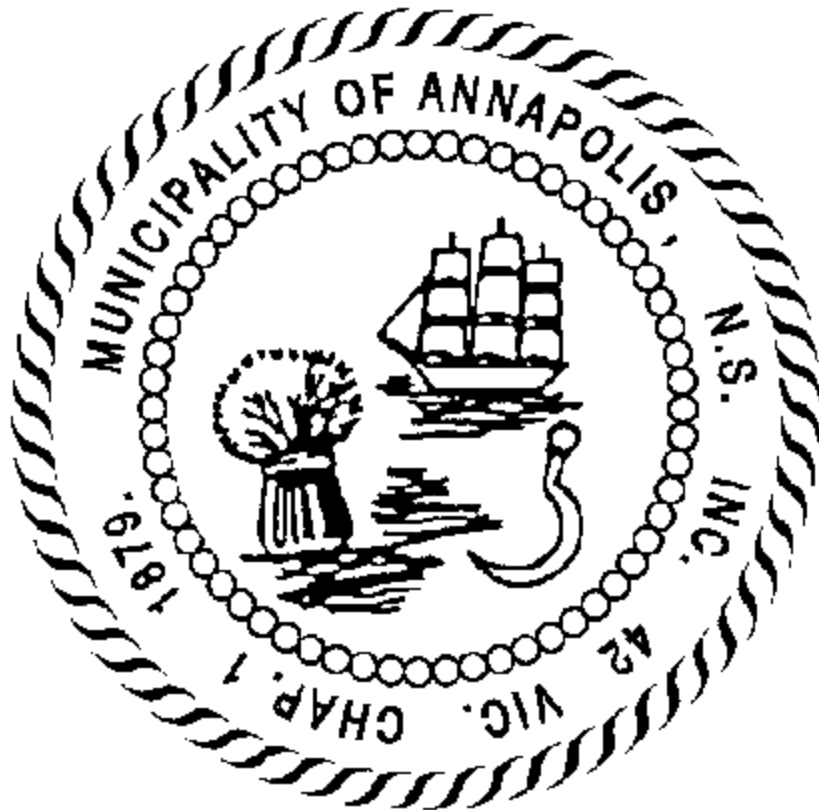


# *UPPER CLEMENTS AREA*

## *Municipal Planning Strategy*



*Annapolis County*

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## **PART 1 INTRODUCTION**

### **1. PREAMBLE**

This Municipal Planning Strategy and Land Use By-law for the Upper Clements Area of Annapolis County has been prepared according to the provisions of **The Planning Act**, Chapter 346, Revised Statutes of Nova Scotia, 1989, as amended. This Municipal Planning Strategy (MPS) is a legal document, a policy document and the Upper Clements' area of Annapolis County major framework for development, and where land and development issues are dealt within this Municipal Planning Strategy (MPS), they shall be implemented by the accompanying Upper Clements Area Land Use By-law (LUB). The Upper Clements Area Municipal Planning Strategy applies to all lands within the Upper Clements area, as defined by Schedule "A", Future Land Use Map and shall be referred to as the Upper Clements Planning Area or the Planning Area.

## **PART 2 SECTION 49 MANDATORY FIVE YEAR REVIEW**

### **1. PLANNING DOCUMENT REVIEW PROCESS**

In January of 1998 the Council for the Municipality of the County of Annapolis authorized a full review of the Upper Clements Area Municipal Planning Strategy and Land Use By-law. The review program was coordinated by the Upper Clements Area Advisory Committee. The preparation of the 1998 Upper Clements Area Municipal Planning Strategy and Land Use By-law plan review was carried out by the staff of the Annapolis County Planning Services under the direction of the Upper Clements Area Advisory Committee and County Council. The Upper Clements Area Advisory Committee consisted of five local area residents along with the County Council representatives for the area. To facilitate the preparation of the Strategy, a consultation process was undertaken including extensive consultations with the Municipality of Annapolis County Council representatives, members of the Upper Clements Area Advisory Committee, as well as representatives of the Department of the Environment and the Department of Transportation and Public Works. A public participation program, was initiated by Council, that involved newspaper advertisements, meeting notice advertisements, open Upper Clements Area Advisory Committee and Planning Advisory Committee meetings, and open house format public meetings. A land use survey mapping exercise was undertaken during the 1997 / 1998 winter season and finalized during the summer of 1998, with continuous updates throughout the plan review process which resulted in the preparation of up to date land use maps and planning information.

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## **PART 3 PLANNING STRATEGY AUTHORITY AND CONTEXT**

### **1. PLANNING STRATEGY PURPOSE**

As the end result of a five year review process, this Municipal Planning Strategy for the Upper Clements Area of Annapolis County updates and replaces the Upper Clements Area Municipal Planning Strategy approved by the Minister of the then Municipal Affairs January 28, 1993. The purpose of this planning document is to provide a broad planning framework to manage the future growth and change in the area and to provide policy guidance on land use and other related development issues. On a day-to-day basis, the Upper Clements Area Municipal Planning Strategy serves to provide the framework for decisions related to development in the Planning Area. The Upper Clements Area Municipal Planning Strategy has an approximate ten year time frame horizon and is expected to be in place for a minimum of five years prior to a full review. As such, it is imperative that the Upper Clements Area Municipal Planning Strategy provide for changing circumstances while clearly stating Council's policy position on land use and related development issues.

### **2. PLANNING STRATEGY BIAS**

The underlying themes of this planning revision process are that the next generation of the Upper Clements Plan must ensure that the planning process avoids being overly restrictive, but continues to offer protection of land uses within the Planning Area by way of adhering to the key land use planning concepts of the separation of land uses, the allocation of land resources and the development of compatible physical attributes that contributes to the feeling that the Upper Clements Planning Area of Annapolis County is a special place within the County. This Strategy seeks to accomplish these themes. It must also be emphasized that this Strategy pertains almost exclusively to matters of land use, development control and servicing. It does not propose to be an all-encompassing strategy for economic and social development. While sound economic and social planning are clearly desirable, the scope of such planning is so broad that it cannot be effectively dealt with in this one document. As a result, this Strategy seeks to facilitate economic and social development and to be supportive of efforts in that regard, but in no way attempts to provide the answers for all of the challenges facing the Upper Clements area of Annapolis County.

### **3. LAND USE PLANNING GOALS**

In order to direct this Strategy, Council has adopted specific goals. These goals articulate the desired future; set the direction; focus of the Upper Clements Planning Area programs and activities; and act as a guide for daily decision making with respect to development proposal and project evaluation. The specific goals of this Municipal Planning Strategy include the following:

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- G-1. To foster an economic climate in the Upper Clements Planning Area which is based on local needs and builds on community resources.
  - G-2. Provide a basis for Council to guide and direct new development in the Upper Clements Planning Area in an orderly, economical manner.
  - G-3. Preserve and enhance the rural character of the Upper Clements Planning Area by allowing for a mixed use development pattern that encourages the establishment of residential development along side compatible commercial or industrial developments.
  - G-4. Guide Council in making decisions concerning the provision of services and facilities for the Upper Clements Planning Area and to be responsive and flexible to potentially constructive changes in the physical, economic and social conditions of the Planning Area.

#### 4. LIMITATIONS

This Municipal Planning Strategy sets out policies directed toward the attainment of these general goals. In adopting these policies Council does not commit itself to undertaking any of the projects therein suggested or outlined but Council is prevented from undertaking any development within the scope of the Municipal Planning Strategy in any manner inconsistent or at variance with this Municipal Planning Strategy (Planning Act, Section 45). In other words, Council is not legally bound to undertake projects suggested in this Municipal Planning Strategy (such as the construction of a sewage treatment plant) but Council is legally bound not to contravene the policies by, for example, approving a zoning amendment which the Municipal Planning Strategy clearly indicates should not be approved.

#### 5. COMPONENTS TEXT AND MAPS

The Upper Clements Area Municipal Planning Strategy is divided into a number of sections each dealing with one or more subject areas. Each section contains policies prefaced with explanatory material. The map contained in and forming an integral part of this Strategy, is the Future Land Use Map (Schedule "A"). The Future Land Use Map designates all lands within the Upper Clements Planning Area to one of the following designations:

**Mixed Use:** Those areas of the Upper Clements Planning Area which are already predominantly mixed use residential and small scale service oriented in nature, or are suitable for such development.

**Commercial:** The area along Highway #1 in the eastern portion of the Planning Area generally bounded by the Annapolis Basin and Allains Creek which has been developed and is suitable for further larger scale commercial or industrial development.

**Park:** The combined lands of the Upper Clements Family Park, the Upper Clements Wildlife Park and the Provincial Day Use Picnic Park.

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## **PART 4 PLANNING AREA CONTEXT**

### **1. HISTORICAL DEVELOPMENT**

The Upper Clements Planning Area has the distinction of being one of the earliest European settled areas of the County. Details of recorded area history state that it was the exploration in 1604 of the Frenchman Demonts and his followers which eventually led to the building of the Habitation just across the Basin from the Upper Clements Planning Area which was among the first permanent settlements in North America.

The Upper Clements Planning Area is comprised of what was the Clements Township. This political partitioning in 1784 resulting from a grant to George Sutherland and two hundred and forty others, mostly German Loyalists who had come to Nova Scotia after the Peace of 1783. Through continuous intermarriage with settlers of British origin, teaching in the English tongue, etc. a fusion of cultures has taken place and has led to a culture scarcely distinguishable from the rest of the County. Original development and the subsequent development patterns of the area were for the most part dependent on water navigation. However, 1787 was the year which substantially marked a change to this era of water transportation when a committee was appointed to lay out a road from Bear River to Allains Creek.

Clementsport, an easily identifiable community in the Planning Area, once known as the Hamlet of Clementsport, evolved as a result of its location at the head of the tide waters of the Moose River and the mouth of the river where it meets the Annapolis River. Clementsport, once a major shipyard construction area, succeeded because of its large tidal mouth which provided sufficient depth to admit the passage of large sailing vessels, many of which were constructed in and around Clementsport. Clementsport's notoriety also flows from the Annapolis Mining Company which was formed and operated within Clementsport for working the valuable iron mines in the area to which many coal sheds, accessory buildings and a smelting furnace was constructed. However due to a number of factors, Clementsport fame shifted away and today it largely exists as a residential community.

In addition to the Iron Ore Mine, shipbuilding and milling, other major industries of the area in the early development included farming, lumbering and fishing. Within the fishing industry, the herring fishery was of considerable value with weirs annually erected on the sandbars and flats existing along the Basin. This industry, not confined to Clements Township, extended from Granville as far as Digby. It is interesting to note that recorded deed history of the area continues to reflect the value once placed on the importance of the fishing industry to the area in that the ownership of the area's "flats" had been granted in fee simple to adjoining land owners encompassing land out to the low water mark, a measure initiated to prevent or resolve disputes between rival fishermen and to allow those abutting property owners the fishing privilege within these low water mark areas.

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## **2. PHYSICAL AND ENVIRONMENTAL CONSIDERATIONS**

The Upper Clements Planning Area is situated on the south side of the Annapolis Basin with the lowlands of the Annapolis Valley and extending into the South Mountain and drains to the Annapolis Basin. Along the shoreline of the Annapolis Basin, there is a considerable variety of marine alluvium including salt marshes reclaimed for farmland by the Acadians by means of earth dykes which is some of the best agricultural lands within the County, as is evident by active farming including orchards, dairy farms, etc. In terms of forest use of the Planning Area, the indigenous forest communities have been greatly modified both directly and indirectly by human habitation. Like the majority of the County, the Upper Clements Planning Area forest can be characterized as a softwood forest type with mixed softwood and hardwood pockets.

In general, the County lies within a cool humid temperate climatic zone. The weather is variable as a result of the interaction between the dry continental and cool moist Atlantic air masses. The generalized west end of the County area, including the Planning Area in comparison to the east end of the County and in general with the rest of Nova Scotia has a somewhat longer frost free period (i.e., Annapolis Royal 139 days - Middleton 93 days). This micro climatic influence has allowed for a somewhat wider range of crops, compared to other parts of the County, such as peach orchards and provides an excellent climate for greenhouse operation.

## **3. EXISTING LAND USE**

Any discussion of the use of land in the Upper Clements area of Annapolis County should be viewed in terms of its place in the development of land use patterns in the County as a whole. Like the majority of Annapolis County, the linear development pattern along the existing roadways is commonplace in the Upper Clements Planning Area, predominantly following the Annapolis Basin. The Hamlet of Clementsport, a historic Community, is the main area that boasts a relatively old housing stock, pre-1914 structures, with a fair degree of summer cottages along with a somewhat limited commercial base. Commercial development, as with agricultural development, though scattered throughout the Planning Area is somewhat concentrated in the area along Highway #1 from Allains Creek to the Dugway Road intersection, but overall the Upper Clements Planning Area can be characterized as lacking any significant amount of industrial development as well as a nodal commercial base. Tourism attractions, however, such as the Upper Clements Family Park, the Wildlife Park and the Provincial Picnic Park are very much nodal, located centrally within the Planning Area. Some of the significant historic areas or structures within the Planning Area include the Goat Island Baptist Church in Upper Clements, Old St. Edwards Church and Cemetery in Clementsport and the Grist Mill Historic Site on the Dugway Road.

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#### **4. FUTURE DEVELOPMENT PROSPECTS**

Generally speaking, the Upper Clements Planning Area can be characterized as having seen little in the way of major development in the twentieth century in terms of both its population base and housing stock. Because of the delineation of the Planning Area boundary, it is difficult to accurately estimate the area's population, age structure or projection. However, population statistics compiled by Statistics Canada, lists the Upper Clements Planning Area as Annapolis Census Subdivision Area "A" comprising of the whole of Enumeration Area Number 202 and a portion of Enumeration Area 201. Based on the afore going assumption of Enumeration Area divisioning, generally speaking, the Upper Clements Planning Area, in 1996 supported a population base of some 720 persons using a cross matching tabulation of total dwelling units (277) and factoring an average of 2.6 persons per dwelling. However this formulation may be somewhat skewed in that it factors seasonal dwellings as permanent. More realistically, it can be assumed that the Upper Clements Planning Area supported a year-round base of some 687 persons.

Because population projections tend to be based on past trends, it is virtually impossible to predict population growth or a change in the population of an area accurately. However, based on more recent performances of dynamics of the Planning Area it can easily be argued that the area as a whole will remain stable in terms of population growth or change. Consequently, it is unlikely that the Planning Area as a whole will experience any dramatic surge or upswing in either commercial or industrial development. Therefore in terms of plan development, it is anticipated that this plan will remain stable over the next five years, until the required review period. However, given this plan is flexible enough to deal with some growth, should a dramatic surge in construction activity or a major employment change occur, Council may wish to the review this Strategy prior to the mandatory five year review period to ensure adequate development control mechanisms are in place. It is also desirable that the community-based Upper Clements Area Advisory Committee continue to function as an area subcommittee of the Annapolis County Planning Advisory Committee to review and monitor new developments, trends or changes within the Planning Area, in addition to solely reacting to requested land use by-law text or map amendments.

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## **PART 5    POLICIES**

### **1.     THE MIXED USE DESIGNATION**

A designation in planning terms is the delineation of an area on a map, in this case the Future Land Use Map, that identifies those areas which are presently or appropriate for similar future development purposes or uses. The purpose of the Mixed Use Designation is to identify on the Future Land Use Map those areas within the Upper Clements Planning Area that are presently or appropriate for a mixed use pattern of development. The mixed use term refers to present allotment or the potential availability of land to support a mixing of residential with compatible, low level density, non obnoxious commercial or industrial uses.

#### **Policy 5.1.1**

**It is the policy of Council to designate those areas of the Upper Clements Planning Area which are predominately mixed use in nature or appropriate for mixed use development as "Mixed Use " on the Future Land Use Map.**

#### **a.     Residential Development in the Mixed Use Designation**

The majority of the Upper Clements Planning Area's 277 occupied dwellings are single detached, owner-occupied units. During the existing land use survey periods, it was noted that there were approximately 249 single unit dwellings and nine mobile homes. In addition to this, recorded were only three multiple residential dwelling complexes, with no vacant or under construction dwelling units being noted during the land use survey periods. However, the typical land development pattern in the Upper Clements Planning Area, outside of being linear, is one of locating small scale commercial or industrial uses in close proximity to residential uses. Given that this development pattern has generally been accepted as an established development pattern, it is the intention of Council that it continues and is supported through the establishment of land use regulations that condone mixed use development. As such, Council feels that it is appropriate that a General Mixed Use (R-2) Zone is established in the Land Use By-law which would permit the development of a wide variety of low density housing forms including individually sited mobile homes.

#### **Policy 5.1.2**

**It is the policy of Council to include in the Land Use By-law a General Mixed Use (R-2) Zone in which a variety of residential uses, institutional, agricultural industry and forestry industry uses and neighbourhood public parks and playgrounds shall be permitted, subject to appropriate standards relating to such uses including provisions for home occupations accessory buildings, signage and parking.**

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**i. Low Density Residential Development**

The policies of Council contained in this Strategy encourage the construction of new housing and facilitate the continued improvement of housing conditions and the residential environment in general. As described in the previous section, while the majority of residential development is in close proximity to a commercial or industrial use, Council feels that it is appropriate that some options are put in place via the Land Use By-law that would allow for the delineation of low density residential areas or zones that would consist of either a purely residential area that lacks the intrusion of inappropriate commercial or industrial uses and where single detached dwellings are the exclusive housing form or a residential area that would allow only for the development of home based commercial enterprises that would not impact to any great extent on the adjacent residential uses. In terms of the Residential Single Unit (R-1) Zone, it is the opinion of Council that the residents of the Planning Area will have to request this type of protection, through an application for rezoning, as opposed to Council rezoning any such areas for development as exclusive residential single unit area.

**Policy 5.1.3**

**It is the policy of Council to establish a Residential Single Unit (R-1) Zone in the Land Use By-law which would limit the permitted uses in the R-1 Zone to single detached dwellings and public parks and playgrounds with appropriate standards relating to such uses, including provisions for home occupations, accessory buildings, signage and parking.**

**Policy 5.1.4**

**It is the policy of Council to consider applications to rezone any land within the "Mixed Use " designation to the Residential Single Unit (R-1) Zone. In considering such applications to rezone land to the Residential Single Unit (R-1) Zone, Council shall have regard to the evaluative criteria set out in Policy 5.9.2.2 and in particular, Council shall ensure that the lands to be rezoned comprise of or have a minimum area of four hectares (9.88 acres) and no non-conforming uses are created as a result of the rezoning.**

**ii. Protected Residential Areas in the Mixed Use Designation**

There are parts of the Planning Area that the residents may wish to see developed as strictly residential areas in which the single detached dwelling with no home based commercial activity whatsoever is the exclusive housing form. Council feels that this type of situation should be recognized in the plan for the Upper Clements Planning Area, but Council

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wants to ensure some control can be exercised over the creation of this type of specific residential zone protection. Council also feels the residents of the area will have to request this type of protection, as opposed to Council rezoning areas as protected residential. Consequently, Council will consider applications to rezone land to the Residential Protected (R-4) Zone, on the condition that the land to be rezoned consists of an area a minimum of four hectares (9.88 acres) and no non-conforming uses are created as a result of the rezoning.

#### **Policy 5.1.5**

**It is the policy of Council to include in the Land Use By-law a Residential Protected (R-4) Zone in which public parks and recreation uses and single detached dwellings, with no home-based commercial office or business activities, shall be permitted.**

#### **Policy 5.1.6**

**It is the policy of Council to consider applications to rezone any land within the "Mixed Use " designation to the Residential Protected (R-4) Zone. In considering such applications to rezone land to the Residential Protected (R-4) Zone, Council shall have regard to the evaluative criteria set out in Policy 5.9.2.2 and in particular, Council shall ensure that the lands to be rezoned comprise of or have a minimum area of four hectares (9.88 acres) and no non-conforming uses are created as a result of the rezoning.**

### **iii. Multiple Unit Development in the Mixed Use Designation**

Via the policies established in this Municipal Planning Strategy, multiple unit housing in the form of townhouses, rowhouses, multiple unit dwellings, or converted dwellings are encouraged to be developed in the Planning Area, as they offer an affordable alternative to the single detached dwelling. Additionally, multiple unit housing is an efficient use of land in that it provides a greater density of development (i.e., units/acre) and can, for example, be less expensive to service. However, the density of these kinds of development can also present problems in terms of effects on surrounding residential or mixed use developments. Council is also concerned with the design and maintenance of new multiple unit dwellings and the perceived effect they may have on the market value of surrounding uses. Council feels that it is therefore appropriate that the development of new multiple unit dwellings or the expansion of existing multiple unit developments be considered by development agreement.

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**Policy 5.1.7**

**It is the policy of Council that in the General Mixed Use (R-2) Zone, the following shall be considered by development agreement in accordance with the evaluative criteria set out in Policy 5.9.3.1:**

- (1) new multiple unit dwelling developments;**
- (2) the expansion of an existing multiple unit dwelling development to create additional dwelling units attached to or within an existing multiple unit dwelling.**

**iv. Mobile Home Parks in the Mixed Use Designation**

Presently, there are no mobile home parks located within the Planning Area. While this Strategy does not provide for a separate zone for mobile home parks, Council, recognizes the need to provide opportunities to develop a mixture of housing types and affordable housing choices. The main understanding is however that in a mobile home park, lots are rented, rather than sold, to mobile home owners, and the streets, underground services, and green areas may remain the property of the park owner rather than be deeded to the Municipality. Additionally, due to potential problems related to maintenance, aesthetics and servicing, Council wishes to maintain a firm control over future mobile home parks, therefore Council supports allowing mobile home parks to locate anywhere within the General Mixed Use (R-2) Zone, but only by way of the development agreement process.

**Policy 5.1.8**

**It is the Policy of Council that in the General Mixed Use (R-2) Zone to consider the development of new mobile home parks (including any use necessary or incidental to normal operations of a park such as mobile home park office and storage buildings) by development agreement in accordance with the evaluative criteria set out in Policy 5.9.3.1 and in considering applications for a development agreement for the development of new mobile home parks in the “Mixed Use” designation Council shall have regard for the criteria set out below to ensure that:**

- (1) a mobile home park is compatible within the surrounding area;**
  - (2) adequate vegetative or other buffering is provided between the park and adjacent residential, commercial, institutional or industrial uses;**
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- (3) **satisfactory arrangements are made to service the park with on-site water and sewer services;**
- (4) **a minimum of 5% of the total mobile home park development area is reserved and developed exclusively for parks, playgrounds, and recreational open space; and**
- (5) **the park is a minimum of four hectares (9.88 acres) in size.**

**b. Commercial and Industrial Development in the Mixed Use Designation**

Via the previous land use by-laws that operated within the Upper Clements Planning Area, the development of commercial or small scale industrial uses in close proximity to residential development has been encouraged and has for the most part occurred with little or no disruption to the way of life enjoyed by the residents of the Planning Area. Based on documentation resulting from the existing land use survey of the Planning Area, it was identified that the majority of non-residential development occurring within the Planning Area has been service oriented commercial development. At present there is approximately 26 service oriented developments located throughout the Planning Area ranging from personal service shops, household items repair businesses, restaurants and various accommodation types of facilities. Additionally in the Planning Area, there are some 12 sales oriented uses such as retail stores, automobile sales establishments and small scale craft shops. In terms of industrial types of uses, according to the existing land use surveys, there were only three, a salvage yard, a fish processing plant and a recycling depot. While the majority of these uses are found within the “Mixed Use” designation, the rest are located within the “Commercial” designation.

**Policy 5.1.9**

**It is the policy of Council that provisions be included in the Land Use By-law to permit the development of a wide variety of commercial uses, commercial recreation and entertainment uses, business or professional offices and clinics, banking and financial institutional uses, limited small scale industrial uses along with those existing larger scale industrial uses, in addition to the residential uses referred to in Policy 5.1.2, in the General Mixed Use (R-2) Zone, subject to appropriate standards.**

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**Policy 5.1.10**

**It is the policy of Council that in the General Mixed Use (R-2) Zone to consider the development of large scale commercial uses in excess of 465 square metres (5,000 sq. ft.) of gross floor area or the expansion of an existing commercial use which when expanded will occupy an area in excess of 465 square metres (5,000 sq. ft.) of gross floor area by way of a development agreement in accordance with the evaluative criteria set out in Policy 5.9.3.1.**

**c. Accommodation Development in the Mixed Use Designation**

Throughout the various municipal planning strategies and land use by-laws that have operated within the Planning Area over the years, one common theme persisted, the concern of impact on the Planning Area resulting from the development of new accommodation forms of development such as campgrounds, hotels and motels. While these forms of development are encouraged to be developed within the Planning Area, Council continues to be concerned with the design and impact of new accommodation developments along with the perceived effect they may have on the market value of surrounding uses. Thus Council feels that it is therefore appropriate that the development of new campgrounds, hotels, motels and cottage developments or the substantial expansion of the existing campgrounds, hotels, motels and cottage developments be considered by development agreement.

**Policy 5.1.11**

**It is the policy of Council that in the General Mixed Use (R-2) Zone, the following shall be considered by development agreement in accordance with the evaluative criteria set out in Policy 5.9.3.1:**

- i. the development of new accommodation developments or structures such as hotels, motels, campgrounds or cottage facilities;**
  - ii. an expansion of an existing accommodation development such as a hotel or motel which when expanded will result in a 25% or greater increase of the gross floor area of the existing accommodation structure;**
  - iii. an expansion of an existing accommodation development such as a campground or cottage facility where the expansion results in a 25% or greater increase of the total square foot area of the existing accommodation development.**
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## **2. THE COMMERCIAL DESIGNATION**

As previously defined in Section One, the Upper Clements Planning Area is divided into designations appropriate to their present or future use. In the case of mixed residential and commercial development, areas where this type of development pattern is appropriate have been designated as "Mixed Use" on the Future Land Use Map. The remaining land within the Planning Area, has been set aside as either "Commercial" to reflect an area suitable for larger scale high traffic generator commercial uses or as "Park" to reflect the use of land for commercial recreation uses such as the family park, picnic park or wildlife park.

### **Policy 5.2.1**

**It is the policy of Council to establish a Highway Commercial (C-2) Zone in the Land Use By-law and all land in the "Commercial" designation as shown on the Future Land Use Map shall be zoned as the Highway Commercial (C-2) Zone. Within this Highway Commercial (C-2) Zone a wide variety of commercial uses, commercial recreation and entertainment uses, business or professional offices and clinics along with some limited small scale industrial uses shall be permitted.**

### **Policy 5.2.2**

**It is the policy of Council that all existing residential uses shall be considered permitted uses in the Highway Commercial (C-2) Zone, but the development of new residential uses shall not be permitted, except in instances where the entire ground floor area of the structure is devoted exclusively to commercial or office use, the remaining upper stories may contain a one (1) dwelling unit or two (2) dwelling units.**

### **Policy 5.2.3**

**It is the policy of Council to discharge the existing development agreement that was signed on August 24, 1990 between the Municipality of the County of Annapolis and Sid Young and Bette Young governing the use of the Clementsport Convenience Store when this Municipal Planning Strategy takes effect in accordance with the provisions of the Planning Act.**

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### 3. THE PARK DESIGNATION

The “Park” designation is a specific designation set up to reflect the impact the Upper Clements Park, the Wildlife Park and the Provincial Picnic Park have on the Upper Clements Planning Area. In all cases, these three developments are characterized as being exclusively devoted to commercial recreation and ancillary purposes, land intensive and high traffic generators. Some of the commercial activities and enterprises that form part of the three parks include amusement rides, walking trails, rest stops, picnic grounds, canteen and restaurant food service facilities, zoological and botanical exhibitions, art galleries as well as the vegetative buffers that separate those developments from the adjacent uses. Development control within these three areas, via previous municipal planning strategies and land use by-laws, was implemented through the extensive use and application of the development agreements and the subsequent amendment process. Council today feels that the use of the development agreement process to regulate a well-established enterprise is no longer an appropriate methodology and wishes to create an atmosphere more conducive to development via the use of as-of-right zoning. Thus it is the intention of Council to create a Commercial Park (C-1) Zone in the Land Use By-law which would permit development to be established within the park area through the issuance of a simple development permit.

#### **Policy 5.3.1**

**It is the policy of Council that all lands in the "Park" designation as shown on the Future Land Use Map, be included in a Commercial Park (C-1) Zone in the Land Use By-law in which a variety of commercial recreation, including but not limited to: a full range of food service facilities including restaurants, dining rooms and takeouts, retail stores, art galleries, offices, parks and playgrounds, amusement rides, zoological and botanical exhibits, concert halls be permitted, as well as residential facilities ancillary to the use and operation of Upper Clements Park as a commercial recreation park facility. It is also the policy of Council that in order to minimize potential conflicts between the Upper Clements Park park uses and adjacent residential or commercial uses, Council will establish appropriate abutting yard requirement provisions in the Land Use By-law to apply where a Commercial Park (C-1) Zone abuts a Mixed Use (R-2) Zone.**

#### **Policy 5.3.2**

**It is the Policy of Council to discharge the existing development agreement that was signed on July 19, 1989 between the Municipality of the County of Annapolis and the Upper Clements Family Theme Park Limited when this Municipal Planning Strategy takes effect in accordance with the provisions of the Nova Scotia Planning Act.**

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#### **4. AGRICULTURAL DEVELOPMENT**

Historically, the agriculture industry has been the backbone of the economy of Annapolis County. The early beginnings of agriculture were based on subsistence farming. Progressively, agriculture soon became a big part of the local economy, resulting from the successful cultivation of the marshlands and the planting of orchards. The rich history of Annapolis County's agriculture has been notably significant in developing its present prominence. In addition, climate and soil conditions have been conducive to growing a wide range of agricultural crops, especially fruit trees. The complementary mix of land and sea have created an extremely favourable climate for agriculture in the Annapolis Valley. The close proximity of the Bay of Fundy produces a moderating influence upon seasonal temperature, and extreme temperatures are not common in the Valley area.

##### **a. Agricultural Preservation**

One of the objectives of a sound municipal planning strategy for agriculture in today's growing urban environment is to minimize conflicts between various types and degrees of agricultural operations (eg. wheat, hog and cattle farming) versus other land uses (eg. urban and residential sprawl). Generally speaking, while agricultural development in the Upper Clements Planning Area is not as prolific as in other areas of the County, Council feels that the preservation and protection of these areas are just as important. Although this planning strategy does not delineate which lands should be included in an agriculture preservation and protection zone, it is the opinion of Council that appropriate land use policies are established should persons wish to voluntarily include their land within an agricultural zone. Thus, it is the opinion of Council that the residents of the area will have to request this type of protection of Council through an application for rezoning, as opposed to Council rezoning areas to the Agricultural (AG) Zone.

##### **Policy 5.4.1**

**It is the policy of Council to identify, protect and encourage the agricultural industry within the Annapolis County Upper Clements Planning Area and to minimize conflicts between agricultural operations and other land uses.**

##### **Policy 5.4.2**

**It is the policy of Council to establish an Agricultural (AG) Zone in the Land Use By-law which would limit the permitted uses in the Agricultural (AG) Zone to all uses related to primary agricultural production as part of a farm operation, including greenhouses and nurseries, farm residences and residence(s) required for additional labour, provided the residence(s) are**

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accessory to a bona fide agricultural operation and located on the agricultural operation property, barns, silos, and accessory buildings required to form part of and support the agricultural operation and to establish appropriate provisions, related to the development of such uses, in the Upper Clements Area Land Use By-law. It shall further be the policy of Council to allow the establishment of a market outlet for sale of local farm produce as part of the agricultural operation. It is also the policy of Council to allow the development of bed and breakfast operations in the Agricultural (AG) Zone in existing residential dwellings.

#### **Policy 5.4.3**

It is the policy of Council that commercial and industrial uses be permitted in the Agricultural (AG) Zone provided that at least 75% of their operation is related to the sale, processing, sorting, grading, packaging, inspection, storage, retailing, transport of agricultural products or the servicing of agricultural operations. It is also the policy of Council that existing non-agriculture related commercial and industrial uses in the Agricultural (AG) Zone that have less than 75% of their operation related to the sale, processing, sorting, grading, packaging, inspection, storage, retailing, transport of agricultural products or the servicing of agricultural operations be considered a permitted use in the Agricultural (AG) Zone.

#### **Policy 5.4.4**

It is the policy of Council to create abutting yard requirements in the Land Use By-law that would apply to the Agricultural (AG) Zone and any other zone which abuts the Agricultural (AG) Zone, with the exception of the Commercial Park (C-1) Zone or the Highway Commercial (C-2) Zone.

### **b. Removal of Soils within an Agricultural Zone**

Agricultural operations involved in the growing or harvesting of crops, including pasture for livestock, are entirely dependent upon the presence of soils which are supportive of a high quality agricultural capability. In general, a narrow layer of topsoil is the medium which nourishes and supports agricultural crops. Without this topsoil, such agricultural operations cannot survive. The removal of soil will change the land's capability for agricultural operations and may change the C.L.I. rating of the land. Changes in the area's drainage patterns will also result from the removal of the topsoil layer, which in turn will lead to increased erosion and sedimentation along with decreased soil drainage. The occurrence of excessive water may result in crop failure or the necessity to implement expensive

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drainage schemes. The available rooting depth is limited by an impermeable layer of subsoil or bedrock or the water table and the physical reduction of the rooting depth by topsoil removal create limitations for the growing of crops. Thus it is readily apparent that the removal of an agricultural area's topsoil resource can and will negatively effect the ongoing viability of the Upper Clements Planning Area's cropping and pasturing operations.

As stated previously, the focus of this Municipal Planning Strategy is to protect the agricultural resources of the Upper Clements Planning Area of Annapolis County. In order to achieve this goal, it is necessary to preserve the agricultural resources, namely the soil and proper growing conditions. It is therefore the policy of Council to establish restrictions on the removal of soil in an agricultural zone in order to promote the continued viability of the land for agricultural use. However, it is not intended to restrict the removal of topsoil in non-agricultural zoned areas. In addition to this, in some cases, it is not readily apparent what the impact of a development, such as a sod removal operation or peat moss operation, may have in relation to the policies regarding the preservation of the topsoil of the agricultural zone. However, the case may be made that these types of operations can be considered as an agricultural operation. Therefore, developments of this nature should be considered by development agreement so that Council is given the chance to evaluate the impacts of such a development in relation to potential or associated topsoil removal and to evaluate any proposed site rehabilitation plan.

#### **Policy 5.4.5**

**It is the policy of Council to be supportive and to promote the continued viability of agricultural operations in the Upper Clements Planning Area. As such, it is the opinion of Council that prohibiting the removal of soils is necessary to preserve and enhance the agricultural resource of the Upper Clements Planning Area. Pursuant to Section 54(1)(e) of the Nova Scotia Planning Act, it shall further be the policy of Council that topsoil shall not be removed from properties within the Agricultural (AG) Zone.**

#### **Policy 5.4.6**

**It is the policy of Council that in the Agricultural (AG) Zone to consider by development agreement, industrial operations, which as part of their processing operation may result in the removal of topsoil, such as, but not limited to, sod or peat removal operations, in accordance with the evaluative criteria set out in Policy 5.9.3.1. In considering such proposals, Council shall have particular regard to the impacts of the removal of any topsoil associated with the operation's industrial processes and that the development agreement address and include a site rehabilitation plan.**

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**c. Future Agricultural Policy Direction**

Given that this Strategy is the initial introduction of agricultural land use planning to the Upper Clements Planning Area, Council is nonetheless committed to ensuring that discussions continue as to the formulation of future policy directions for agricultural areas by maintaining liaisons with the various sectors of the agriculture business.

**Policy 5.4.7**

**It is the policy of Council to continue to seek advice and maintain liaison with farm-related agencies and farmers to provide for the continued development of land use policy applicable to the development of agricultural lands within the Upper Clements Planning Area.**

**Policy 5.4.8**

**In order to preserve the integrity of agricultural areas and to minimize land use conflicts between agricultural uses and other potentially conflicting uses within the Upper Clements Planning Area, it is the policy of Council to refuse to consider rezoning applications to rezone lands from the Agricultural (AG) Zone to the any other zone.**

**Policy 5.4.9**

**It is also the policy of Council that although the development of new non-farm related residential single detached dwellings are permitted in the Agricultural (AG) Zone, negative impacts on agricultural operations in the area may still occur because of the proximity of these new non-farm related residential uses in relation to area agricultural operations. Therefore, it shall be the policy of Council to attempt to inform the registered owners and/or applicants of these non-farm related residential developments proposed to be developed in the Agricultural (AG) Zone of the potential implications of developing a residential use in an area where agriculture is the predominant land use.**

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## 5. ENVIRONMENTAL PROTECTION

The Nova Scotia Planning Act defines a watercourse as "any lake, river, stream, ocean or other body of water." The Planning Act also enables a Council to establish separation distances from watercourses that would prohibit the erection of structures within that specified distance. It is Council's intent to include a 15 m. (50 ft.) setback from all watercourses in the Upper Clements Planning Area in the Land Use By-law, except for watercourses or those parts thereof that lie within the Commercial Park (C-1) Zone. For clarification, however, the 15 m. (50 ft.) watercourse setback can act as part of any side, front or rear yard requirement applicable to the development, provided that it is fully understood by the developer, that the watercourse setback prohibits the erection of any structure or accessory building within the required setback. The rationale for the requirement of a watercourse setback is based on the fact that development on or near land that drains directly into a watercourse can accelerate the movement of silt into the watercourses. Exposing large areas of soil to rain and running water is very damaging to the environment. If the run off is not properly treated, the result is often a serious siltation of nearby watercourses. The consequences are also often the degradation or destruction of fish and wildlife habitat, along with the water being less useful for fresh water supplies, navigation and recreation. Thus an important first step is to reduce the sediment flowing into water bodies by providing erosion control measures, of which the 15 m. (50 ft.) watercourse buffer strip can be part of.

### Policy 5.5.1

**It is the policy of Council to include a 15 m. (50 ft.) watercourse setback buffer strip in the Land Use By-law in which the erection of any building or structure, other than wharves, boat houses, fishery related uses and government authorized private or public utilities, within 15 m. (50 ft.) of any watercourse in the Upper Clements Planning Area, except for watercourses or those parts thereof that lie within the Commercial Park (C-1) Zone, shall be prohibited. For clarification, the separation distance or setback shall be measured from the edge, meaning the near or ordinary high water mark of the watercourse and the watercourse setback distance can be defined as being part of any side, rear or front yard, as the case may be, with the intention that the developer retain as much of the natural vegetation in the watercourse setback distance buffer strip as possible.**

### Policy 5.5.2

**It is the policy of Council to prohibit the development of commercial operations involving tracks for motorized vehicles including but not limited to automobiles, motorcycles, snowmobiles, or all terrain vehicles anywhere in the Planning Area, except in the Commercial Park (C-1) Zone where the track is part of a small scale amusement ride such as a go cart track. It is further the policy of Council to prohibit the development of commercial operations involving tracks for the racing of animals anywhere in the Planning Area.**

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## 6. GENERAL DEVELOPMENT STANDARDS

The topics that are to be addressed in this section concern policies governing the subdivision of land, development on public or private roads, development of land under certain existing conditions that ordinarily would not meet the requirements of a land use by-law, general requirement provisions for all zones (such as parking, signage, home occupations, etc.) and the procedures governing the application of minor variances.

### a. Subdivision Controls

Annapolis County has a Subdivision By-law. This By-law regulates the subdivision of land and sets out standards with respect to the construction of new roads and the installation of water and sewer services in serviced areas. When subdividing land, a developer is required to provide a 5% dedication of land to the County for park and open space purposes or in lieu of land, a cash equivalent. In addition, the Subdivision By-law requires developers to pay for the construction of any new roads and the installation of water and sewer services.

#### Policy 5.6.1

**Regulations for the subdivision of land shall be set out in the Subdivision By-law for Annapolis County. This Subdivision By-law shall include standards for road construction and the installation of services, open space dedication, cash in lieu of land dedication and other requirements in accordance with the permissive content provisions for subdivision of land in the Planning Act.**

All new lots subdivided in the Upper Clements Planning Area must meet the area and frontage requirements indicated in the Land Use By-law for the zone in which the subdivision is located. Although in most cases this is a satisfactory situation, there are some instances where it is not, such as:

- \* where a lot legally in existence on or before the effective date of this By-law contains two or more existing main buildings and the owner wishes to rationalize an existing situation by creating a separate lot for each building;
  - \* where there are very deep lots with relatively narrow frontages and the owner wishes to subdivide the lot in such a way so as to allow a new lot to be created out of the rear of the existing lot with access to the street via a 7.6 m. (24.9 ft.) strip for driveway access (commonly referred to as a "flag lot"); or
  - \* where a development component is encroaching upon an adjacent area of land.
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**Policy 5.6.2**

It is the policy of Council that all new lots created in the Upper Clements Planning Area shall abut a municipal or provincial public street or highway or a private road, as in accordance with the provisions of the Subdivision By-law for the Municipality of Annapolis County. It is also the policy of Council to provide for the relaxation of the requirements for frontage of a lot on a municipal or provincial public street or highway or a private road in accordance with the provisions of Sections 25 or 27 of the Subdivision By-law for the Municipality of Annapolis County and to include provisions in the Land Use By-law to enable the issuance of development permits for development on lots so created.

**Policy 5.6.3**

It is the policy of Council to provide for the relaxation of requirements of frontage and/or lot area for the subdivision of a maximum of two lots, shown on a plan of subdivision, provided that the lot area and/or frontage are no less than 90 per cent of the required minimums for lot area and frontage, in accordance with the provisions of the Planning Act and the Subdivision By-law for Annapolis County and to include provisions in the Land Use By-law to enable the issuance of development permits for development on lots so created.

**Policy 5.6.4**

Provisions shall be included in the Subdivision By-law to permit the subdivision of land where a development component of a permanent nature, such as a structure, driveway, well or septic tank is encroaching in or upon an immediately adjacent area of land. The lots affected may be subdivided to the extent necessary and practical to remove the encroachment. In addition, lots created by altering the boundaries of two or more areas of land, where no additional lots are created and the frontage and/or area if any has not been reduced shall be permitted and provisions shall be included in the Land Use By-law to enable the issuance of development permits for development on lots so created.

**Policy 5.6.5**

Provisions shall be included in the Land Use By-law to permit the creation of a new lot, to be known as a "flag lot," at the rear of an existing lot, with reduced frontage provided that the rear portion of the existing lot has sufficient area to meet the By-law requirements for "flag lots." Flag lots shall only be permitted in the General Mixed Use (R-2) Zone. Further more, larger lot area and yard setbacks shall be required in the General Mixed Use (R-2) Zone to provide the privacy needs of existing development.

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**Policy 5.6.6**

**Provisions shall be included in the Land Use By-law to allow for the issuance of development permits for development on lots subdivided from an area of land legally existing on or before the effective date of the Upper Clements Area Land Use By-law coming into force, where the normal lot area and frontage requirements cannot be met, providing that:**

- i. the original area of land contained two or more main buildings or structures; and**
- ii. each new lot so created contains at least one main building or structure.**

**b. Existing Lots with no Street Frontage**

Scattered throughout the Upper Clements Planning Area are a number of lots which lack frontage on any public, private or municipal street. In most cases, access is provided to these no-frontage lots by means of an easement for right-of-way sufficiently wide to allow the passage of a motor vehicle. In order to avoid placing undue hardship on the owners of these properties, Council wishes to include provisions in the Land Use By-law to allow for the reasonable use of any such parcel of land, despite the lack of street frontage.

**Policy 5.6.7**

**It is the policy of Council to include provisions in the Land Use By-law to permit the use of a lot which has no frontage on a municipal or provincial public street or highway or private road, provided that all other applicable sections of the Land Use By-law are met.**

**c. Existing Undersized Lots and Existing Buildings**

There are many instances of undersized lots in the Upper Clements of Annapolis County which have less than the minimum frontage or area or both as required by the Land Use By-law. It is Council's intent to permit these lots to be used for a purpose permitted in the zone which it is located.

**Policy 5.6.8**

**Provisions shall be included in the Land Use By-law to allow an existing lot, legally existing on or before the effective date of the Upper Clements Area Land Use By-law coming into force, having less than the minimum frontage or area or both, required by the Land Use By-law, to be used for a purpose permitted in the zone in which it is located.**

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**Policy 5.6.9**

**Provisions shall be included in the Land Use By-law to allow for a building erected on or before the effective date of the Upper Clements Area Land Use By-law coming into force, on a lot which does not meet the requirements of the Land Use By-law respecting lot area, frontage or setbacks, to be enlarged, reconstructed, repaired or renovated, except as provided for in other policies of the Municipal Planning Strategy.**

**7. GENERAL STANDARDS**

The Land Use By-law shall set out development standards regarding yards, parking, accessory uses and structures and other matters which may vary according to the use, zone and location. The common theme throughout the By-law shall be to set relatively unrestrictive standards while still maintaining sufficient control to ensure good quality development. In addition, Council wishes to permit residents to carry on small scale businesses which can be operated in a minor or accessory capacity within a dwelling or attached garage, commonly called home occupations. This is intended to provide residents the benefit of reduced start-up and operating costs or the continued operation of small scale businesses, provided the activity has no detrimental impact on the residential nature of the neighbourhood. Other restrictions on home occupations include the limited use of signs, outdoor storage and the provision of adequate off-street parking. Council also permits home occupations to be carried out in accessory buildings with appropriate standards according to the applicable nature of the specific zone the accessory use is developed in.

As provided for in the Planning Act, Council also wishes to regulate signs in order to strike a balance between the public right to be informed, the business/service right to advertise and the community right to limit visual pollution. To achieve their intended contribution to the quality and economic viability of community life, signs must be properly sized and located. To be effective, consideration must be given to the size, height and placement of signs relative to the particular driving or walking circumstances of the public. Consideration should also be given to sign design to ensure that the design blends with building architecture. Common pitfalls and problems that sign regulations will address are more, bigger and higher - the perceived need to keep up with competition; traffic safety - sign placement in relation to the streets, driveway and parking isles to minimize lighting glare, confusion and distractions and maximize safety; structural safety - the need to ensure that signs meet building and electrical code requirements and that regular maintenance is maintained; visual blight - signs as part of the public environment effect everyone in, near or passing through an area where signs are used, thus the need to encourage practices that address the need to improve and compliment the street environment; and nuisance - the need to control any negative impact on neighbouring land uses from light glare, and noise. Council

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also wishes to encourage business to employ good design practices and techniques to encourage expressive, appropriate and compatible sign design suitable to specific business circumstances. This flexibility is not inherent in the regulatory approach to sign control, therefore, it is the intent of Council to provide for some measure of flexibility through the use of development agreements.

#### **Policy 5.7.1**

**The Land Use By-law shall contain a General Provisions For All Zones section that sets out the development standards, relating to matters such as parking and loading; accessory uses and structures; lighting; signage; permitted encroachments into yards and home occupations.**

#### **Policy 5.7.2**

**Parking space requirements and/or restrictions which vary according to the proposed use of the land shall be set out to ensure orderly traffic and pedestrian movement for aesthetic and safety reasons. Parking lot requirements shall include provisions with respect to the size and location of driveway accesses and the deflection of illumination of the lot away from adjacent lands.**

#### **Policy 5.7.3**

**Sign requirements shall be included in a Sign Section of the Land Use By-law which, for public safety and visual appearance reasons, shall include provisions dealing with size, location, illumination, type and number of signs, applicable to either on-site or off-site signs. In addition, certain types of signs, as specified, shall be prohibited completely or from specific zones and other types of signs, that do not require a development permit, shall be permitted in all zones.**

#### **Policy 5.7.4**

**For reasons of public safety, visual appearance and to avoid a proliferation of signs in the Planning Area, it is the policy of Council to prohibit the locating, erecting or development of signs in the Planning Area that advertise, indicate or otherwise promote any business, use, location or establishments which is located outside of the Planning Area.**

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**Policy 5.7.5**

**Additional standards in the “General Provisions For All Zones” section of the Land Use By-law shall also include:**

- i. provisions respecting temporary buildings (eg. construction huts), temporary uses and special occasions, such as fairs. In addition, these activities shall not require a development permit but there shall be a time restriction;**
- ii. provisions respecting illumination from lights such that it is directed away from abutting lots for privacy and to prevent nuisance situations;**
- iii. provisions respecting swimming pools to ensure they are consistent with an accessory use of land and within the residential designation and in accordance with the Annapolis County Swimming Pool Fencing By-law;**
- iv. provisions with respect to accessory buildings including lot coverage provisions to ensure a subordinate relationship to the main use;**
- v. provisions with respect to permitted encroachments into yards to allow for some architectural flexibility and to allow wheelchair access;**
- vi. provision with respect to development in corner vision triangles for traffic movement for vehicular and pedestrian safety reasons; and**
- vii. provisions to permit the development of government authorized, private or public, operated utilities within any zone or within the watercourse setback.**

**8. MINOR VARIANCE**

Minor variance is a technique permitted under the Nova Scotia Planning Act that allows for the relaxation of certain Land Use By-law requirements. Accordingly, only the Development Officer has the authority to grant a minor variance. A minor variance can only apply to the percentage of land that may be built upon; the size of yards and other open spaces; lot frontage and lot area. As well, a minor variance can only be applied to those noted regulations when special lot related circumstances warrant (such as the shape of the lot, the slope of the land, rock outcrops, large natural trees, wet areas, etc.) provided that these lot related circumstances are not general to the properties in the area. Additionally, a minor variance cannot be granted where the variance is not minor, in that it violates the intent of the Upper Clements Area Land Use By-law or the difficulty experienced results from the intentional disregard for the requirements of the Upper Clements Area Land Use By-law.

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## **9. IMPLEMENTATION**

### **1. Responsibilities of Council**

The Upper Clements Area Municipal Planning Strategy is a policy document that sets out land use policies directed toward the attainment of the general goals of the Upper Clements Area Municipal Planning Strategy. In adopting these policies Council does not commit itself to undertaking any of the projects therein suggested or outlined, but, by adopting these policies Council is prevented from undertaking any development within the scope of the Planning Strategy in any manner inconsistent or at variance therewith (Planning Act, Section 45). In other words, Council is not legally bound to undertake projects suggested in this Strategy but is indeed legally bound not to contravene the policies by, for example, approving a zoning amendment which the Municipal Planning Strategy clearly indicates should not be approved. Council also shall adopt a land use by-law to implement the policies of the Upper Clements Municipal Planning Strategy and appoint a Development Officer to administer the Upper Clements Area Land Use By-law.

#### **Policy 5.9.1.1**

**This Municipal Planning Strategy shall be implemented by means of powers conferred upon Council by The Planning Act; The Municipal Act, and such other statutes as may be applicable.**

#### **Policy 5.9.1.2**

**It is the policy of Council to adopt a land use by-law to implement the policies of this Municipal Planning Strategy, and to appoint a Development Officer to administer the Upper Clements Area Land Use By-law.**

#### **Policy 5.9.1.3**

**It is the policy of Council to require development permits pursuant to the Upper Clements Area Land Use By-law. It is also the policy of Council that any development permit issued under the Upper Clements Area Land Use By-law shall automatically lapse and become null and void if the development to which it relates has not commenced within one year of the date of the issue of the development permit . It is further the policy of Council that the Development Officer may revoke a development permit issued under the Upper Clements Area Land Use By-law where the Development Officer is satisfied that the development permit was issued on or under false or mistaken information.**

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This Municipal Planning Strategy has been prepared on the assumption that the Upper Clements will continue to experience a fairly flat development trend in relation to its commercial, industrial and residential development sectors in the coming years. Although the Strategy is flexible enough to accommodate some growth, should a major surge in development be anticipated in the Upper Clements Planning Area, Council will consider an early review of the planning documents for the Upper Clements Planning Area, including consideration of a more complex approach to development control.

#### **Policy 5.9.1.4**

**It is the policy of Council to review the policies of this Municipal Planning Strategy should a major surge of economic or population growth or decline occur in the area. In any event, a review of this Strategy should commence every five years as required by The Planning Act.**

## **2. Land Use By-law and Amendments**

A land use by-law is the principle mechanism by which land use policies shall be implemented. A land use by-law also defines applicable land use zones, permitted uses, and development standards which would reflect the policies of an area's municipal planning strategy, pursuant to the provision of the Nova Scotia Planning Act.

#### **Policy 5.9.2.1**

**The Upper Clements Area Land Use By-law shall be the principle mechanism by which the policies of the Upper Clements Area Municipal Planning Strategy shall be implemented. The Upper Clements Area Land Use By-law shall state - in text and map form - the zones, permitted uses, and development standards which shall reflect the policies of the Upper Clements Area Municipal Planning Strategy as enabled by the Planning Act. The Zoning Map, appended as Schedule "A" to the Land Use By-law, shall represent the geographical extent of all zones in the Planning Area. The following zones shall be established in the Land Use By-law:**

<b>Residential Single Unit</b>	<b>(R-1)</b>
<b>General Mixed Use</b>	<b>(R-2)</b>
<b>Residential Protected</b>	<b>(R-4)</b>
<b>Commercial Park</b>	<b>(C-1)</b>
<b>Highway Commercial</b>	<b>(C-2)</b>
<b>Agricultural</b>	<b>(AG)</b>

**Policy 5.9.2.2**

In considering amendments to the Land Use By-law, Council shall, with the advice of staff, ensure that the amendment is in conformity with the intent and policies of this Strategy and with the requirements of the Land Use By-law, and that a *written* analysis is provided by staff which addresses whether the proposal is premature or inappropriate by reason of:

- i. the financial capability of the County to absorb any costs relating to the development;
- ii. the extent to which development which would be enabled, might conflict with any adjacent or nearby land uses by reason of the type of use, compatibility of design and external appearance, impact of height, bulk and lot coverage of buildings, illumination, noise, dust, open storage, and signs;
- iii. the adequacy and proximity of schools, recreation, and any other community facilities if such are relevant to the development;
- iv. the adequacy of road networks, in, adjacent to, or leading to the development to reflect concerns for congestion and traffic hazards; and pedestrian and vehicle access to and from the site and parking;
- v. the potential for the contamination of watercourses, creation of erosion or sedimentation, or pollution;
- vi. the adequacy of storm water management and sewer and water services and utilities, or if central piped services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems and storm water management;
- vii. the presence of significant natural or historical buildings or sites;
- viii. the suitability of the proposed site in terms of steepness of grades, soil or geological conditions, and the relative location of watercourses, and wetland such as marshes, fens, swamps and bogs; and
- ix. that the proposal is in conformity with the intent and policies of this Municipal Planning Strategy and any other applicable Municipal By-laws and Regulations.

Information required for evaluation of a proposed land use by-law amendment may be required to be submitted (in text, map, or photographic form) by the applicant pursuant to Policy 5.9.3.3.

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### 3. Development Agreements

A development agreement, like traditional zoning, is a tool for implementing a municipal planning strategy, but unlike traditional zoning techniques, the use of a development agreement can provide a flexible or negotiated approach to the development process without a loss of development control. A development agreement, therefore, is a formal written agreement between Council and a developer and as such is binding on both parties. As provided for through the provisions of the Nova Scotia Planning Act, where a Council intends to regulate development by way of a development agreement, a Municipal Planning Strategy is required to establish policy with regard to the following; the types of development to be considered by development agreement; those items which may form a part of the development agreement; and evaluation of criteria which Council shall consider prior to entering into a development agreement. In the Upper Clements Area Municipal Planning Strategy, policy on the types of development subject to development agreements are discussed in the policies of the land use sections, and implemented by the Upper Clements Area Land Use By-law, while reference to items to be included in a development agreement and evaluative criteria are found within the policy discussions, as well as in this Implementation Section.

#### **Policy 5.9.3.1**

**It is the policy of Council that in considering an application for a development agreement or an application for an amendment to a existing development agreement that Council, with the written advice of staff, shall have regard to the following evaluative criteria, where applicable, to ensure that the agreement or agreement amendment is in conformity with the intent and policies of this Municipal Planning Strategy and the requirements of the Land Use By-law. It is further the policy of Council to have regard to the provisions of Policy 5.9.3.2 concerning the content of a proposed development agreement and Policy 5.9.3.3 concerning the provision of information by the applicant:**

- i. the adequacy and the proximity of the proposed development to recreational and other community facilities;**
  - ii. the impact of the proposed development on existing adjacent or nearby land uses in the area with particular regard to the use and size of the structures that are proposed, buffering and landscaping, hours of operation for the proposed use (where applicable) and other similar features of the use and structure in order to minimize any potential land use conflicts with immediately abutting uses;**
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- iii. the adequacy of municipal services with particular regard to demands on the municipal storm water system, sanitary sewer systems, water system, fire protection, refuse collection, police protection, existing schools and churches;
- iv. the adequacy of provisions for on-site sewage disposal and on-site water where not connected to a centralized municipal system;
- v. the impact of and the adequacy of the proposed pedestrian and vehicular traffic circulation with particular regard to the traffic that the development will generate and the adequacy of the proposed accesses to and from the site, traffic flows in and around the site in terms of its ability to handle any new traffic and the adequacy of the proposed parking areas;
- vi. the impact of the proposed development on structures in the immediately abutting lots in terms of such things as height, roof line, setbacks and lot coverage to minimize any potential land use conflicts between the proposed development and structures on abutting properties;
- vii. the adequacy of the proposed lot to ensure that adequate screening and landscaping can be undertaken to minimize the potential for any land use conflicts with adjacent uses; and
- viii. the suitability of the proposed site in terms of steepness of grades, soils and geological conditions, location of watercourses, wetlands such as marshes, fens, swamps and bogs and the proximity to highway ramps, and other nuisance factors.

#### **Policy 5.9.3.2**

It is the policy of Council, when considering an application for a development agreement or an application for an amendment to an existing development agreement, that the agreement or amendment agreement may include, but is not limited to some or all of the following terms:

- i. the specific use and size of a structure, either new or an expansion of an existing structure, the minimum lot sizes and accessory uses;
  - ii. the regulating or prohibiting the use of land or the erection or use of structures except for purposes as may be set out in the agreement;
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- iii. the location of any structure within the development;
- iv. the percentage of land area that may be built upon, setbacks and the size of yards, courts or other open spaces;
- v. the external appearance of structures, in particular the compatibility with adjacent structures and uses in terms of architecture and appearance, with respect to, but not limited to, height, roof type, window type, building cladding, and building footprint;
- vi. adequacy of access to and from streets and parking;
- vii. adequacy of the proposed landscaping or buffering of development which may include fencing, vegetation, walkways and lighting and their compatibility with adjacent structures and uses;
- viii. signs and other forms of advertising, open storage and screening, the provision of services and utilities, time limits for the initiation of construction (and may include phased construction);
- ix. the hours of operation and the maintenance of the property;
- x. the maximum density of the population within the development;
- xi. any other matters that may be addressed in a Land Use By-law which Council feels is necessary to ensure the compatibility of the development with adjacent uses, structures and areas; and

It is also the policy of Council to require, where applicable, that the agreement be accompanied by a site plan or other clear description showing the existing and proposed site characteristics, and existing and proposed developments which shall form part of the agreement. A development agreement shall not require an amendment to the Land Use By-law, but shall be binding to the property until the agreement or part thereof is discharged by the Council. Information required for evaluation of a proposed development agreement or amendment to an existing development agreement may be required to be submitted (in text, map, or photographic form) by the applicant pursuant to Policy 5.9.3.3.

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**Policy 5.9.3.3**

**Council may require that any or all of the following information be submitted (in text, map or photographic form) by the applicant with respect to applications for land use by-law amendments, development agreements or amendments to an existing development agreement:**

- i. information as to the physical and environmental characteristics of the proposed site including information regarding topography, contours, elevations, dimensions, natural drainage, soils, existing watercourses, vegetative cover, size and location of the lands;**
- ii. information as to the location, height, dimensions and use of all buildings or structures proposed to be built or erected on the lands;**
- iii. information as to the adequacy of the proposed provisions for site drainage and servicing with water supply and sewage disposal or if central piped services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems and storm water management;**
- iv. information as to the adequacy of the access to and from the lands, estimated traffic flows to be generated and parking provisions;**
- v. information as to intended hours of operation, open storage, signs;**
- vi. information as to provision of appropriate buffering between the proposed development and the adjacent structures and/or uses; and**
- vii. presence of significant natural features or historical buildings or sites of historical or archaeological significance.**

**4. Completeness of Applications**

Applications for development agreements or land use by-law amendments, whether a rezoning or a text amendment, requires careful consideration of the circumstances surrounding the request. The onus therefore falls to the applicant to provide adequate and accurate information. However, because the complexity of requests varies, the nature of the information that Council will require to assess the request will also vary.

**Policy 5.9.4.1**

**A completed application shall be required to be submitted to the Municipal Clerk with sufficient information included to support the request.**

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## **5. Advertising Cost Recovery**

The Planning Act permits a municipality to recover notification and advertisement costs associated with land use by-law amendments and development agreements, including amendments to existing development agreements. As such, Council feels it is appropriate that policy is set out in the planning documents for the Upper Clements Planning Area that is consistent with the planning documents and requirements of other areas with the County.

### **Policy 5.9.5.1**

**It is the policy of Council to include provisions in the Land Use By-law regarding an administration deposit fee to cover the cost of advertising for Land Use By-law Amendments and Development Agreements, including the amendment thereto of an existing development agreement and/or the processing costs for notification of affected property owners. As estimated by the Clerk, an amount sufficient to pay the cost of all advertising and/or notification, with respect to the application, shall be deposited with the clerk by the applicant. Should the notification or advertising cost be more than the established deposit, then the applicant may be billed for the difference, or if the cost is less than the established deposit, the applicant shall be refunded the difference.**

## **6. Public Participation Program**

As outlined at the beginning of this Municipal Planning Strategy, the County undertook an extensive public consultation process. It was designed to involve the residents of the Upper Clements Planning Area of Annapolis County and to solicit their input in the development of the Upper Clements Area Municipal Planning Strategy and Land Use By-law. This public participation process involved, open Area Advisory Committee and Planning Advisory Committee meetings, meeting notice advertisements and an open house format public meeting. As defined by the policies of the Municipal Planning Strategy, where applicable, rezoning or development agreements are enabled. As part of these processes, public notification is required. Council, however, feels that because this Municipal Planning Strategy is a public document, the public must be informed of such development agreements or land use by-law amendments, that is above and beyond the statutory public hearing. Alternately, special requirements for public participation for amendments to this Municipal Planning Strategy have been defined in the Nova Scotia Planning Act.

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**Policy 5.9.6.1**

**It is the policy of Council that a public participation program for Land Use By-law text or rezoning amendments, development agreements or their subsequent amendment and amendments to this Municipal Planning Strategy shall consist of the following:**

- i. referral of the application to the Planning Advisory Committee;**
- ii. Clerk notifies Development Officer and Chair of the Planning Advisory Committee of the application and sets meeting date (may be after meeting of the Upper Clements Area Advisory Committee);**
- iii. public advertisement in at least one (1) local newspaper of meeting. Advertisement specifies date, time and place of meeting, the matter to be discussed, the specific property (if any) affected and also that information is available at the office of the Senior Planner/Development Officer or the office of the Municipal Clerk during regular business hours, except holidays, or at the meeting; and**
- iv. Planning Advisory Committee meets. Prior to any discussion among Committee members, any citizens in attendance are afforded an opportunity to ask questions and obtain further information about the application.**

**Council may, in any matter, choose to extend the public information process more widely, require the Development Officer to notify all landowners within a minimum 61 metre (200 ft.) radius of affected area by personal service or regular mail, require more advertisements or more information in the advertisement or otherwise vary the public information process, so long as the minimum set out above is met.**

**Council, in the case of a land use by-law amendment or development agreement, or their subsequent amendment which does not require Ministerial approval, allows the Municipal Clerk to refer the application to the Annapolis County Planning Advisory Committee for recommendation and to set and advertise a date for a public hearing for Council.**

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