

## **Proposed Subdivision Regulation Amendments - Summer 2008**

**1.** Amend the Table of Contents by deleting the “E” in Schedule E and substituting therefor “E1 and E2”.

**2. Delete Clause 2(f)(iv) and substitute the following:**

**(iv) where not totally within the land owned by the subdivider,**

**(A) 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, or**

**(B) subject to Section 3A, if it uses an unmaintained public street to extend to and have access to a public street, the owner has a permit for it to cross the unmaintained public street that is issued by the Department of Transportation and Infrastructure Renewal and is assignable and of indefinite duration,**

**3. Add a new definition (ha) to Section 2 as follows:**

“public street” means a municipal public street or a provincial public street, unless the context requires otherwise;

**4. Add a new definition (m) to Section 2 as follows:**

“unmaintained public street” means any street or road owned by the Department of Transportation and Infrastructure Renewal that is not maintained by the Department;

**5. Add new Sections 3A as follows:**

3A For purposes of Section 3, a private road that must cross an unmaintained public street to extend to and have access to a public street may be treated as a continuous private road, provided the owner has a permit to cross the unmaintained public street issued by the Department of Transportation and Infrastructure Renewal that is assignable and of indefinite duration.

*The first five amendments are related. They will allow a person to subdivide using a private road in cases where their property is completely divided by an unmaintained public road. Previously an unmaintained public road prevented the use of a private road because the definition of private road required an easement across intervening lands between the area being subdivided and the public road. Because the Department of Transportation and Infrastructure Renewal cannot grant the required easement the sections have been rewritten to allow a permit to cross the unmaintained road in this special case. There are 2500 kilometers of these roads in Nova Scotia.*

**6. Section 4(b)** Delete “10,” in the first line.

*This amendment removes the reference to Section 10 because Section 10 was deleted in the June 2003 amendments. (Housekeeping)*

**7. Section 6(2)** Insert the words “or private road” after the words “public street” in the last line.

*This amendment deals with the section allowing water frontage to be used instead of road frontage on islands where there are no roads. The section had only referred to public roads but private roads should be included as well. (Housekeeping)*

**8. Section 14** Delete the entire section and substitute the following:

**A proposed lot which abuts a public street shall have any access approved by the authority having jurisdiction for the public street which will be accessed, based on adequate stopping sight distance, as determined by the authority having jurisdiction.**

*This gives the development officer the ability to refuse to approve a lot on a plan of subdivision where there is no safe point of access to a public road and no other access can be obtained.*

**9. Clauses 23(c), 42(c), 52(c), and 66(c)** Delete the first word “the” and substitute therefor the word “any”, and add after the word “streets” the words and number, “within 500 metres of the boundary of the proposed lots”.

*This will allow DOT or the municipality the opportunity to comment on plans of subdivision that will have an effect on a provincial or municipal road because of the close proximity of the development even though the subdivision itself does not abut a provincial road.*

**10. Section 39(8) is deleted.**

*This section is also found in the requirements for Final Plans of Subdivision. It is not necessary here. (Housekeeping)*

**11. Section 49(7)** Delete the word “may” in the second line and substitute therefor the word “shall”, and add at the end the words “or the authority having jurisdiction for public streets”.

*This will make the stopping site distance measurement mandatory and provides the subdivider the option of having the measurement done by the surveyor or the authority having jurisdiction over the street.*

**12. Section 52** Delete the word “preliminary” in the first line and substitute therefor the word “final”.

*This amendment corrects a typographical error. (Housekeeping)*

**13. Section 62(a) and Section 76(a)** Delete the words, number and punctuation, “one (1) approved copy” and substitute therefor the words, number and punctuation, “two (2) approved copies”.

*These amendments are necessary because of a MGA amendment fall of 2006. (Housekeeping)*

**14. Section 78** delete “Schedule “E”” and substitute therefor the words “Schedule E1 or E2”

**15. Add a new Section 79A as follows:**

**“Notwithstanding Section 79, the notification and approval provisions of the Act do not apply to a repeal respecting a plan of subdivision or instrument of subdivision to consolidate two or more parcels for which no deed to effect the consolidation has been registered in the Registry of Deeds or Land Registration Office, provided that the applicant certifies that to the applicant’s knowledge no deed to effect the consolidation exists.”**

*This will help to correct a problem where prior to 1999 applicants for plans of subdivision to consolidate lots were not required to submit accompanying deeds to effect the consolidation. In some cases even though the plan of subdivision was approved and filed in the Registry no deeds were ever registered to complete the consolidation. As time passes and new owners buy the original lots a title search would reveal the consolidating plan of subdivision and thus a question on the clear title of the lot. This amendment will expedite the migration of these lots into the new registry system. Since 1999 the MGA has been amended to prevent this from happening.*

**16. Schedule “E” Application for Repeal of a Subdivision** Renumber Schedule E as “Schedule E1” and add a new Schedule (attached) as “Schedule E2”.

*This will make the schedule consistent with new section 79A.*