1) of the Nova Scotia Municipal Government Act (MGA) provides Municipalities with the power to make by-laws regarding nuisances including odours.

**2 PURPOSE**

The purpose of this By-law is to mitigate and control nuisance odours within the Municipality which occur as a result of cannabis cultivation and production.

**3 DEFINITIONS**

In this By-law:

- (a) "Administrative Controls" means actions that control odour such as procedural activities, staff training and recordkeeping systems and forms.
- (b) "Engineering Controls" means odour controlling technology and equipment.
- (c) "Facility" means a Federally licensed site where cannabis is cultivated, produced, and/or stored.
- (d) "Malfunctions" means a failure in a device or process which impacts the effectiveness of the device or process.
- (e) "Municipality" means the Municipality of the District of West Hants.
- (f) "Odour Control Plan" (OCP) means a document detailing how odour caused by the cultivation and/or production of cannabis will be minimized using Engineering and Administrative controls.
- (g) "Registered Occupational Hygienist" (ROH) means an individual registered with the Canadian Registration Board of Occupational Hygienists.

**4 ODOUR CONTROL PLAN**

4.1 An OCP shall be prepared or approved by a ROH at the expense of the owner of the facility and should minimize, to the fullest extent possible, the detection of odour outside of the facility.

4.2 The OCP shall include:

- (a) a facility floor plan with locations of odour-emitting activities specified;
- (b) a list of specific odour-emitting activities;
- (c) a schedule outlining the phases, frequency, and length of time for odour-emitting activities;
- (d) a list of the Engineering Controls used to control odour;
- (e) a list of the Administrative Controls outlining staff training procedures and recordkeeping systems for maintenance of Engineering Controls; and
- (f) a timeline outlining the implementation of the OCP.

**5 SUBMISSION OF ODOUR CONTROL PLAN**

The Municipality shall provide written notice to the owner of the facility that it is required to submit an OCP to the By-law Enforcement Officer or Special Constable within 120 days of the fifth (5) complaint from individuals representing separate households or businesses within a 1,000 ft. radius of the property, or within a reasonable amount of time determined by the By-law Enforcement Officer or Special Constable. Failure to submit the plan shall be a violation of this By-law. A copy of the OCP will be stored in the Development Officer's files.

**6 IMPLEMENTATION**

- 6.1 The owner of the facility must implement the OCP in accordance with the timeline provided in their OCP.
- 6.2 The owner of the facility must notify the Municipality of any changes to the OCP or malfunctions impacting the implementation of the OCP within 30 days of the incident. Failure to notify the Municipality of a malfunction shall be a violation of this By-law.
- 6.3 The owner of the facility must maintain and provide to the Municipality upon request all records relating to the OCP, including but not limited to system installation, maintenance and any malfunctions.
- 6.4 If the Municipality receives two (2) or more complaints from individuals representing separate households or businesses within a 1,000 ft. radius of the property at any time within 30 days after the OCP is implemented, the Municipality shall provide the owner of a facility with written notice of such complaints. The owner of a facility will be required to provide the By-law Enforcement Officer or Special Constable a recommendation report prepared by a ROH at the expense of the owner of the facility stating if the OCP has been implemented correctly and if a modified OCP is required within 60 days of the written notice of such complaints,

or within a reasonable amount of time determined by the By-law Enforcement Officer or Special Constable. Failure to implement an OCP shall be a violation of this By-law. A copy of the recommendation report will be stored in the Development Officer's files. Based on the ROH's recommendation, the owner of a facility may be required to submit a modified OCP within a reasonable amount of time, determined by the By-law Enforcement Officer or Special Constable. Failure to submit a modified OCP within the required time period shall be a violation of this By-law.

## **7 PENALTIES**

- 7.1 An owner of a facility who neglects or fails to do anything required by this By-law is guilty of an offence and is liable on summary conviction to a penalty of not more than ten thousand dollars (\$10,000) per offence and in default of payment to imprisonment for a term not exceeding sixty (60) days.
- 7.2 In lieu of prosecution under this By-law and only upon first offense, the By-law Enforcement Officer or Special Constable may, in their sole and absolute discretion, issue to any person or company they believe upon reasonable grounds has committed an offence under this By-law, a Notice of Violation. The Notice shall require the person to whom it is directed to pay to the Municipality within fourteen (14) days of the issuance of the Notice the sum of \$500. Where a Notice of Violation is issued and if that sum is paid as required therein, no prosecution shall ensue in respect to the matter or matters referred to in the Notice. If any person or company commits additional offences under this By-law after the sum is paid, the Municipality shall initiate summary offence proceedings. For greater certainty, nothing in this By-law requires the Municipality to issue a Notice of Violation before initiating summary offence proceedings.

I, Rhonda Brown, Municipal Clerk of the Municipality of the District of West Hants, the Province of Nova Scotia, do hereby certify that this is a true copy of the By-law as adopted by the Council of the Municipality of the District of West Hants at a meeting duly called and held on the \_\_\_\_ day of \_\_\_\_\_(month), \_\_\_\_\_(year).

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*Rhonda Brown*



By-Law Adoption	
First Reading:	<i>Date</i>
Notice Published:	<i>Date</i>
Second Reading & Approval	<i>Date</i>
Final Publication	<i>Date</i>
Notice to Municipal Affairs	<i>Date</i>
Description:	

DRAFT

**Appendix B**  
**West Hants By-law Penalty Comparison**

By-law	Penalty Details	Maximum Fine
<b>Municipal Property Trespass by-law</b>	Any person who violates a provision of this By-Law shall be guilty of an offence against this By Law and shall be liable to a penalty not exceeding <b>One Hundred Dollars</b> , exclusive of costs and in default of payment be imprisoned for a period not exceeding one month.	\$100
<b>Exotic Pets By-law</b>	Every person who contravenes or fails to comply with any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a penalty of not less than <b>One Hundred Dollars (\$100.00)</b> or more than <b>Five Thousand Dollars (\$5,000.00)</b> , and in default of payment, to imprisonment for a period of not more than <b>ninety (90) days</b> .	\$5,000
<b>Cemetery By-law</b>	Any person who violates any provision of this By-Law shall be guilty of an offence punishable on summary conviction to a penalty of not more than <b>one thousand dollars (\$1000.00)</b> or, in default of payment of the penalty, imprisonment for a term not exceeding <b>thirty (30) days</b> .	\$1,000
<b>Civic Addressing By-law</b>	Any person who violates any provision of this By-law shall be liable on summary conviction to a penalty of not less than <b>\$200.00</b> and not more than <b>\$5,000.00</b> , and in default of payment to imprisonment for a period of not more than <b>90 days</b> .	\$5,000
<b>Dog by-law</b>	A person who does anything else prohibited by this By-law or who neglects or fails to do anything required by this by-law to be done by him is guilty of an offence and except where some other penalty is provided by this By-law for the act, refusal, neglect, or failure, the offence is liable on summary conviction to a penalty of not more than <b>ten thousand dollars (\$10,000)</b> per offence and, in default of payment, to imprisonment for a term not exceeding <b>sixty (60) days</b> .	\$10,000
<b>False Alarm By-law</b>	A person who contravenes any provision of this by-law shall upon summary conviction be liable to a penalty of not less than <b>\$100</b> and a maximum penalty of <b>\$5000</b> and in default of payment to imprisonment for a maximum period not exceeding 90 days.	\$5,000
<b>Fire Protection By-law</b>	Anyone who violates the provisions of this By-law shall be liable to a minimum penalty of not less than <b>Two Hundred Dollars (\$200.00)</b> and not exceeding <b>Ten Thousand Dollars (\$10,000.00)</b> and in default in payment thereof to imprisonment	\$10,000

	for not more than <b>one year</b> or both, including the imposition of a minimum fine.	
<b>Peace and Good Order By-law</b>	Any person who fails to comply with the provision of this By-law shall be liable upon conviction to a penalty or not less than <b>Twenty-Five Dollars (\$25.00)</b> and not more than <b>One Hundred Dollars (\$100.00)</b> , and in default of payment to imprisonment for a term not exceeding <b>thirty (30) days</b> .	\$100
<b>Special Events By-law</b>	Any person who fails to comply with the provisions of this By-law for which no penalty is expressly provided shall be liable on conviction to a penalty of not less than <b>two thousand dollars (\$2000)</b> and not more than <b>ten thousand dollars (\$10,000)</b> , and in default of payment, to imprisonment for a term not exceeding <b>two (2) months</b> .	\$10,000
<b>Sewage Lagoon By-law</b>	Any person who contravenes or fails to comply with any of the provisions of this By-law shall be liable upon conviction to a penalty of not less than <b>One Hundred Dollars (\$100.00)</b> and not more than <b>One Thousand Dollars (\$1,000.00)</b> for each such offence, and in default of payment of the penalty, may be imprisoned for a period of time to be not less than five days and not more than ninety days.	\$1,000
<b>Solid Waste Management By-law</b>	Where a person is convicted of an offence under Section 45 ( <i>illegal dumping</i> ) of this By-law, they are liable to a penalty on summary conviction to a fine of not less than <b>Five Hundred Dollars (\$500.00)</b> and not more than <b>Ten Thousand Dollars (\$10,000.00)</b> for each offence and to imprisonment of not more than <b>one year</b> or both.	\$10,000



**MUNICIPALITY OF THE DISTRICT OF WEST HANTS**  
**RECOMMENDATION REPORT**

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**To:** Members of West Hants Planning Advisory Committee

**Submitted by:** Madelyn LeMay, Director of Planning and Development

**Meeting Date:** September 19, 2019

**Subject:** **Timing of Processes for Amending Planning Documents and Approving Development Agreements**

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**ORIGIN**

Applications from the public are received for amendments to planning documents and for the consideration of development agreements and amendments to development agreements. When these applications are received or completed is outside the control of either Windsor or West Hants, which may result in the time frame for consideration and/or approval of these applications extending past April 1, 2020.

**LEGISLATIVE AUTHORITY**

Municipal Government Act (MGA) Part 8

**RECOMMENDATION**

**...that Council determine that:**

- **any applicant for an amendment to planning documents, consideration of development agreements or amendments to development agreements received after October 25, 2019, for West Hants or Hantsport be advised that the process likely cannot be concluded by West Hants Council; and**
- **the process will be followed to the conclusion of the Public Information Meeting and recommendation by the relevant Planning Advisory Committee; and**
- **the Planning Advisory Committee recommendation will be forwarded to the Regional Council for early consideration at First Reading and Public Hearing.**

**AND**

**...that Council determine that if the Public Hearing for any Land Use By-law Amendment completed between October 25 and December 17 cannot be advertised within 120 days of the date of the application being completed, that staff notify the applicant and advise them of any staff and/or Planning Advisory Committee recommendation and the anticipated timeline.**

**BACKGROUND**

Owners and developers are entitled under the MGA and the Public Participation Program of each of Windsor and West Hants to have applications for amendments to a Municipal Planning Strategy

(MPS) or Land Use By-law (LUB) or for a development agreement or amendment to a development agreement considered in a timely fashion.

There is no statutory time limit on establishing a public hearing for an MPS amendment as a change in the MPS affects the policy of Council. A LUB amendment application is deemed to be refused if Council has not scheduled a public hearing within 120 days of a complete application [MGA 210(6)]. There is no statutory time limit for publishing a notice of public hearing regarding development agreements or amendments to development agreements as they result from a negotiated process.

## **DISCUSSION**

The process used for planning document amendments and development agreement and development agreement amendments in both Windsor and West Hants is established by the approved Public Participation Programs, which are the same for Windsor and West Hants and the requirements of the MGA.

There are two processes which would seem reasonable for all of the types of applications:

- (1) ensure the entire process is concluded prior to April 1, 2020; or
- (2) halt the process immediately following the required Public Information Meeting (PIM) and recommendation by the Planning Advisory Committee (PAC). The PAC recommendation would be addressed to Regional Council.

In order to ensure the process is complete (including having a development agreement signed by the Warden or Mayor prior to April 1, 2020) the last possible dates for receipt of application are:

- West Hants LUB Amendment and Development Agreement: October 25, 2019
- Hantsport LUB Amendment: October 25, 2019

In order to complete the process to the PIM and PAC recommendation stage the last possible dates for receipt of application are:

- West Hants LUB Amendment and Development Agreement: January 21, 2020
- Hantsport LUB Amendment: December 27, 2019.

The main concern is consideration of a LUB amendment application received when there is no time to complete the required process before April 1, 2020 and before the date which would allow Regional Council to give First Reading and publish the required notice of intent without exceeding the 120 day deemed refusal timeline. Presuming a Regional Council meeting (and First Reading) before April 8, 2020, this date is December 17, 2019. Timing would be an issue only for applications completed between October 25 and December 17, an approximately seven (7) week period. Staff may not be able to have the process complete as required comments may not be received from external agencies in time to prepare a report.

## **POLICY IMPLICATIONS**

Determining the process to be followed for applications to amend planning documents or consider development agreements and development agreement amendments does not have any impact on existing policies for Hantsport or West Hants and will have no impact on processes determined by Regional Council.

## **FINANCIAL IMPLICATIONS**

There are no financial implications for determining how applications will be considered.

**ALTERNATIVES**

PAC could recommend that Council direct staff to:

- (1) follow the usual process for all applications for amendments to planning documents, and for the consideration of development agreements and amendments to development agreements which could result in part of the required process needing to be re-done following April 1, 2020, which would increase the time required for completion.

**ATTACHMENTS**

None

**Report Prepared by:**

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Madelyn LeMay, Director of Planning and Development  
Municipality of the District of West Hants and Town of Windsor

**Report Reviewed by:**

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Martin Laycock, CAO, Municipality of the District of West Hants