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**Item No. 10.1.1**  
**North West Community Council**  
**January 16, 2023**  
**March 27, 2023**

**TO:** Chair and Members of North West Community Council

**SUBMITTED BY:** Original Signed

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Kelly Denty, Executive Director of Planning and Development

**DATE:** December 29, 2022

**SUBJECT:** Case 23405: Land Use By-law amendment for Sackville Plan Area

### **ORIGIN**

On December 1, 2020, the following motion (Item 12.1) of Regional Council was put and passed:  
*“THAT Halifax Regional Council request a staff report to initiate the process to amend the Land Use By-law for Sackville to increase the footprint and height requirements for accessory buildings on larger lots in non-serviced areas.”*

MOTION PUT AND PASSED.

On June 14, 2021, the following motion (Item 13.1.1) of North West Community Council was MOVED by Councillor Lovelace, seconded by Councillor Deagle-Gammon:  
*“THAT North West Community Council direct the Chief Administrative Officer to return to North West Community Council with amendments to the Sackville Land Use By-law to allow for a larger maximum footprint for accessory structures on large lots.”*

MOTION PUT AND PASSED.

### **LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.*

### **RECOMMENDATION**

It is recommended that North West Community Council:

1. Give First Reading to consider approval of the proposed amendments to the Land Use By-law for Sackville, as set out in Attachment A, to allow for a larger maximum footprint for accessory structures on large residential lots and schedule a public hearing;
2. Adopt the amendment to the Land Use By-law for Sackville, as set out in Attachment A.

## **BACKGROUND**

The proposed amendments originated first from a motion of Regional Council in December of 2020 that directed staff to initiate the process to amend the Land Use By-law for Sackville to increase the footprint and height requirements for accessory buildings on larger lots in unserved areas. Preliminary research was completed by staff and presented in a staff report to North West Community Council (NWCC) dated July 2021. In response, NWCC made a motion that directed the Chief Administrative Officer to return to NWCC with amendments to the Sackville Land Use By-law to allow for a larger maximum footprint for accessory structures on large lots.

### **Proposal Details**

NWCC directed staff to propose amendments to the Sackville Land Use By-law to allow for large accessory buildings on large lots. In response, staff propose the following:

- The maximum footprint for accessory buildings be increased from 69.67 square metre (750 square feet) to 92.9 square metres (1,000 square feet) on residential lots greater than 3,716.12 square metres (40,000 square feet) in area; and
- All other provisions of the Sackville Land Use By-Law continue to apply.

### **History**

A 2001 motion of NWCC asked staff to explore amending the Land Use By-law for Beaver Bank, Hammonds Plains, and Upper Sackville to allow taller accessory buildings after concerns about the height limit were brought forward by residents. Through that planning process, it became apparent that the same issue was present in the Sackville Plan Area, and so in 2003, amendments were proposed to both land use by-laws to allow taller accessory buildings on lots exceeding 3,716 square metres (40,000 square feet). At the time, the two plan areas fell within the jurisdiction of both North West Community Council and Western Community Council, who ultimately jointly approved the amendments to both land use by-laws allowing for taller accessory buildings on large lots.

In 2012, NWCC requested an information report regarding amending the land use by-laws for the Sackville Plan Area and the Beaver Bank, Hammonds Plains, and Upper Sackville Plan Area to tie the maximum footprint for an accessory structure to the size of the lot. That report did not provide a recommendation, but discussed different options for regulating accessory building size, including relating it to the size of the main building on the lot. No further action was taken as a result of this information report, and the land use by-laws for these areas were not amended.

### **Current Policy and LUB Context**

Staff have conducted a thorough review of the existing policies applying to both the Urban Residential and Rural Residential designations of the Sackville Municipal Planning Strategy (MPS). The policies speak generally to maintaining the existing character of the residential areas, with consideration given to allowing rural areas to transition to a suburban development pattern over time. There are no policies which speak directly to the size of accessory structures. In the absence of policy speaking directly to the issue, amendments to the land use by-law with respect to the maximum size of accessory structures can be accommodated without a corresponding amendment to the Municipal Planning Strategy.

Existing regulations for accessory structures differ for residential and non-residential zones. Accessory structures used for residential purposes in all residential zones are limited to a maximum floor area of 750 square feet (69.67 square metres). The maximum floor area limit does not apply to accessory buildings used for resource-related uses (agriculture, fishing or forestry) in the R-6 (Rural Residential) Zone.

## **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved by providing information and

seeking comments through an online fact sheet located on the HRM website, and a survey located on the *Halifax Shape Your City* website, both of which were advertised through the Districts 13 and 14 Councillor Newsletters.

The HRM website received twenty-seven (27) unique page views. The survey was completed by one (1) individual.

The public comment received includes the following topics:

- That 40,000 square feet is an appropriate minimum lot size to allow larger accessory buildings;
- That 1,000 square feet is an appropriate maximum footprint size for the larger accessory buildings; and
- That these changes will not cause negative impacts.

A public hearing must be held by North West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, the HRM website will be updated to indicate notice of the public hearing.

The proposal will potentially impact local residents and property owners of lots which either meet the requirements to be eligible for the proposed changes or abut lots which meet those requirements.

## **DISCUSSION**

Staff have reviewed relevant policies and advise that the proposal is reasonably consistent with the intent of the MPS. Attachment A contains the proposed amendments to the Sackville Land Use By-law that would allow for larger accessory buildings on larger residential lots. Of the matters reviewed to satisfy the MPS criteria, the following have been identified for more detailed discussion:

### **Review of Existing Development Pattern and Lot Size Regulations**

#### ***Development Pattern of Sackville Plan Area***

As part of the preliminary research to inform the staff report dated July 2021, staff did a GIS analysis of zoning, the Urban Service Area, and lot sizes in the Sackville Plan Area to better understand the existing development pattern and how best to regulate accessory structure size (Map 1). To align with the existing regulations for height of accessory buildings, staff considered lots exceeding 3,716 square metres (40,000 square feet) in area as large in size. The analysis found that most of the R-1 (Single Unit Dwelling) and R-2 (Two Unit Dwelling) zoned lands are small lots in the Urban Service Area. R-6 (Rural Residential) zoned lands are a mix of small and large lots, both inside and outside the Urban Service Area.

The R-6 Zone was intended to be applied to lands with a rural development pattern with large lot sizes and on-site services. Notwithstanding this intention, expansion of water and sewer services over the years has resulted in many R-6 zoned lands being developed with smaller lot sizes, more in line with what is seen in the R-1 and R-2 zoned areas. The MPS anticipated this transition from a rural to a suburban development pattern over time in the Rural Residential designation. Additionally, there are a few areas within the service boundary where the services have not yet been extended, or were extended after the area was developed, such as the Wilson Lake Drive and Cobequid Road areas. This has resulted in large lots inside the service boundary which may not be connected to central services.

#### ***Lot Size Regulations***

The Sackville Land Use By-law currently allows for an exception in height from 4.5 metres (15 feet) to 6.7 metres (22 feet) or the height of the main dwelling, whichever is less, on residential lots with an area greater than 3,716 square metres (40,000 square feet). This lot size resembles a more traditional rural settlement pattern and provides adequate space between dwellings to maintain a rural character despite having taller accessory buildings. For these reasons, staff have proposed that 3,716 square metres (40,000 square feet) be the minimum required residential lot size for an exception in the permitted footprint as well. This allows

for all large residential lots, regardless of zone and servicing to have the opportunity for a larger accessory building, while still maintaining a rural character.

#### Proposed Amendments to the Land Use By-law

##### *Footprint*

The current regulations for accessory buildings in the Sackville Land Use By-law allow a maximum of 70 square metres (750 square feet) in footprint on residential lots. Staff propose an increase in footprint to a maximum of 93 square metres (1,000 square feet). This size is chosen because it enables more uses for accessory buildings, such as backyard suites to the full extent permitted by the LUB (90 square metres/968.7 square feet), three/four car garages, additional storage, and home business uses permitted by the LUB, while providing a reasonable limitation. The maximum size is also consistent with many other Community Plan Areas in the Municipality such as the R-6 Zone of the Beaver Bank, Hammonds Plains and Upper Sackville LUB and the R-6 Zone of the Planning Districts 14 and 17 LUB, both of which abut the Sackville Plan Area.

##### *Height*

The initial motion of Council from December 2020 directed staff to initiate the process to amend the Land Use By-law for Sackville to increase the footprint and height requirements for accessory buildings on larger lots in non-serviced areas. The maximum height requirement for residential accessory buildings is already permitted to exceed a maximum of 4.57 metres (15 feet) to a maximum of 6.7 metres (22 square feet) or the height of the main dwelling, whichever is less, on residential lots greater than 3,716 square metres (40,000 square feet) in area. Staff consider these regulations to be adequate and do not recommend further changes.

##### Neighbourhood Character

The proposed changes will permit larger accessory buildings on larger residential lots which resemble a more rural development pattern. This will help to maintain neighbourhood character as there is opportunity for greater separation between buildings and lot lines, as well as appropriate scaling between main dwellings and accessory buildings.

##### **Priorities Plans**

In accordance with Policy G-14A of the Halifax Regional Plan, this planning application was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. While these priority plans often contain policies which were originally intended to apply at a regional level and inform the development of Municipal Planning Strategy policies, there are still components of each plan which can and should be considered on a site by site basis. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they would be applied to a specific geographic context. Staff have determined there are no components of the priority plans that conflict with the proposed changes.

##### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The proposed changes will allow for larger accessory buildings, to a maximum of 1,000 square feet (93 square metres) on residential lots greater than 40,000 square feet (3,716 square metres) in area. These changes reflect both the suburban and rural characters that occur within the Sackville Plan Area, without restrictions relating to zoning or servicing. Therefore, staff recommend that the North West Community Council approve the proposed LUB amendments.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications. The HRM cost associated with processing this planning application can be accommodated with the approved 2022-2023 operating budget for Planning and Development.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. These proposed amendments to the LUB are consistent with the intent of the policies within the Sackville MPS. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendment are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **ALTERNATIVES**

1. North West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the proposed LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1: Residential Parcels Map

Attachment A: Proposed LUB Amendment

Links to previous staff reports:

[2021 Staff Report](#)

[2015 Staff Report](#)

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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# Sackville Residential Parcels

Map 1

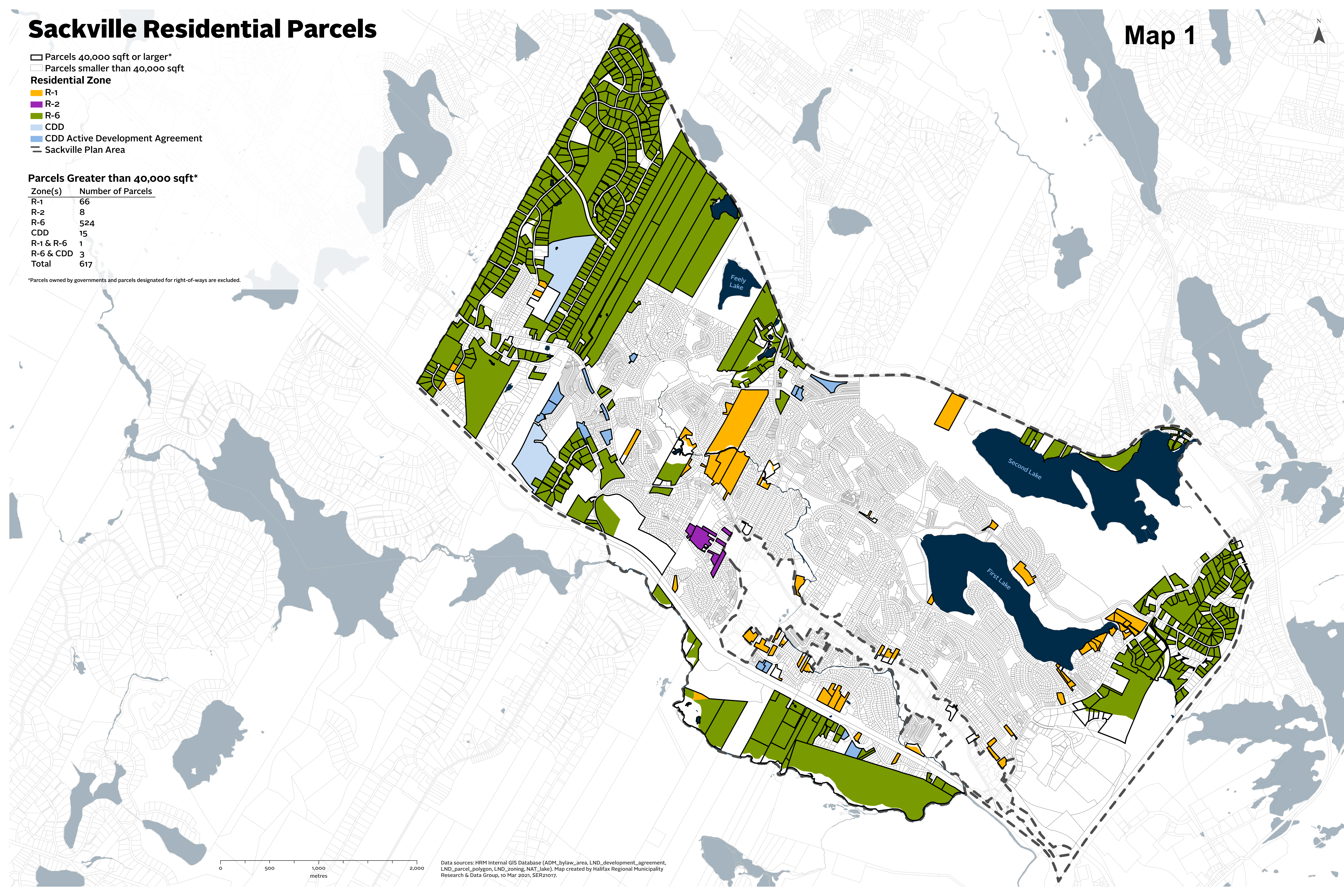


- ▭ Parcels 40,000 sqft or larger\*
- ▭ Parcels smaller than 40,000 sqft
- Residential Zone**
- R-1
- R-2
- R-6
- CDD
- CDD Active Development Agreement
- Sackville Plan Area

## Parcels Greater than 40,000 sqft\*

Zone(s)	Number of Parcels
R-1	66
R-2	8
R-6	524
CDD	15
R-1 & R-6	1
R-6 & CDD	3
<b>Total</b>	<b>617</b>

\*Parcels owned by governments and parcels designated for right-of-ways are excluded.



## Proposed Amendments to the Sackville Land Use By-Law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Land Use By-Law for Sackville is hereby amended as follows:

1. Amend PART 4 GENERAL PROVISIONS FOR ALL ZONES, Section 4.11 by inserting the text as shown in **bold**, as follows:

4.11 (c) Notwithstanding section 4.11(a)(ii), 4.11(a)(iii), **4.11(a)(iv)** and 4.11(a)(v), an accessory building or structure, excluding boat houses, in any Residential Zone may exceed fifteen (15) feet **(4.5 m) and seven hundred and fifty (750) square feet (70 m<sup>2</sup>)** where all of the following conditions can be met:

- (i) the height does not exceed the height of the main building or twenty-two (22) feet, whichever is less;
- (ia) the building does not exceed one thousand (1,000) square feet (93 m<sup>2</sup>);**
- (ii) the side walls of the building do not exceed a height of 12 feet;
- (iii) side and rear yards for the building are no less than required in Section 4.11(a)(ii) or (1/2) the height of the accessory building, whichever is greater
- (iv) the building is located no less than required in Section 4.11(a)(v) or one half (1/2) the height of the accessory building height from the main building or any other building, whichever is greater
- (v) the building or structure is not located in the required front yard;
- (vi) the lot shall have a minimum area of 40,000 square feet (3,716 m<sup>2</sup>);
- (vii) all other applicable provisions of this By-law are met. (NWCC-Jul 10/03;E-Jul 12/03)

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above noted Land Use By-law amendment was passed at a meeting of the Halifax Regional Council held on the **XX** day of **XXX** 2023.

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Iain MacLean Municipal Clerk