

MUNICIPALITY OF THE COUNTY OF KINGS



For By-Law information contact the Municipal Clerk

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BY-LAW # 103

OAK ISLAND ROAD WASTEWATER MANAGEMENT DISTRICT BY-LAW

SUBTITLE

A By-law to regulate the design, construction, use and operation of a septic tank effluent pump sewer system serving certain properties along Oak Island Road in Avonport, Kings County, Nova Scotia.

PREAMBLE & ENACTMENT

WHEREAS the Municipality has legislative authority under Part XIV, Section 342 of the *Municipal Government Act* with respect to the establishment of a Wastewater Management District within a certain area, as well as imposing, fixing and providing methods of enforcing payment of charges, all to recoup the operating and maintenance costs of such wastewater facilities;

AND WHEREAS the Municipality desires to enact a by-law to regulate the design, construction, use and operation of a septic tank effluent pump sewer system serving certain properties along Oak Island Road in Avonport, Kings County, Nova Scotia;

AND WHEREAS the Municipality desires to enact a by-law to impose, fix and provide for such a system and methods of enforcing payment of all such charges and fees in Oak Island Road Wastewater Management District requesting sewer services;

BE IT ENACTED by the Council of the Municipality as follows:

Part 1: TITLE

This By-law may be cited as the “Oak Island Road Wastewater Management District By-law” for the Municipality of the County of Kings.

Part 2: INTERPRETATION AND SCOPE

In this By-law the word “shall” is mandatory and not permissive. Words used in the present tense shall include the future. Words used in the singular shall include the plural except where otherwise indicated, and words used in the plural shall include the singular.

This sewer system is owned and maintained by the Municipality of the County of Kings. The boundary of which is described in the attached Schedule “A” and shown on the attached Schedule “B”.

Part 3: DEFINITIONS

- 3.1 BUILDING means a type of structure, whether temporary or permanent, that is roofed and that is used for the shelter or accommodation of persons, animals, material or equipment, excluding frames for sheltering crops, may require sewer services.
- 3.2 COUNCIL means the Council of the Municipality.
- 3.3 EVENT SPACE means a location for hosting of weddings, conferences, galas and other similar uses.
- 3.4 FARM WINERY means a Farm Winery as defined by the Nova Scotia Farm Winery Policy (2007), as amended from time to time. For the purpose of this By-law, a Farm Winery shall include a small farm winery as defined by the Nova Scotia Farm Winery Policy (2007).
- 3.5 FARM WINERY RETAIL STORE means a Farm Winery Retail Store as defined by the Nova Scotia Farm Winery Policy (2007) as amended from time to time.
- 3.6 FIXED ROOF OVERNIGHT ACCOMMODATION means a Building or Buildings providing overnight accommodation to the travelling public, which may or may not contain an eating establishment.
- 3.7 FOOD ESTABLISHMENT means a food service facility such as a restaurant, canteen, or cafeteria where foods are prepared and/or sold.
- 3.8 GROSS FLOOR AREA means the aggregate of the floor areas of a Building above or below grade, measured between the exterior faces of the exterior walls of the Building at each floor level but excluding car parking areas within the Building, and for the purpose of this clause, the walls forming a court yard shall be deemed to be exterior walls.
- 3.9 LATERAL means the section of a Service Connection from the Sewer Main to the property line.
- 3.10 LOT means any parcel of land that is contained as a separate lot description in a deed of land or as shown as an approved lot on an approved plan of subdivision filed in the Registry of Deeds /Land Registry Office.
- 3.11 MUNICIPAL ENGINEER means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer.
- 3.12 MUNICIPAL SERVICES SPECIFICATIONS MANUAL means the Manual adopted by Council pursuant to the Subdivision By-Law #60.
- 3.13 MUNICIPALITY means the Municipality of the County of Kings.

- 3.14 ONE UNIT DWELLING means a dwelling containing one residential unit, including a mini-home or mobile home but excluding a recreational vehicle.
- 3.15 OWNER as it refers to the Owner of the property includes:
- i. A part owner, joint owner, tenant in common or joint tenant of the whole or any part of any Lot or Building;
 - ii. In the case of the absence or incapacity of the Person having title to the Lot or Building, a trustee, an executor, an administrator, a guardian, an agent, a mortgagee in possession or other Person having the care or control of any Lot or Building; and
 - iii. In the absence of proof to the contrary, the Person assessed for the property.
- 3.16 PERSON includes a corporation and the heirs, executors, administrators or other legal representatives of a Person, but specifically excludes the Municipality.
- 3.17 PRIVATE SEWER shall mean a sewer system that is located on private property and is not owned or maintained by the Municipality.
- 3.18 PRESSURE SEWER LATERAL shall mean the pressure pipe designed and installed to convey sewage from the Septic Tank to the Sewer Main.
- 3.19 PUBLIC SEWER means the Municipality owned structures, pipes, meters, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of Wastewater, including but not limited to sewer connection laterals in a Road right-of-way up to a Lot line.
- 3.20 SANITARY SEWAGE shall mean Wastewater generated from Buildings, including dwellings and industrial, commercial, agricultural and institutional establishments but excludes Storm Water.
- 3.21 SEMI DETACHED DWELLING means a dwelling that contains two residential units, which is divided vertically by a wall extending ground to roof and which is separated by open space from other Buildings, and each residential unit has an independent entrance.
- 3.22 SEPTIC TANK means the portion of a Private Sewer used for the holding of Wastewater prior to being discharged through the Public Sewer.
- 3.23 SERVICE CONNECTION means a pipe and the necessary valves and protective boxes, connections, thaw wires, meters and any other material necessary and actually used to connect a Building to a Sewer System.
- 3.24 SEWAGE TREATMENT PLANT means the bacteria plant connected to the Sewer System for the purpose of treating the Wastewater flowing through the Oak Island Road Sewer System.

- 3.25 SEWER MAIN means the primary pipe owned by the Municipality that is used, or intended, for the collection and transportation of Wastewater.
- 3.26 SEWER SYSTEM shall mean the collection of all Private Sewer and Public Sewer elements which are the subject of this By-law.
- 3.27 STORM WATER shall mean naturally occurring ground and surfaces waters, rainfall run-off, as well as industrial heating and cooling, process water.
- 3.28 TREASURER means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer.
- 3.29 WASHROOM FACILITY means a bathroom containing toilet(s) connected to the Sewer System.
- 3.30 WASTEWATER shall mean a combination of liquid or water-carried wastes removed from residential dwellings, industrial, commercial, agricultural, and institutional establishments, together with such ground, surface and rainfall runoff waters, as may be present.

Part 4: ESTABLISHMENT OF WASTEWATER MANAGEMENT DISTRICT

- 4.1 The Municipality hereby establishes the Oak Island Road Wastewater Management District (the “District”), the boundaries of which are described in Schedule “A” and identified by PID and which boundaries are shown in Schedule “B”.
- 4.2 When the Municipal Council deems it necessary that an individual on-site sewage disposal system be constructed in the Wastewater Management District Area, the Council may order, by resolution, and without the authorization of any petition of the owners, that such individual on-site sewage disposal system be constructed and all the provisions of the By-laws related to and regulating the use of such systems in force in the Municipality by and are hereby made applicable to any such systems constructed by virtue of such resolution.
- 4.3 The Municipal Council may, by resolution, order the repair and improvement of any individual on-site sewage disposal system whenever the same shall be considered necessary or desirable, and to lay out, excavate and complete such system within the Wastewater Management District Area and for any other work necessary to be done in connection therewith.

Part 5: OTHER WASTEWATER BY-LAWS AND SEWER SERVICE CHARGE

- 5.1 Unless specified otherwise in this By-law, the requirements of By-law 98 – Wastewater Sewer and By-law 91 – Sewer Discharge (both as amended from time to time) shall apply

in all respects to the District and are to be read in conjunction with this By-law's requirements. The Sewer Service Charge pursuant to this By-law shall be set through the Fee Policy of Council as may be amended from time to time.

- 5.2 Every charge or tax imposed under the provisions of this By-law shall constitute a first lien upon the real property, and may be collected in the same manner as other taxes and, at the option of the Treasurer, be collectable at the same time, and by the same proceedings, as taxes, pursuant to Section 81 of the *Municipal Government Act*.

Part 6: TYPE OF SEWER SYSTEM

The Wastewater management system may consist of a Sewer System and individual on-site sewage disposal systems as contained within the District.

Part 7: CONNECTIONS

- 7.1 The lands identified in Schedule "A" and currently identified as PIDs 55528558, 55229595 and 55229587 shall be permitted to connect to the Oak Island Road Sewer System. Any other Lots wishing to connect to the Oak Island Road Sewer System shall only be permitted where the use of such Lot is not a residential use including any Lots which may be subdivided from the PIDs noted above after the coming into force of this By-law.
- 7.2
- a) No Person shall make any opening or openings to uncover any Public Sewer or individual on-site sewage disposal system or connect a Building sewer, private drain or sewer within the Public Sewer or individual on-site disposal system within the Wastewater Management District Area, without first obtaining a permit therefore from the Municipality. Notwithstanding the issuance of any such permit, the Person to whom any such permit is issued shall be liable for any damage or injury to the Public Sewer or individual on-site sewage disposal system caused by him, his servants, agents or workmen in making any such connection.
 - b) It shall be the duty of any Person who connects any on-site sewage disposal system, or drain while excavating, to securely protect the excavation in such manner as may be directed by the Municipal Engineer, and to use a licensed installer for the purpose of such work.
- 7.3 All costs and expenses incidental to the installation and connection to the Sewer System shall be borne by the Owner. The Owner shall indemnify the Municipality from any loss or damage that may directly or indirectly be occasioned by the connection to the Sewer System.

Part 8: MUNICIPALITY RESPONSIBILITY

The Municipality shall undertake the ongoing maintenance, repair and component replacement of the Sewer System within the Oak Island Wastewater Management District, to the standard of recognized Canadian wastewater engineering practice, including the portions of the system located on public land, as well as those portions located on private lands, but limited to the Septic Tank, pump, controls, filter and related appurtenances and the Pressure Sewer Lateral.

Part 9: OWNER RESPONSIBILITY

- 9.1 At the time of construction of the Public Sewer, the entire capital cost of such construction and installation shall be borne by every Owner seeking connection to the system at the time of construction in such proportion as the Municipal Engineer shall determine based on the proposed uses and wastewater flows of the Lots being connected.
- 9.2 Each Owner shall be liable for the entire cost of any Private Sewer and connection to the Public Sewer.
- 9.3 Each Owner shall be responsible for providing and maintaining clear access to authorized Municipal personnel for on-going inspections, maintenance, repair and component replacement of those portions of the Oak Island Road Sewer System located on the Owner's property.
- 9.4 Each Owner will be responsible for maintaining the plumbing system in the building served by the "building service connection" such that no portion of the system is compromised, damaged or disrupted in any way. The Owner shall further be responsible for maintaining all portions of the Private Sewer connecting the building to the Septic Tank such that no portion of the system is compromised, damaged or disrupted in any way.
- 9.5 The electrical power consumption charges for the septic tank pump shall be the Owner's and the Owner shall maintain the electrical power supply and distribution system in the building served by the building service connection such that the septic tank pump operation is not compromised.
- 9.6 The Owner will not disrupt, relocate, modify, remove, damage or destroy any portion of the Oak Island Road Sewer System located on either private or public property, without written approval of the Municipal Engineer.
- 9.7 Any capital expenditures made to remedy any failure of the Sewage Treatment Plan shall be borne by and chargeable to every Owner connected to the system in proportion to each Owner's use of the Oak Island Road Sewer System based on the product of each Owner's discharge of Wastewater divided by overall discharge of Wastewater through the Sewer System unless the Municipal Engineer can determine the cause of the failure, then the applicable Owner(s) will be charged as noted above.

- 9.8 Discharge of Wastewater into the Oak Island Road Sewer System with respect to contents and volume shall be subject to the requirements of By-law #91, Sewer Discharge By-law.
- 9.9 In the event an Owner fails to appropriately discharge their responsibilities pursuant to this By-law in the sole determination of the Municipal Engineer, the Municipality shall have the right, but not the obligation to perform any of the Owner's responsibilities and levy any costs associated with doing so as a charge against the Owner's property and may be collected in the same manner as other taxes.

Part 10: EFFECTIVE DATE

- 10.1 This By-Law comes into force and effect on the tenth day of July 2017.

SCHEDULE "A"

SCHEDULE "A"

000710

PID 55229595

ALL that certain lot, piece or parcel of land and premises situate, lying and being on the West side of the Oak Island Road at Avenport, in the County of Kings, Province of Nova Scotia and more particularly bounded and described as follows:

BEGINNING at a large Ash Tree on the West side of the Oak Island Road at Avenport, in the County of Kings, Province of Nova Scotia, thence in a Westerly direction at a right angle to the said road a distance of 105 feet to a small Ash Tree; thence in a Southerly direction and parallel to the said Road a distance of 210 feet; thence in an Easterly direction and at a right angle to the said Road a distance of 105 feet to the said road; thence in a northerly direction along the western Boundary of the said Road to the place of beginning and containing $\frac{1}{2}$ acre more or less.

BEING AND INTENDED TO BE the same lands conveyed to Herman Morine by Henry C. Childers by Quit Claim Deed dated 25 November 1960, recorded in the Kings County Registry Office, Kentville, NS, in Book 256, at page 26.

PID 55229587

000380

SCHEDULE "A"

ALL that certain lot, piece or parcel of land and premises situate at Avonport, in the County of Kings and Province of Nova Scotia, bounded and described as follows:

BEGINNING at an iron pipe driven in the ground on the western limit of the highway leading from Highway No. 1 to Oak Island and in the southern line of lands now or formerly owned by Henry G. Childers and also a distance of twenty-seven feet (27.0') northeasterly from the northeast corner of a house erected on the herein described lot;

THENCE north eighty-one degrees and fifty minutes west ($N81^{\circ} 50'W$) a distance of two hundred and twenty feet (220.0') along a wire fence to an iron pipe driven in the ground;

THENCE south eight degrees and ten minutes west ($S8^{\circ} 10'W$) a distance of two hundred feet (200.0') to an iron pipe driven in the ground;

THENCE south eighty-one degrees and fifty minutes east ($S81^{\circ} 50'E$) a distance of one hundred and ninety-eight and four-tenths feet (198.4') to an iron pipe driven in the ground on the western limit of the above said highway;

THENCE north fourteen degrees and twenty minutes east ($N14^{\circ} 20'E$) a distance of two hundred and one and one-tenth feet (201.1') more or less to the place of BEGINNING;

CONTAINING ninety-five one hundredths of an acre (95/100 Ac.) more or less, being a part of the lands conveyed by Winnifred D. Irving et al to Mabel C. Holmes by deed dated August 23, 1952 and recorded at the Registry of Deeds for Kings County on November 16, 1955 at Book 187, Page 357.

BEING AND INTENDED TO BE the lands conveyed by Winnifred D. Irving, Frances L. Comeau and Joan M. Geddes to Winnifred D. Irving and Frances L. Comeau, as tenants in common, by Trustees' Deed dated February 1, 1990 and recorded at the Registry of Deeds, Kentville, in Book 808 at Page 482.

PARCEL DESCRIPTION REPORT

2017-05-26 09:37:29

PID: 55229348
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2016-08-23 12:55:21

ALL that certain lot, piece or parcel of land situate, lying and being at Avonport, in the County of Kings, Province of Nova Scotia, and more particularly bounded and described as follows:

BOUNDED on the east by a highway;

ON the north by a highway by lands now or formerly of Martha Allen and by lands now or formerly of Ashley Cox;

ON the west by lands now or formerly of Clarence Holmes;

ON the south by lands now or formerly of Clarence Holmes.

CONTAINING 50 acres more or less.

EXCEPTING AND RESERVING THEREFROM the lands conveyed to Herman Morine by Henry C. Childers per Attorney by deed dated November 25, 1960 and recorded in the Registry of Deeds at Kentville in Book 256, at Page 26, and being one-half acre more or less, and being identified in the Nova Scotia Property Online system as PID 55229595.

SAVING AND EXCEPTING Lot 2016-1 as shown on registered plan no. 109442898 recorded in the Land Registration Office for Kings County.

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act
Registration District: KINGS COUNTY
Registration Year: 2016
Plan or Document Number: 109442898

The MGA compliance statement has been applied by SNSMR during the processing of Land Registration Plan

External Comments:

Description Change Details:

Reason:
Author of New or
Changed Description:
Name:

Registered Instruments:

Comments:

PARCEL DESCRIPTION REPORT

2017-05-26 09:36:28

PID: 55528558
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2017-04-13 11:42:19

Registration County: KINGS COUNTY
Street/Place Name: OAK ISLAND ROAD /AVONPORT
Title of Plan: PLAN OF S/D SHOWING PARCEL A S/D OF LANDS OF ALAN B SPONAGLE & FAYE C
SPONAGLE PID 55499628 TO BE ADDED TO LOT 2016-1 LANDS OF LAB INDUSTRIES LTD PID 55528558 TO
FORM LOT 2016-1A
Designation of Parcel on Plan: LOT 2016-1A
Registration Number of Plan: 110598415
Registration Date of Plan: 2017-04-12 15:33:18

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the
Land Registration Act
Registration District: KINGS COUNTY
Registration Year: 2017
Plan or Document Number: 110598415

External Comments:

Description Change Details:

Reason:
Author of New or
Changed Description:
Name:

Registered Instruments:

Comments:

PARCEL DESCRIPTION REPORT

2017-05-26 09:37:40

PID: 55229645
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2011-08-18 09:44:43

ALL that piece or parcel of land situate at Avonport, in the County of Kings and Province of Nova Scotia, bounded as follows:

ON the north by lands now or formerly of Isaac Huntley;
 ON the east by the road running north past the Avonport Church;
 ON the south by lands now or formerly in possession of Fred Borden; and
 ON the west by the Gaspereau River;
 CONTAINING 40 acres, more or less.

EXCEPTING AND RESERVING out of and therefrom the following lot, piece or parcel of land more particularly described as follows:

BEGINNING at an iron pipe driven in the ground on the western limit of the highway leading from Highway No. 1 to Oak Island and in the southern line of lands now or formerly owned by Henry C. Childers and also a distance of 27.0 feet northeasterly from the northeast corner of a house erected on the herein described lot;

THENCE North 81 degrees 50 minutes West a distance of 220.0 feet along a wire fence to an iron pipe driven in the ground;

THENCE South 8 degrees 10 minutes West a distance of 200.0 feet to an iron pipe driven in the ground;

THENCE South 81 degrees 50 minutes East a distance of 198.4 feet to an iron pipe driven in the ground on the western limit of the above said highway;

THENCE North 14 degrees 20 minutes East a distance of 201.0 feet more or less to the place of beginning.

Containing 95/100 of an acre, more or less.

*** Municipal Government Act, Part IX Compliance ***

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

PARCEL WAS CREATED IN DEED RECORDED IN BOOK 193, PAGE 462 (RESERVED BY MABEL HOLMES)

External Comments:

Description Change Details:

Reason:

Author of New or

Changed Description:

PARCEL DESCRIPTION REPORT

2017-05-26 09:38:01

PID: 55305502
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2016-03-14 09:20:32

All that piece or parcel of land situate at Avonport, Kings County, Nova Scotia, being more particularly bounded as follows:

On the north by lands formerly of the late James Borden and now or formerly in possession of Brenton Borden;

On the east by lands now or formerly of Albert Reid and James Payzant;

On the south by lands now or formerly of James Payzant;

On the west by the road leading north past the Avonport Church;

Containing 20 acres, more or less.

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel originates with an instrument (registration details below) and the subdivision is validated by Section 291 of the Municipal Government Act

Registration District: KINGS COUNTY
Registration Year: 1985
Book: 638 Page: 143 Document Number: 12354

External Comments:

Description Change Details:

Reason:

Author of New or

Changed Description:

Name:

Registered Instruments:

Comments:

PARCEL DESCRIPTION REPORT

2017-05-26 09:37:51

PID: 55525901
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2016-04-26 10:28:37

All that certain lot, piece or parcel of land situate, lying and being at Avonport, in the County of Kings and Province of Nova Scotia, bounded and described as follows:

That certain lot of land known as the Homestead lot, bounded as follows:

Beginning on the highway near W. W. Taylors barn;

Thence Northerly by said highway to lands now or formerly of Freeman Huntley;

Thence Northerly by lands of said Freeman Huntley opposite to the old barn;

Thence North 24 degrees East 18 chains;

Thence North about 18 degrees West 18 chains, 77 links to Northwest corner of the young orchard;

Thence North about 84 degrees East 11 chains and 71 links;

Thence South 19 degrees about 11 chains;

Thence North 84 degrees East across the dyke to Oak Island;

Thence North 31 degrees West about 5 chains 30 links;

Thence North 54 degrees East across Oak Island to Avon River;

Thence Southerly by the said River to the aboiteau;

Thence by the creek Westerly by lands now or formerly occupied and owned by Robert Shaw and Mrs. W. A. Reid;

Thence South by the dyke land 23 degrees 2/10 West by land now or formerly owned and occupied by Mrs. W. A. Reid to the Dominion Atlantic Railway;

Thence Westerly by lands now or formerly of Mrs. W. A. Reid to the new road;

Thence Southerly by lands now or formerly occupied by Mrs. W. A. Reid to lands now or formerly of W. W. Taylor;

Thence Westerly by lands now or formerly of W. W. Taylor to the first mentioned bounds, containing 160 acres more or less.

EXCEPTING AND RESERVING thereout and therefrom all of those lands to the north of the south limit of the Avonport Station Road;

EXCEPTING AND RESERVING thereout and therefrom all of those lands to the west of the east bound of the Oak Island Road.

*** Municipal Government Act, Part IX Compliance ***

Not Subject To:

PARCEL DESCRIPTION REPORT

2017-05-26 09:37:51

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

External Comments:

Description Change Details:

Reason:

Author of New or

Changed Description:

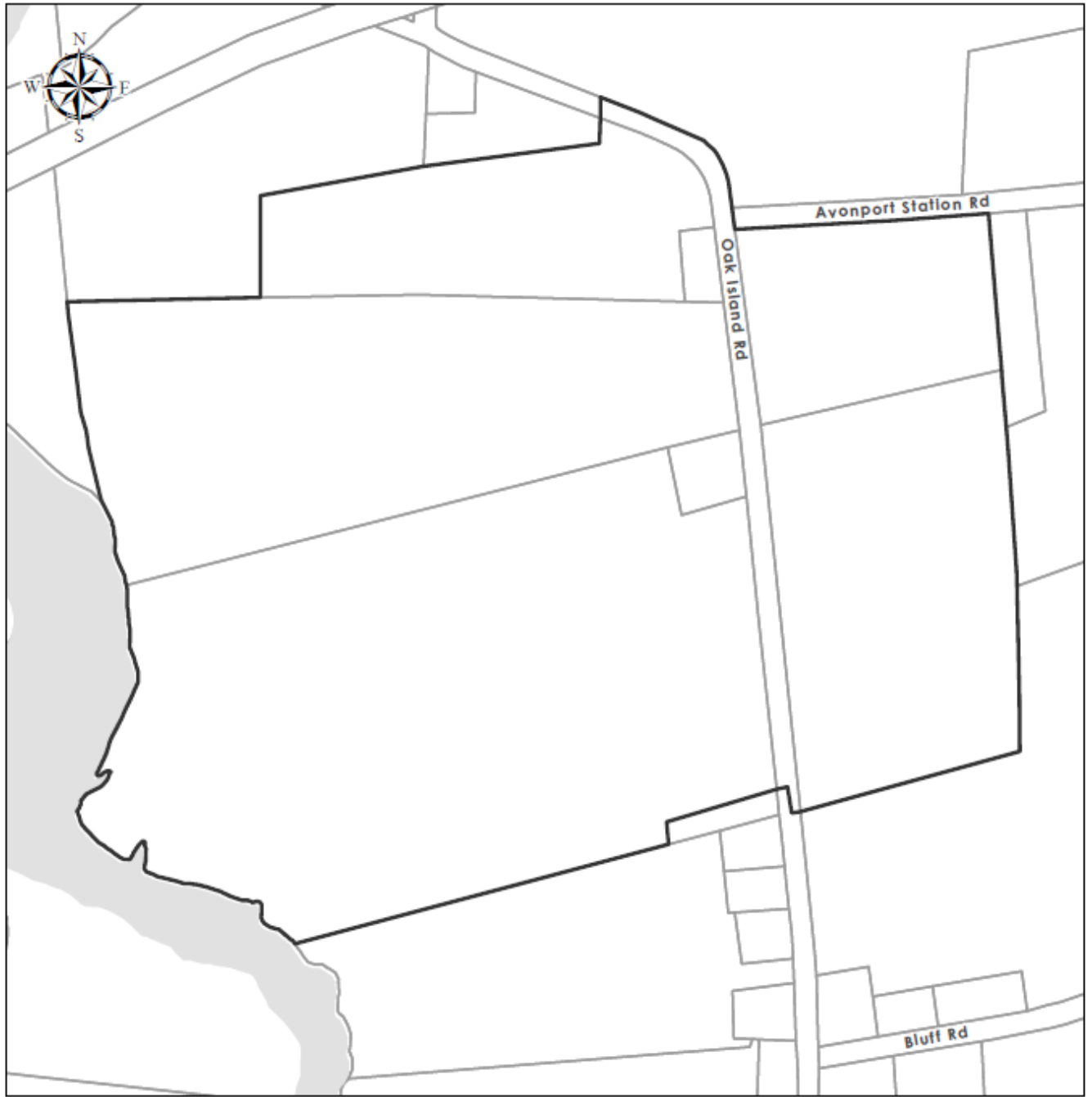
Name:




Registered Instruments:

Comments:

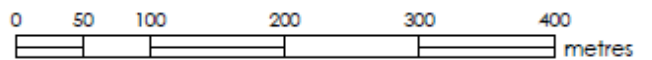
Schedule B: Wastewater Management District

Oak Island Road, Avonport



-  Wastewater Management District
-  Property Line
-  Waterbody

Scale 1 : 5 000



Sources: 1:10000 planimetric data and basemap data courtesy of NSTDB; Road data courtesy of NSRN; Property data courtesy of NSPRD; all other data is the property of the Municipality of the County of Kings. For graphic purposes only. June 2017.

SCHEDULE "C"**a) Avonport**

As per By-law #98, Wastewater Sewer By-law, any person effecting a connection made within the Oak Island Road Wastewater Management District shall pay a Sewer Capital Charge of Four Thousand Ninety-Six Dollars (\$4,096) for each Lot.