

RESOLVED by the Town Council of the Town of Shelburne that the following By-Law be and the same is hereby enacted and the Clerk is hereby instructed to forward four copies thereof to the Minister of Municipal Affairs with a request for her approval thereof.

SUBDIVISION BY-LAW

FOR THE

TOWN OF SHELBURNE

TABLE OF CONTENTS

SHORT TITLE 3

INTERPRETATION..... 3

GENERAL PROVISIONS 3

 A- Procedure 3

 B- Lot Requirements..... 5

 C- Public Streets 7

PRELIMINARY PLANS OF SUBDIVISION..... 7

 A- Requirements 7

 B- Procedure 8

TENTATIVE PLANS OF SUBDIVISON 8

 A- Requirements 8

 B- Procedure 11

FINAL PLANS OF SUBDIVISION 11

 A- Requirements 11

 B- Procedure 12

REPEAL OF A PLAN OF SUBDIVISION 12

Schedule A – Application For Subdivision Approval

Schedule B – Notice of Approval

Schedule C – Application for Repeal of a Plan of Subdivision

Schedule D – Repeal of a Plan of Subdivision

SUBDIVISION BY-LAW

SHORT TITLE

1. This By-Law may be cited as the "Subdivision By-Law" for the Town of Shelburne and shall apply to all lands within the Town.

INTERPRETATION

2. In this By-Law:
 - a. "Act" means the Planning Act;
 - b. "Area of land" means any existing lot or parcel as described by its boundaries;
 - c. "Frontage" means the frontage as measured in the land use By-Law;
 - d. "Lot" means any parcel to be created by the filing of a plan of subdivision;
 - e. "Province" means Her Majesty the Queen in right of the Province of Nova Scotia;
 - f. "Public street" includes any street or road owned and maintained by a Municipality or the Province;
 - g. "Registry of Deeds" means the office of the registrar of deeds for the registration district in which the area of land being subdivided is located;
 - h. "Subdivider" means the owner of the area of land proposed to be subdivided and includes anyone acting with the owner's written consent;
 - i. "Subdivision" means the division of any area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels;
 - j. "Town" means the Town of Shelburne.

GENERAL PROVISIONS

A - Procedure

3. Application for approval of a plan of subdivision shall be made to the Development Officer in the form specified in schedule "A" of this By-Law.
4. The Development Officer shall comply with the notification and approval provisions of the Act.
5. The Development Officer shall forward a copy of the plan of subdivision to
 - a) in areas not served by a central sewer, the Department of the Environment of the Province to determine compliance with the Regulations Respecting Subdivision of Land to be Serviced by On-site Sewage Disposal Systems;

- b) in areas served by a central sewer, the authority having jurisdiction for central sewers;
 - c) the authority having jurisdiction for public streets; and
 - d) any other agency of the Province or the Municipality which the Development Officer deems necessary.
6. Any agency which has been forwarded a copy of the plan of subdivision pursuant to Section 5 shall forward a written report of their assessments or recommendations to the Development Officer.
7. Approval of a plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of the Environment, the Department of Transportation and Communications or of any other agency of the Province or the Municipality unless the plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province including any applicable requirements for lot area and lot frontage contained in a land use By-Law.
8. (1) At the time of final application, the subdivider shall submit to the Development Officer
- a) The fees contained in the Costs and Fees Act, and regulations made thereunder, for
 - i. filing the endorsed final plan of subdivision and registering a notice of approval of the plan, or
 - ii. registering a repeal of a plan of subdivision; and
 - b) A processing fee of \$350.00 per final application for subdivision approval or the repeal.
- (2) Where the Development Officers refuses to approve or repeal a final plan of subdivisions, the Development Officer shall return the fees referred to in clause (1)(a) to the subdivider.
9. The Development Officer shall forward a copy of the approved tentative plan of subdivision to the subdivider and the surveyor.
10. The Development Officer shall forward an endorsed cop of the final plan of subdivision to the subdivider and the surveyor.
11. Where the Development Officer refuses to approve a tentative plan or a final plan the Development Officer shall give notice of the refusal to all agencies which were forwarded a plan pursuant to Section 5.

12. Where the Development Officer refuses to approve a tentative plan or final plan the Development Officer shall notify the subdivider pursuant to clause 105(3)(c) of the Act, give reasons for refusal, and advise the subdivider of the appeal provisions of Section 115 of the Act.
13. A final plan of subdivision showing lots to be approved under circumstances described in subsection 111(3) of the Act by special note on the plan shall
 - a) identify such lots;
 - b) state the names of the grantor and the grantee of such lots; and
 - c) state the date, book and page number of the conveyance of such lots as recorded in the registry of deeds.

B- Lot requirements

14. All lots shall abut a public street.
15. All lots shall meet the requirements for minimum lot area of minimum lot frontage contained in the Town's Land Use By-Law.
16. Section 17, 18, 20, and 21 are inoperative and do not apply unless the Land Use By-Law permits development on any lot created pursuant to these sections and the Municipal Planning Strategy provides for both the subdivision and development of such lots.
17. (1) Notwithstanding the lot area and frontage requirements of Section 15 the Development Officer may approve a maximum of two lots, shown on a plan of subdivision, in accordance with Section 107 of the Act provided all other requirements of this By-Law are met
 - (2) Subsection (1) shall not vary the dimension for frontage below 6 meters (19.7 feet) or the minimum requirement for area for a lot served by an on-site sewage disposal system.
18. (1) For the purposes of this Section "water frontage" means the distance measured as a straight line between the two points where the side lot lines meet a watercourse.
 - (2) Notwithstanding Section 14 and the lot frontage requirements of Section 15, the Development Officer may approve a subdivision on an island which does not contain a public street provided each lot has water frontage of 6 meters (19.7 feet) or more.
19. (1) Notwithstanding Section 14, and the lot area and frontage requirements of Section 15, the Development Officer may approve a subdivision altering the boundaries of two or more areas of land where

- a) no additional lots are created
- b) each resulting lot
 - i. meets the minimum dimension for lot frontage of the land use By-Law; or
 - ii. has not had its frontage, if any, reduced, and

c) each resulting lot

- i. meets the minimum requirement for lot area of the land use By-Law; and
- ii. has not had its area reduced.

(2) Where the proposed lot is not surveyed, the final plan of subdivision prepared pursuant to subsection (1) shall

- a) be certified and stamped by a Nova Scotia Land Surveyor that the boundaries of the parcel or area of land proposed to be added to the existing area of land have been surveyed and show as a heavy solid line, except the common boundary between the existing areas of land, which is surveyed and certified as being the common boundary and show as a heavy broken line;
- b) notwithstanding clause 33(1)(b), other than the new boundaries which have been surveyed pursuant to clause (a), show the remaining boundaries of the resulting lot for which approval is requested described graphically as a light solid line; and
- c) have the following notation, completed and signed by the surveyor, affixed to the plan adjacent to the certification required by the Nova Scotia Land Surveyors Act and the regulations made thereunder:

“NOTE: the only boundaries shown on this plan which have been surveyed are the boundaries of _____. The common boundary between the existing areas of land identified by _____, and _____, which is shown by a heavy broken line, is hereby certified as having been the common boundary.

The remaining boundaries of the resulting lot _____ shown on this plan are a graphic representation only and do not represent the accurate shape or position of the lot boundaries which are subject to a field survey.

20. (1) Notwithstanding the lot area and frontage requirements of Section 15, where a development component of a permanent nature such as a structure, driveway, well, or on-site sewage disposal system is encroaching in or upon an immediately adjacent area of land, the Development Officer may approve a plan of subdivision to the extent necessary and practical to remove the encroachment.
- (2) Where a lot created pursuant to subsection (1) is not surveyed, the provisions of subsection 19(2) shall apply.
21. (1) For purposes of subsection (2), “main building” is a building which is not an accessory building to another building on the area of land.
- (2) Notwithstanding the lot area and frontage requirements of Section 15, where and area of land contained more than one main building built or placed on the land prior to August 6, 1984, the Development Officer may approve a final plan of subdivision creating the same number of lots or fewer as there are main buildings provided that each proposed lot is served by a central sewer and has minimum frontage of 6 meters (19.7 feet).
22. Lots shall not be subdivided to create a width or depth of less than 6 meters (19.7 feet).

C – Public Streets

23. (1) All proposed public streets shall be
- a) Shown on a final plan of subdivision;
 - b) Designed in accordance with “Specifications for Subdivision Roads in Urban and Rural Areas” prepared by the Department of Transportation and Communications of the Province, or specifications adopted by the Municipality; and
 - c) Constructed prior to endorsement in accordance with “Standard Specifications for Municipal Services” prepared by the Nova Scotia Road Builders Associations (NSRBA) and the Nova Scotia Consulting Engineers Association (NSCEA) Joint Committee on Contract Documents, or specifications adopted by the Municipality.
- (2) The specifications referred to in clauses (b) and (c) may be waived or varied in accordance with accepted engineering practice.
- (3) The minimum right-of-way of a proposed public street shall be 15 meters (49.2 feet)

24. Where a plan of subdivision shows a proposed lot abutting an existing public street, the authority having jurisdiction shall verify that the street is a public street.

PRELIMINARY PLANS OF SUBDIVISION (Optional First Step)

A-Requirements

25. The subdivider proposing to subdivide an area of land may submit to the Development Officer four copies of the preliminary plan of subdivision drawn to scale showing:
- a) the name of the owner of the area of land being subdivided;
 - b) the names of all owners of all properties abutting the area of land being subdivided;
 - c) where a civic addressing system is in place, the civic number of main buildings on the area of land being subdivided;
 - d) a location plan showing the approximate distance between the area of land being subdivided and the nearest prominent landmark;
 - e) the shape, dimensions, and area of the lots being created;
 - f) each proposed lot identified by a number except in cases where a parcel is being added to or subtracted from an existing area of land, in which case the parcel shall be identified by a letter and the new lot identified by the existing area of land identifier, where available, and the letter;
 - g) no duplication of lot identifiers;
 - h) the approximate location of railways;
 - i) the location of existing and proposed public streets;
 - j) the name of existing and proposed public streets (and the public street number), as issued by the civic addressing system;
 - k) the graphic representation of lots being created shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated or both, shown as broken line;
 - l) the location of existing buildings within 10 meters (32.8 feet) of a property lines;
 - m) the general location of watercourses;
 - n) the north point;
 - o) the scale;
 - p) any other information necessary to determine whether the subdivision conforms to this By-Law.

B-Procedure

26. The procedure for processing preliminary plans of subdivision is contained in the GENERAL PROVISIONS.

TENTATIVE PLANS OF SUBDIVISION

A-Requirements

27. The subdivider proposing to subdivide an area of land shall submit to the Development Officer eight (8) copies of the tentative plan of the proposed subdivision meeting the requirements of Section 30 of this By-Law.
28. Notwithstanding Section 27, the Development Officer may waive the requirement that tentative application and plan of subdivision be submitted where
- a) lots abut an existing public street except where lots are created without frontage pursuant to Sections 18, or 19;
 - b) a central water or sewer system is not being installed; and
 - c) all lots to be served by on-site sewage disposal systems
 - i. are 9890 square meters (100,000 square feet) or more in area;
 - ii. have been evaluated by an authorized person of the Department of the Environment and the Development Officer has been informed in writing by the authorized person that the information already provided by the subdivider is satisfactory; or
 - iii. do not require an assessment by virtue of the exception contained in clause 2(1)(c) of the Regulations Respecting Subdivision of Land to be Serviced by On-Site Sewage Disposal Systems.
29. (1) Tentative plans of subdivision submitted to the Development Officer shall be
- a) drawn to a scale or scales sufficient for clarity of all particulars on the tentative plan of subdivision;
 - b) based on a description of the area of land to be subdivided, preferably but not necessarily as surveyed; and
 - c) folded to approximately 20/30 cm (8x12 in.) with the face of the folded print being the title block which is located in the lower right-hand corner of the tentative plan of subdivision.
- (2) Tentative plans of subdivision shall show the following
- a) the words "PLAN OF SUBDIVISION" located in the title block;
 - b) the words "TENTATIVE PLAN" located above the title block;
 - c) a clear space for stamping being a minimum of 225 square centimeters (36 square inches) with a minimum width of 8 centimeters (3 inches);
 - d) the name of the subdivision, if any, and the name of the owner of the area of land;

- e) if applicable, the book and page number of the deed to the area of land as recorded in the name of the owner in the Registry of Deeds;
- f) where Nova Scotia property mapping exists, the unique Parcel Identifier (PID) of all areas of land being subdivided, or where this property mapping does not exist the assessment account number may be shown;
- g) where a civic addressing system is in place, the civic number of main building on the area of land being subdivided;
- h) the names of all owners or the identifiers of all properties abutting the proposed subdivision;
- i) a location map, drawn to a scale not smaller than 1:50,000 (such scale to be shown on the map), preferably with the same orientation as the area of land and, if possible, showing the location of the closest community to the area of land proposed to be subdivided;
- j) the shape, dimensions, and area of the lots being created;
- k) each lot being approved identified by a number, except in cases where a parcel is being added to or subtracted by a letter and the new lot identified by the existing area of land identifier, where applicable, and the letter;
- l) no duplication of lot identifiers;
- m) the boundaries of lots being created shown by solid lines, and the vanishing boundaries of existing areas of land being resubdivided, consolidated or both, shown as broken lines;
- n) the location of existing building within 10 meters (32.8 feet) of a property boundary;
- o) the location of existing and proposed public streets;
- p) the name of existing and proposed public streets (and the public street number) private roads, and Schedule "B" roads as issued by the civic addressing system;
- q) the width and location of railroads;
- r) the location of any watercourse, prominent rock formation, marsh, or swamp which might affect the layout or provision of public streets or private roads and services to the area where the subdivision is to be located;
- s) the width, location, and nature of any easements on or affecting the area of land proposed to be subdivided;
- t) where applicable, a notation stating the lots are serviced by a public sewer and/or water system;
- u) the north point;
- v) the date on which the plan of subdivision was drawn and the date of any revisions;
- w) the scale to which the plan of subdivision is drawn; and
- x) any other information necessary to determine whether or not the plan of subdivision conforms to this By-Law.

(3) In addition to meeting the requirements of subsections (1) and (2), where the proposed lots front on a proposed public street or tentative plan of subdivision shall

- a) show a boundary survey of the area of land proposed to be subdivided, excluding the remainder lot, certified and stamped by a Nova Scotia Land Surveyor in the manner required by the Nova Scotia Land Surveyors Act and the regulations made thereunder.
- b) be accompanied by four copies of a plan showing
 - i. contours at 2 meter (5 foot) intervals, and drainage patterns,
 - ii. the width and location of proposed public streets and their intersection with existing public streets, and
 - iii. the location of existing and proposed central sewer and water systems and proposed connections thereto; and
- c) be accompanied by two (2) copies of centerline profiles of proposed public streets.

B-Procedure

30. The procedure for processing tentative plans of subdivision is contained in the GENERAL PROVISIONS.
31. The following information shall be stamped or written and completed by the Development Officer on any tentative plan of subdivision which is approved together with any other information necessary for the tentative plan to proceed to the final plan stage.
- a) “this tentative plan of subdivision is approved for lots _____. Such approval lapses if the lots are not shown on a final plan of subdivision approved within two years of the date of the approval of the tentative plan.”;
 - b) the date of the approval of the tentative plan; and
 - c) “this tentative plan of subdivision shall not be filed in the registry of deeds as no subdivision takes effect until a final plan of subdivision is endorsed by the Development Officer and filed in the registry of deeds.”

FINAL PLANS OF SUBDIVISION

A-Requirements

32. The subdivider proposing to subdivide an area of land shall submit twelve (12) copies of the final plan of subdivision meeting the requirements of Section 33 of this By-Law to the Development Officer for approval.
33. (1) Final plans of subdivision submitted to the Development Officer shall be drawn to a scale or scales sufficient for clarity of all particulars of the final plan of subdivision;

- a) certified and stamped by a Nova Scotia Land Surveyor that the lots for which approval is requested have been surveyed in the manner required by the Nova Scotia Land Surveyors Act and the regulations made thereunder, except for a final plan of subdivision prepared pursuant to subsection 19(2) of this By-Law; and
- b) folded to approximately 20x30 centimeters (8x12 inches) with the face of the folded print being the title block which is located in the lower right-hand corner of the final plan of subdivision.

(2) Final plans of subdivision shall meet the plan content requirements of subsection 29(2) except that

- a) clause 29(2)(b) does not apply.
- b) proposed streets shall be surveyed, and
- c) the geographical and mathematical location of all buildings within 3 meters (9.8 feet) of a proposed boundary shall be shown.

B-Procedure

- 34. The procedure for processing a final plan of subdivision is contained in the GENERAL PROVISIONS.
- 35. The following information shall be stamped or written and completed by the Development Officer on any final plan of subdivision which is endorsed:
 - a) “This final plan of subdivision is approved for Lots _____” and;
 - b) where applicable, the classification of each lot within one of the classes A, B, C, or D, including the definition of such class, specified in Schedule “A” to the Regulations Respecting Subdivision of Land to be Serviced by On-Site Sewage Disposal Systems or a note stating that the lots have not been assessed pursuant to clause 2(1)(c) of said regulations;
- 36. The Development Officer shall forward to the registry of deeds one (1) endorsed copy of the final plan of subdivision and a notice of approval in the form specified in Schedule “B” of this By-Law.

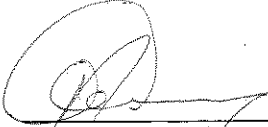
REPEAL OF A PLAN OF SUBDIVISION

- 37. Any person requesting the repeal of a plan of subdivision shall submit to the Development Officer an application in the form specified in Schedule “C”.
- 38. The Development Officer shall comply with the notification and approval provisions of the Act which apply to the repeal of a plan of subdivision.

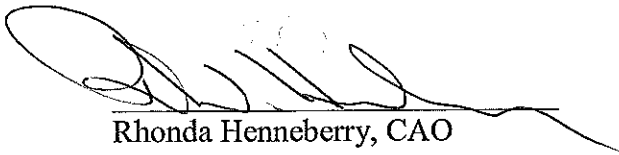
39. When the Development Officer is satisfied that an application for repeal is complete, the Development Officer may forward a copy to any agency who provided an assessment or recommendations on the original plan of subdivision.
40. Where buildings have been erected on the subject lands after the date of the subdivision approval sought to be repealed, no repeal shall be granted which would cause these buildings to be in violation of any building code regulations, Land Use By-Law, or Sewage Disposal Regulations unless the violation can be rectified by the approval of a new plan of subdivision filed at the Registry of Deeds on the same day as the repeal is filed.
41. Sections 14 to 36 inclusive of this By-Law do not apply to the repeal of a plan of subdivision.
42. A plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of the Environment, the Department of Transportation and Communications of any other agency of the Province or the Municipality unless the repeal of the plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to the law of the Province.
43. The Development Officer shall forward to the Registry of Deeds the repeal in the form specified in Schedule "D" for a plan.
44. The Development Officer shall forward a copy of the repeal referred to in Section 43 to:
 - a) the subdivider, and
 - b) any agency who provided an assessment or recommendations on the original plan of subdivision.
45. Where the Development Officer refuses to repeal a plan of subdivision, the Development Officer shall give notice of the refusal to all agencies which were forwarded the application for repeal pursuant to Section 39.
46. Where the Development Officer refuses to repeal a plan of subdivision, the Development Officer shall notify the subdivider pursuant to clause 105(3)(c) of the Act, give reasons for refusal, and advise the subdivider of the appeal provisions of Section 115 of the Act.

THIS IS TO CERTIFY that the By-Law, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Council of the Town of Shelburne duly held on the 1st day of June, 2011.

GIVEN under the hand of the Mayor and Chief Administrative Officer and under the corporate seal of the Town of Shelburne this 2nd day of June, 2011.



Mayor Alan Delaney



Rhonda Henneberry, CAO

**REPEAL OF A PLAN OF SUBDIVISION PURSUANT TO
SECTION 113 OF THE PLANNING ACT**

Name of Owner(s) _____

Name of Subdivision _____

Location _____

Surveyor _____

Date of Approval of the Plan of Subdivision _____

Being Plan # _____ at the registry of deeds.

THIS PLAN OF SUBDIVISION IS REPEALED

Dated at _____ in the _____

Province of Nova Scotia, this _____ day of _____, 20 _____

Development Officer