

Digby Wellfield Protection Area Land Use By-Law

Municipality of the District of Digby

Table of Contents

Introduction	Page 1
Part 1, Title and Purpose	Page 2
Part 2, Administration	Page 2
Part 3, Zones and Maps	Page 6
Part 4, Interpretation	Page 7
Part 5, Development Agreements	Page 8
Part 6, General Provisions for all Zones	Page 9
Part 7, General Provisions for the Wellfield	
Protection and Wellfield Expansion Zones	Page 15
Part 8, Wellhead Protection Zone	Page 16
Part 9, Wellfield Protection Zone A and Zone B	Page 16
Part 10, Wellfield Protection Zone C	Page 18
Part 11, Watershed Zone	Page 19
Part 12, Wellfield Expansion Zone	Page 20
Part 13, Definitions	Page 21
Schedule “A”, Zoning Map	Page 29

Digby Wellfield Protection Area Land Use By-Law

Introduction

How to Use This By-law

This Land Use By-law has been prepared in conjunction with the Digby Wellfield Protection Area Municipal Planning Strategy. The Strategy identifies policies and rationale for planning and land use control issues within the Wellfield Protection Area. This By-law describes detailed standards, conditions and requirements for development within the Wellfield Protection Area which implement the Strategy's policies.

To find information about developments permitted on a lot and the requirements for obtaining a development permit refer to:

- **Part 2, Administration** and **Part 4, Interpretation** for general information;
- the **Zoning Map** (Schedule "A" of this By-law) to identify the correct zone which applies to a specific property or area. Once the applicable zone is known, refer to **Parts 8, 9,10, 11 or 12** to locate the particular zone requirements;
- **Part 6, General Provisions for all Zones** and **Part 7, General Provisions for the Wellfield Protection Zones A, B and C.** For example, look for restrictions on land uses or the number of main buildings permitted on a lot;
- **Part 12, Definitions** to see if any special definitions apply to the development on the lot.

An application for development permit must be submitted to the Development Officer and no development can be undertaken without a valid development permit. The By-law provides for a penalty, upon summary conviction, where provisions of the By-law are violated.

Development Control Provisions

Part 1 Title and Purpose

- (1) This By-law shall be known as the Digby Wellfield Protection Area Land Use By-law for the Municipality of The District of Digby and shall apply to only those lands located within the Digby Wellfield Protection Area.
- (2) The purpose of this By-law is to implement and administer the land use policies found in the Digby Wellfield Protection Area Municipal Planning Strategy.

Part 2 Administration

2.1 Administration

The Development Officer shall be responsible for administration of this By-law.

2.2 Development Permit Required

- (1) Unless otherwise stated in this By-law, no person shall undertake a development on a lot within the Digby Wellfield Protection Area without first obtaining a development permit from the Development Officer.
- (2) The Development Officer shall only issue a development permit in conformance with this By-law except where a variance is granted or in the case of a nonconforming use or structure.

- (3) The Development Officer shall issue a development permit where a variance is granted or for a nonconforming use or structure, in conformance with the Municipal Government Act.
- (4) A development permit issued in accordance with this By-law shall be valid for 24 months from the date issued and shall automatically lapse, and become null and void, if the development to which it relates has not commenced and two (2) years has elapsed since its issuance.
- (5) The Development Officer may revoke a development permit where information provided on the application is found to be false or inaccurate. Any revocation shall be sent by registered mail and shall become effective seven (7) days after the mailing date.

2.3 No Development Permit Required

No development permit shall be required where:

- a) the development undertaken involves an interior or exterior renovation which will not change the shape or size of a building, add more units to a building, or involve a change in use of a building;
- b) a temporary building or structure is to be erected for a period not exceeding sixty (60) days pursuant to Part 6.20 of this By-law.

2.4 Application for a Development Permit

Every application for a development permit shall be accompanied by a sketch or plan drawn to an appropriate scale and showing information the Development Officer deems necessary to determine whether or not the proposed development conforms to the requirements of this By-law.

2.5 Signature of Applicant

The application for a development permit shall be signed by the registered owner of the lot or by the owner's agent duly authorized in writing to act for the owner.

2.6 Issuance of Development Permits

No development permit shall be issued by the Development Officer unless:

- a) the proposed development is in conformance with the requirements of this Land Use By-law; or
- b) a development agreement has been executed pursuant to Section 230 of the Municipal Government Act; or
- c) the Development Officer has granted a variance from the terms of this By-law, pursuant to Section 235 of the Municipal Government Act, and the time for appeal has elapsed or the appeal has been disposed of, pursuant to Sections 237 of the Municipal Government Act.

2.7 Deviations

No developer shall deviate, or allow deviations to be made, from the description of the proposed development and/or conditions which may apply as contained in the development permit.

2.8 Right of Entry

A duly authorized Development Officer of The Municipality shall have the right to enter at all reasonable times into or upon any property within the area to which this Land Use By-law applies for the purpose of any inspection necessary in connection with the administration of the Land Use By-law.

2.9 Decision in Writing

Any decision of the Development Officer to refuse to issue a development permit shall be given by written notice served by registered mail. Such notice shall include any reasons for refusal and shall set out any right of appeal, should it be available.

2.10 Violation

In the event of any alleged contravention of the provisions of this Land Use By-law, the Municipality of the District of Digby may take action as outlined in Sections 266 and 267 of the Municipal Government Act.

2.11 Advertising Costs

- (1) Where an application to amend this By-law or to enter a Development Agreement is made, the applicant shall deposit with the Chief Administrative Officer (CAO), at the time of application, an amount established by the CAO to be sufficient to pay the costs of processing the application and any advertising required.
- (2) If the amount paid under Section 2.11(1) is not sufficient to cover the costs incurred, the applicant shall pay to the CAO the additional amount required. If the amount paid is more than sufficient, the CAO shall refund the excess amount.

2.12 Notice to Property Owners

- (1) When an application has been received to amend this By-law, enter a development agreement, or amend a development agreement, all affected property owners within 30.5 metres (100 feet) of the subject property shall be notified of the application by the Chief Administrative Officer.
- (2) The notification set out in Section 2.12(1) shall be in addition to the advertisement for any public hearing required pursuant to the Municipal Government Act and shall be delivered to all affected property owners by mail prior to the public hearing.
- (3) The applicant shall deposit with the Chief Administrative Officer, at the time of application, an amount set out by the CAO to be sufficient to pay the costs of notifying the affected property owners.

- (4) If the amount paid by the applicant is not sufficient to cover said costs the applicant shall pay to the Chief Administrative Officer the additional amount required. If the amount paid is more than sufficient, the CAO shall refund the excess amount.

2.13 Effective Date

This By-law shall take effect upon the date of publication.

2.14 Special Provision - Water Utility Uses

Water treatment and supply uses shall be exempt from the requirements of Parts 2, 5, 6, 7, 9, 10 and 11 of this By-law.

Part 3 Zones and Maps

3.1 Zones

For the purposes of this By-law lands within the Digby Wellfield Protection Area are divided into five zones, the boundaries of which are shown on the attached Schedule "A", **Zoning Map**. Such zones may be referred to by the corresponding symbols shown below.

Zones	Symbol
Wellhead Protection	WHP
Wellfield Protection Zone A	WFP-A
Wellfield Protection Zone B	WFP-B
Wellfield Protection Zone C	WFP-C
Watershed	WS
Wellfield Expansion	WFE

3.2 Zoning Map

Schedule "A", is the **Zoning Map** and forms part of this By-law.

3.3 Zones Not on the Map

The **Zoning Map** may be amended, in conformance with the Municipal Planning Strategy, to use any zone in this By-law, regardless of whether or not such a zone had previously appeared on the **Zoning Map**.

Part 4 Interpretation

4.1 Symbols

The symbols used on the **Zoning Map** refer to the corresponding zones established in the By-law.

4.2 Interpretation of Zone Boundaries

- (1) The extent and boundaries of zones are shown on the **Zoning Map** and the appropriate provisions of this By-law shall apply to all zones.
- (2) Boundaries between zones shall be determined as follows:
 - a) where a zone boundary is indicated as following a street the boundary shall be the centre line of the street unless otherwise indicated;
 - b) where the zone boundary is indicated as approximately following lot lines the boundary shall follow the lot lines;
 - c) where an electric transmission line right-of-way or a watercourse shown on the **Zoning Map** serves as a zone boundary, the centre line of the right-of-way or watercourse shall be considered the boundary between the zones unless otherwise indicated;
 - d) where none of the above apply, and where appropriate, the zone boundary shall be scaled from the **Zoning Map**.

4.3 Interpretation of Certain Words

In this By-law, words used in the present tense include the future, words in the singular number include the plural, words in the plural include the single number, the word “used” includes “arranged to be used”, “designed to be used” and “intended to be used”, and the word “shall” is mandatory.

4.4 Permitted Uses

- (1) In this By-law any use not listed as a permitted use in a zone is prohibited in that zone unless otherwise indicated.
- (2) Where a permitted use within any zone is defined in this By-law the uses permitted in the zone include any similar uses that satisfy such definition except where a definition specifically excludes any similar use.

Part 5 Development Agreements

5.1 Developments to be Considered by Development Agreement

The Municipal Planning Strategy provides that in the Digby Wellfield Protection Area uses not permitted as-of-right within the **Wellfield Protection Zone A**, **Wellfield Protection Zone B** and **Wellfield Protection Zone C** other than those prohibited in any zone pursuant to Policy LU-13; and the keeping of a type and/or number of animal units within the **Wellfield Protection Zone A**, **Wellfield Protection Zone B** and **Wellfield Protection Zone C** beyond the limits established in Part 7.2 of this By-law may be permitted by development agreement in accordance with the Municipal Planning Strategy and the Municipal Government Act.

5.2 Development Permits for Development Agreements

A development permit may be issued for a development enabled in this Part and pursuant to the Municipal Government Act provided:

- a) the appeal period has lapsed or any appeals that may have been lodged have been dealt with by the Utility and Review Board and the ruling was in favour of the development; and,
- b) the development conforms to the terms of the development agreement.

Part 6 General Provisions for all Zones

6.1 Prohibited Uses

Notwithstanding anything else in this By-law the following uses, due to the risk they present of generating negative impacts on the quality of the water resource within the Digby Wellfield Protection Area, shall not be permitted in any zone;

- Automobile service stations;
- Laundry and dry cleaning establishments;
- Bulk oil and fuel storage facilities;
- Ready mix concrete and asphalt paving plants, including temporary asphalt plants;
- Processing and/or storage of quarried materials;
- Intensive livestock operations;
- Automotive and autobody repairshops;
- Scrap and salvage yards;
- Any like use which has associated with it the use and/or storage of toxic materials or substances.

6.2 Government Uses

Any public authority or government (federal, provincial or municipal) owned building or facility shall be permitted in any zone provided that such use conforms to the standards of the **Wellfield Protection Zone A**, **Wellfield Protection Zone B** and **Wellfield Protection Zone C**.

6.3 Accessory Buildings

Accessory buildings and structures shall be permitted and may be used only as an accessory use to the permitted main building or use, but it shall not be used for human habitation.

6.4 Accessory Uses Permitted

Where this By-law provides that any land may be used or a building or structure may be erected or used for a purpose, the purpose shall include any accessory use.

6.5 Altering of Land Levels

Land levels within 61 Metres (200 feet) of a watercourse or waterbody shall not be altered.

6.6 Buildings to be Moved

No person shall move any building within or into the Digby Wellfield Protection Area without first obtaining a development permit.

6.7 Calculation of Lot Frontage

The following means shall be used for the purposes of determining lot frontage:

- a) in the case of regularly shaped lots, lot frontage shall be measured as a straight line between the points where the two (2) side lot lines meet the front lot line;

- b) in the case of irregularly shaped lots, lot frontage shall be measured as the distance between the side lot lines drawn at a 90-degree angle from a line drawn from the mid point of the rear lot line to the mid point of the front lot line and at a point equal to the required front yard.

6.8 Compliance with Other Requirements

Nothing in this By-law shall exempt any person from complying with the requirements of any other By-law in force within the Municipality or from obtaining any license, permission, permit, authority or approval required in any other By-law of the Municipality of The District of Digby. Where the provisions of this By-law conflict with those of any other municipal or provincial requirements, the higher or more stringent requirements shall prevail.

6.9 Existing Buildings

The use of any building erected on or before the effective date of this By-law may be changed to a use permitted in the zone even though the lot frontage, front yard or lot area, or all of these, is less than the zone requirements as established in this By-law, provided that all other applicable provisions of this By-law are satisfied.

6.10 Existing Buildings with Non-Conforming Yards

Any building erected on or before the effective date of this By-law which is not in conformance with the zone requirements as established in this By-law, may be enlarged, renovated, reconstructed or repaired provided that such enlargement, renovation, reconstruction or repair does not further reduce or impair the required zone requirements and provided that all other applicable provisions of this By-law are satisfied.

6.11 Existing Undersized Lots

- (1) Notwithstanding anything else in this By-law, a lot which existed on or before the effective date of this By-law and which had less than the minimum frontage or area required by this By-law, may be used for a purpose permitted in the zone in which the lot is located, and a building may be erected on the lot provided that all other applicable provisions of this By-law are satisfied.
- (2) An existing undersized lot which is increased in area or frontage or both, but remains undersized, is still considered an existing undersized lot for the purposes of this section.

6.12 Frontage on a Street

No development permit shall be issued unless the lot intended to be used, or upon which a building or structure is to be erected, abuts and fronts upon a public street or road, a private street or road, or a registered right-of-way.

6.13 Multiple Uses

In any zone, where any land or building is used for more than one purpose, all provisions of the By-law relating to each use shall be satisfied. Where there is a conflict, such as in the case of lot size or frontage, the standards that apply to the most prominent use shall prevail.

6.14 Nonconforming Uses

Any use of land or building or structure constructed, or being constructed, on or before the effective date of this By-law that does not conform to the requirements of this By-law shall be subject to the provisions of the Municipal Government Act respecting nonconforming uses and structures.

6.15 One Main Building on a Lot

- (1) Except for permitted Agricultural, Water Utility and Wind Energy Generation Facilities uses, no more than one main building shall be erected on a lot.
- (2) Notwithstanding Part 6.15(1) more than one main building may be constructed on a single lot were it can be confirmed through preliminary subdivision approval that the lot may be subdivided so as to create legal conforming lot(s) for each building.

6.16 Reduced Lot Requirements

Notwithstanding anything else in this By-law, a lot approved in accordance with the Subdivision By-law and having less than the minimum lot area or frontage required by this By-law, may be used for a purpose permitted in the zone in which it is located and a building may be erected provided all other applicable provisions of this By-law are satisfied.

6.17 Restoration to a Safe Condition

Nothing in this By-law shall prevent the strengthening or restoring to a safe condition of any building or structure, provided that in the case of non-conforming use, relevant provisions of the Municipal Government Act shall apply.

6.18 Setback for Flanking Yard

Notwithstanding anything else in this By-law, on a corner lot in any zone, the minimum yard requirement for the flanking yard shall be the same as that required for the front yard.

6.19 Setbacks from Watercourses and Waterbodies

All buildings shall be setback a minimum of 61 Metres (200 feet) from the nearest watercourse or waterbody.

6.20 Temporary Uses Permitted

- (1) Nothing in this By-law shall prevent the temporary use of land, building or structure incidental to a main construction project provided that a development permit has been issued for the main construction project and the use is discontinued and removed within sixty (60) days following completion of the project.
- (2) Nothing in this By-law shall prevent uses of land or structures erected for special occasions and holidays provided only that no such use or structure remains in existence for more than 120 days and notwithstanding that it may cease to exist within the 120 day period that it be removed within fourteen (14) days following completion of the use.

6.21 Truck, Bus and Coach Bodies

No truck, trailer, bus or coach body or similar structure not originally designed for permanent housing purposes, shall be used for human habitation within the Digby Wellfield Protection Area.

6.22 Variance

- (1) Notwithstanding the general requirements set out for each zone in this By-law, the development officer may grant a variance from the minimum lot area and frontage, the minimum size or other requirements relating to yards, and the area of land that may be built upon, provided there is no intentional disregard for this By-law or for the intent of the By-law and the difficulty is not general to the area, in accordance with the provisions of the Municipal Government Act.
- (2) Where a variance is granted or refused, the appeal and the notice provisions of the Municipal Government Act shall be complied with and the applicant shall pay to the Chief Administrative Officer the costs of notifying affected landowners.

Part 7 General Provisions for the Wellfield Protection Zone A, Wellfield Protection Zone B and Wellfield Protection Zone C

These general provisions apply to all uses in the **Wellfield Protection Zone A (WFP-A)**, **Wellfield Protection Zone B (WFP-B)** and **Wellfield Protection Zone C (WFP-C)** except where otherwise specified.

7.1 Special Provisions, Commercial and Business Uses

Nothing in this By-law shall prevent the use of a dwelling or accessory structure for a commercial or business use provided such use shall not be obnoxious by reason of dust, fumes or smoke, or other obnoxious emission or refuse matter or water carried waste; nor be a use characterized by producing wastes that can contaminate soils or watercourses.

7.2 Keeping of Farm Animals

For the purposes of this By-law not more than the equivalent of one animal unit may be allowed on a lot; and for the purpose of this Section, one (1) animal unit means one or more farm animals or combination of farm animals as specified in the following Table 1:

Table 1
Animal Unit Equivalents

	No. Equal to 1 Unit	Max. per .4 Hectare/1 Acre	Max. per 6 Hectares/15 Acres
Cow	1	3	10
Horse	2	6	20
Sheep	4	12	40
Goat	4	12	40
Pig	2	6	20
Chicken	25	75	250
Mink	10	30	100
Rabbits	25	75	250

Part 8 Wellhead Protection (WHP) Zone

8.1 WHP Zone Uses Permitted

No development permit shall be issued for development in the **Wellhead Protection (WHP) Zone** except for the following:

- Water Utility Uses

8.2 WHP Zone Requirements

No minimum standards are established for or required in the **Wellhead Protection (WHP) Zone**.

Part 9 Wellfield Protection Zone A (WFP-A) and Wellfield Protection Zone B (WFP-B)

9.1 WFP-A and WFP-B Zones Uses Permitted

No development permit shall be issued for development in the **Wellfield Protection Zone A (WFP-A)** and **Wellfield Protection Zone B (WFP-B)** except for one or more of the following uses:

- Residential Uses
- Commercial and Business Uses
- Industrial Uses
- Institutional Uses
- Forestry Uses (excluding processing operations)
- Water Utility Uses
- Agricultural uses (excluding intensive livestock operations).

9.2 WFP-A and WFP-B Zones Requirements

No development permit shall be issued for the **Wellfield Protection Zone A (WFP-A) and Wellfield Protection Zone B (WFP-B)** except in accordance with the following requirements:

1. Development Serviced by On-site Septic and Well
 - Minimum Lot Area 1.01 Hectares (2.5 acres)
 - Minimum Lot Frontage 76.2 Metres (250 feet)
 - Minimum Side Yard 7.6 Metres (25 feet)
 - Minimum Rear Yard 7.6 Metres (25 feet)
 - Minimum Front Yard 7.6 Metres (25 feet)

2. Development Serviced by Municipal Sewer and Well
 - Minimum Lot Area .093Hectares (10,000 sq. ft.)
 - Minimum Lot Frontage 30.48 Metres (100 feet)
 - Minimum Side Yard 2.44 Metres (8 feet)
 - Minimum Rear Yard 7.62 Metres (25 feet)
 - Minimum Front Yard 7.62 Metres (25 feet)

3. Development Serviced by Municipal Sewer and Water
 - Minimum Lot Area .055Hectares (6,000 sq. ft.)
 - Minimum Lot Frontage 18.3 Metres (60 feet)
 - Minimum Side Yard 2.44 Metres (8 feet)
 - Minimum Rear Yard 7.62 Metres (25 feet)
 - Minimum Front Yard 7.62 Metres (25 feet)

Part 10 Wellfield Protection Zone C (WFP-C) Zone

10.1 WFP-C Zone Uses Permitted

No development permit shall be issued for development in the **Wellfield Protection Zone C (WFP-C) Zones** except for one or more of the following uses:

- Residential Uses
- Commercial and Business Uses
- Industrial Uses
- Institutional Uses
- Forestry Uses (excluding processing operations)
- Water Utility Uses
- Agricultural uses (excluding intensive livestock operations).

10.2 WFP-C Zone Requirements

No development permit shall be issued for the **Wellfield Protection Zone C (WFP-C)** use except in accordance with the following requirements:

(1) Development Serviced by On-site Septic and Well

- Minimum Lot Area .68 Hectares (1.68 acres)
- Minimum Lot Frontage 60 Metres (197 feet)
- Minimum Side Yard 7.6 Metres (25 feet)
- Minimum Rear Yard 7.6 Metres (25 feet)
- Minimum Front Yard 7.6 Metres (25 feet)

2. Development Serviced by Municipal Sewer and Well

- Minimum Lot Area .093Hectares (10,000 sq. ft.)
- Minimum Lot Frontage 30.48 Metres (100 feet)
- Minimum Side Yard 2.44 Metres (8 feet)
- Minimum Rear Yard 7.62 Metres (25 feet)
- Minimum Front Yard 7.62 Metres (25 feet)

3. Development Serviced by Municipal Sewer and Water
 - Minimum Lot Area .055 Hectares (6,000 sq. ft.)
 - Minimum Lot Frontage 18.3 Metres (60 feet)
 - Minimum Side Yard 2.44 Metres (8 feet)
 - Minimum Rear Yard 7.62 Metres (25 feet)
 - Minimum Front Yard 7.62 Metres (25 feet)

Part 11 Watershed (WS) Zone

11.1 WS Zone Uses Permitted

No development permit shall be issued for development in the **Watershed (WS) Zone** except for one or more of the following uses:

- Water Utility Uses
- Wind Energy Generation Facilities

11.2 WS Zone Requirements

- A) No minimum standards are established for or required in the **Watershed (WS) Zone** for Water Utility related activities and uses.
- B) The following standards shall apply to the development of Wind Energy Generation Facilities within the Watershed (WS) Zone:

Minimum setback of any structure from a lot line or any existing buildings	2 Times the height of the wind structure
--	--

Minimum setback of any structure from Van Tassel Lake	30 Meters
---	-----------

- C) Wind turbine height means:
 - i. for a wind turbine other than a roof-mounted wind turbine, the average finished grade of the wind turbine to the tip of the wind turbine blade when it reaches its highest elevation;

- ii. for a roof-mounted wind turbine, the buildings average finished grade to the tip of the wind turbine blade when it reaches its highest elevation.

Part 12 Wellfield Expansion (WFE) Zone

12.1 WFE Zone Uses Permitted

No development permit shall be issued for development in the **Wellfield Expansion (WFE) Zone** except for one or more of the following uses:

- Forestry Uses (excluding processing operations)
- Water Utility Uses
- Agricultural Uses (excluding intensive livestock operations)

12.2 WFE Zone Requirements

No development permit shall be issued for **Wellfield Expansion (WFE) Zone** use except in accordance with the following requirements:

- Minimum Lot Area 1.012 Hectares (2.5 acres)
- Minimum Lot Frontage 76.2 Metres (250 feet)
- Minimum Side Yard 7.6 Metres (25 feet)
- Minimum Rear Yard 7.6 Metres (25 feet)
- Minimum Front Yard 7.6 Metres (25 feet)

Part 13 Definitions

In this By-law words used in the present tense include the future; words in the singular number include the plural; words in the plural include the singular; and the word shall is mandatory and not permissive. All other words carry their customary meaning except for those as defined in this Section.

- (1) **Accessory Building** means a subordinate building or structure on the same lot as the main building devoted exclusively to an accessory use, but does not include a building attached in any way to the main building, or a building located completely underground.
- (2) **Accessory Use** means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.
- (3) **Agricultural Use** means the utilizing of land, buildings or structures to raise crops or animals or fowl and includes the harbouring or keeping of any one or more of the following livestock regardless of its breed or stage of development: horse, pony, pig, cow, bull, goose, duck, hen, rooster, sheep, goat , mink, fox, or similar livestock.
- (4) **Auto Repair Shop** means a building or part of a building or a clearly defined space on a lot where automobile engines, transmissions, or other mechanical components are repaired including auto body repair, but shall not include an automobile service station, an automobile washing establishment, or an automobile sales establishment.

- (5) **Automobile Service Station** means a building or part of a building or a clearly defined space on a lot used for the retail sale of lubricating oils and motor fuel and may include the sale of automobile accessories, the servicing and minor repair essential to the actual operation of motor vehicles, and associated car washes.
- (6) **Building** means a structure, whether permanent or temporary, which is roofed and which is used for the shelter or accommodation of persons, animals, materials or equipment and includes all additions, porches and decks attached thereto.
- (7) **Building Line** means any line regulating the position of a building or structure on a lot.
- (8) **Commercial and Business Use** means the operation of an enterprise where retail, wholesale, service, personal service or professional service is provided to the public or other enterprises.
- (9) **Council** means the Council of the Municipality of The District of Digby.
- (10) **Development** means any erection, construction, alteration, replacement or relocation of or addition to any building or structure and any change or alteration in the use made of land, buildings or structures.
- (11) **Development Officer** means the officer of the Municipality of The District of Digby from time to time charged by the Municipality with the duty of administering the provisions of this By-law.

- (12) **Dwelling Unit** means one or more habitable rooms designed or intended for use by one or more individuals as an independent and separate housekeeping establishment 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.
- (13) **Erect** means to build, construct, reconstruct, alter or relocate and without limiting the generality of the foregoing shall include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, or structurally altering any existing building or structure by an addition, deletion, enlargement or extension.
- (14) **Existing** means existing as of the effective date of this By-law.
- (15) **Fish and Food Processing** means the process where any fish or food materials or product is prepared or processed including cleaning, skinning, gutting, schucking, icing, freezing, heating or cooking and shall include the all handling, packaging and shipping relating to any of these activities.
- (16) **Fish Reduction Plant** means a building or part of a building where fish offal, whole or part of fish or any combination thereof is rendered into fish meal, fertilizer, a slurry, oil or any other product or by-product and includes the composting of any fish product or by-product.
- (17) **Forestry Processing Operations** means any mechanical or chemical process utilized to extract, manipulate, treat or other wise transform wood fibre into pulp or related pulp products, but does not include the harvesting of wood or the cutting or processing of wood for dimensional lumber or related wood products.
- (18) **Institutional Use** means an organized body or society for promoting a particular purpose with no intent of profit, but shall not include a private club.

- (19) **Intensive Livestock** means an Agricultural Use where the total number of Animal Units exceeds the limits as specified in Part 7.2 of this By-law.
- (20) **Lot** means any parcel of land described in a deed as a lot or as shown as an approved lot on a registered plan of subdivision.
- a) **Corner Lot** means a lot situated at the intersection of and abutting on two or more streets. The shorter lot line shall be deemed the front lot line of the said lot.
- b) **Interior Lot** means a lot situated between two lots and having access to one street.
- (21) **Lot Area** means the total horizontal area within the lot lines of a lot.
- (22) **Lot Frontage** means the length of a line joining the side lot lines and parallel to the front lot line.
- (23) **Lot Line** means a boundary line of a lot.
- a) **Front Lot Line** means the line dividing the lot from the street; in the case of a corner lot the shorter boundary line abutting the street shall be deemed the front lot line and the longer boundary line abutting the street shall be deemed the side lot line and where such lot lines are of equal length the front lot line shall be either of the lot lines. In the case of a through lot, any boundary dividing the lot from a street shall be deemed to be the front lot line.
- b) **Rear Lot Line** means the lot line furthest from or opposite to the front lot line.
- c) **Side Lot Line** means a lot line other than a front or rear lot line.

- d) **Flanking Lot Line** means a side lot line which abuts the street on a corner lot.
- (24) **Land Use By-law** means the Digby Wellfield Protection Area Land Use By-law.
- (25) **Laundry or Dry Cleaning Establishment** means a building where dry cleaning, dyeing, cleaning or pressing of articles or goods made of fabric or leather is carried on and in which only solvents are used which emit no odours or fumes and in which no noise or vibration causes a nuisance or inconvenience outside of the premises.
- (26) **Main Building** means the building in which is carried on the principal purpose for which the building lot is used.
- (27) **Municipality** means the Municipality of The District of Digby.
- (28) **Municipal Government Act** means An Act Respecting Municipal Government, chapter 18 of the Statutes of Nova Scotia, 1998.
- (29) **Municipal Planning Strategy** means the Digby Wellfield Protection Area Municipal Planning Strategy.
- (30) **Obnoxious Use** shall mean a use which, from its nature or operation creates a nuisance or is offensive by the creation of noise or vibration, or by reason of the emission of gas, fumes, dust, oil or objectionable odour, or by reason of the unsightly storage of goods, wares, merchandise, salvage, refuse matter, waste or other material.
- (31) **Owner** means a part owner, joint owner, tenant in common or joint tenant of the whole or any part of any land or building and includes a trustee, an executor, a guardian, an agent, a mortgagee in possession, or other person having the care

or control of any land or building in the event of the absence or disability of the person having the title thereof.

- (32) **Private Road** means any road which is not a provincial road or a municipal road which is shown on an approved plan of subdivision and extends to and has access to a provincial or municipal road and where not totally located within the area of land subdivided, has an easement for right -of- way and access that is assignable and perpetual and has been clearly granted by deed, registered in the registry of deeds and includes any private road approved by the Department Of Transportation and Public Works and/or the Municipality and is shown on a plan of subdivision approved prior to the first day of August, 1987 and filed in the Registry Of Deeds.
- (33) **Public Authority** means any Board, Commission or Committee of the Municipality of The District of Digby established by or exercising any power of authority under any general or specific statute of Nova Scotia with respect to any of the affairs or purposes of the municipality or a portion thereof and includes any committee or local authority established by By-law of the Municipality.
- (34) **Public Road** means the whole and entire right-of-way of every highway, road, or road allowance vested in either the Province of Nova Scotia or the Municipality of The District of Digby.
- (35) **Primary Use** means the use for which the zone has been created.
- (36) **Ready Mix Concrete and Asphalt Paving Plants** means a temporary or permanent plant or any part thereof in which concrete, ready mix concrete or asphalt concrete is produced by the heating, mixing and drying of aggregate with cement or asphalt cement.

- (37) **Registered Right Of Way** means an easement for access to private or public lands with a minimum width of ten feet extending to and having access to a provincial and/or municipal road which is recorded in the Registry Of Deeds.
- (38) **Residential Use** means the use of a structure for residential occupancy and includes structures containing one or more dwelling units
- (39) **Scrap or Salvage Yard** means a lot or premises for the storage, handling or processing of scrap material, including but not limited to waste paper, rags, bones, bottles, used bicycles, vehicles, tires, metal, construction materials and debris or other scrap material or salvage.
- (40) **Street Line** means the boundary line of the public street, road or highway.
- (41) **Structure** means anything that is erected, built, or constructed of parts joined together or any such erection fixed to or supported by the soil or by any other structure. A structure shall include buildings, walls and signs and also fences exceeding six (6) feet in height.
- (42) **Use** means the purpose for which any land, building or structure is utilized, and also means the purpose for which any land, building or structure is designed, arranged, or intended, or the purpose for which any land, building or structure is occupied or maintained or leased.
- (43) **Watercourse** means the bed and shore of every river, stream, lake, creek, pond, spring, lagoon, swamp, marsh, wetland, ravine, gulch or other natural body of water, and the water therein, including ground water, within the jurisdiction of the Province, whether it contains water or not.
- (44) **Water Utility** means the Digby Water Commission.

- (45) **Wind Energy Generation Facilities** means any structures or towers and related mechanisms buildings and services utilized in the generation of electricity by means of wind.
- (46) **Yard** means an open, uncovered space on a lot appurtenant to a building (except a court) and unoccupied by buildings or structures except as specifically permitted elsewhere in this By-law. In determining yard measurements the minimum horizontal distance from the respective lot lines shall be used.
- a) **Front Yard** means a yard extending across the full width of a lot between the front lot line and the nearest wall of any building or structure on the lot; a 'minimum' front yard means the minimum depth allowed by this By-law of a front yard on a lot between the front lot line and the nearest main wall of any main building or structure on the lot.
- b) **Rear Yard** means a yard extending across the full width of a lot between the rear lot line and the nearest wall of any main building or structure on the lot; and "minimum" rear yard means the minimum depth allowed by this By-law of a rear yard on a lot between the rear lot line and the nearest main wall of any main building or structure on the lot.
- c) **Side Yard** means a yard extending from the front yard to the rear yard of a lot between a side lot line and the nearest wall of any building or structure on the lot; and "minimum" side yard means the minimum width allowed by this By-law of a side yard on a lot between a side lot line and the nearest main wall of any main building or structure on the lot.
- d) **Flanking Yard** means the side yard of a corner lot which side yard extends from the front yard to the rear yard between the flanking lot line and the nearest main wall of any building or structure.
- (47) **Zone** means a specified area of land shown on a Schedule "A" of this By-law.

Zoning Map

