

TOWN OF



Mahone Bay

SUBDIVISION BYLAW

APPROVED BY COUNCIL:

EFFECTIVE:



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Part 1: Authority and Administration

1. This bylaw is enacted under the authority of the Province of Nova Scotia *Municipal Government Act S.N.S 1998, ch. 18 s. 271-274 or its successor.*
2. This bylaw shall apply to the whole of the Town of Mahone Bay.
3. This bylaw shall be administered by a Municipal Development Officer of the Town appointed under the authority of the Municipal Government Act. In the absence or incapacity of a Development Officer, Council will appoint an acting Development Officer.
4. The Metric System is used throughout this bylaw. Measurements and conversions from Imperial Measurements to Metric Measurements will be rounded to two decimal places.

Part 2: Definitions

5. In this bylaw:
 - a. *Act* means the Municipal Government Act
 - b. *Area of Land* means any existing lot or parcel as described by its boundaries, except in Section 13
 - c. *Council* means the Council of the Town of Mahone Bay
 - d. *Development Officer* means a person or persons appointed by Council with the authority to administer this bylaw in accordance with the Municipal Government Act
 - e. *Equivalent Value* means cash or facilities
 - f. *Frontage* means the lot frontage on a public street and shall be measured the same as required in the Land Use Bylaw
 - g. *Land Use Bylaw* means the Town of Mahone Bay Land Use Bylaw
 - h. *Lot* means any parcel to be created by the filing of a plan of subdivision or remaining as a result of subdivision
 - i. *Main Building* means a building which is not an accessory building to another building on the lot.
 - j. *Main Lot* means the original lot prior to subdivision

- k. *Municipal Planning Strategy* means the Town of Mahone Bay Municipal Planning Strategy
- l. *Municipal Specifications* means the Town of Mahone Bay Municipal Standards and Specifications as adopted by Council
- m. *Professional Engineer* means a registered member, in good standing, of the Association of Professional Engineers of Nova Scotia who holds appropriate professional liability insurance
- n. *Proposed lot* means any lot being proposed to be created by a plan of subdivision
- o. *Province* means His Majesty the King in right of the Province of Nova Scotia
- p. *Public Street* means any Street, Road, or Lane owned and maintained by the Town and for clarity encompasses the entirety of the right-of-way including any active transportation infrastructure
- q. *Registry of deeds* means the office of the registrar of deeds for the registration district in which the area of land being subdivided is situated
- r. *Remainder Lot* means a lot for which approval is not requested or granted by results from the approval of lots shown in a plan of subdivision
- s. *Subdivider* means the owner of the area of land proposed to be subdivided and includes anyone acting with the owner's written consent
- t. *Subdivision* means the division of any area of land into two or more parcels and includes a re-subdivision or a consolidation of two or more parcels
- u. *Town* means the Town of Mahone Bay
- v. *Town Engineer* means the engineer of the Town, which may be a staff person or a contractor, and includes a person acting under the supervision and direction of the engineer
- w. *Traffic Authority* means the Traffic Authority appointed by the Mahone Bay Town Council
- x. *Useable Land* means land meeting the following criteria:

- i. Frontage meets requirements established in the Land Use Bylaw
- ii. Minimum lot area meets requirements established in the Land Use Bylaw
- iii. Not located below a vertical elevation of 3.5 metres, relative to the Canadian Geodetic Vertical Datum of 2013
- iv. Is not subject to any known environmental contamination
- v. Must be free of wetland areas or areas covered by water
- vi. Must be free from species at risk or they habitats

Part 3: General Provisions

Application Requirements

- 6. Application for approval of a plan of subdivision shall be made to the Development Officer.
- 7. The subdivider shall pay the following fees at the time of application:
 - a. Any fees imposed by the *Nova Scotia Costs and Fees Act* and its regulations for filing the approved final plan of subdivision and registering a notice of approval of the plan
 - b. Any processing fees set by the Town

Where the Development Officer refuses to approve a final plan of subdivision, the Development Officer shall return the fees to the subdivider.

- 8. Before approving a final plan of subdivision that adds or consolidates parcels or areas of land in different ownerships, the Development Officer shall be provided with:
 - a. The executed deeds suitable for registering to allow for the addition or consolidation
 - b. The fees for registering the deeds
 - c. The affidavit of value including particulars of any exemption, if any, as required by Part V of the Act
 - d. Where applicable, the deed transfer tax
 - e. All completed forms required under the Land Registration Act to record documents at the Registry of Deeds

Lot Requirements

9. All lots shall front on a public street excepting those situations permitted pursuant to the Land Use By-law. Where a plan of subdivision shows a proposed lot abutting an existing public street, the Traffic Authority shall verify that the street is a public street.
10. All lots shall meet the applicable requirements contained in the Land Use Bylaw.
11. Sections 11, 12, and 13 do not apply unless the Land Use Bylaw permits development on any lot created as allowed by these sections and the Municipal Planning Strategy provides for both the subdivision and development of such lots.
12. Despite the lot size and frontage rules in Section 9, the Development Officer can approve up to two lots on a subdivision plan, provided that the lot dimensions and area are not less than ninety per cent of the required minimums established by the Land Use Bylaw and all other requirements of this bylaw are followed.
13. Despite Section 8 and the lot size and frontage requirements of Section 9, the Development Officer can approve a subdivision that changes the boundaries of two or more pieces of land if:
 - a. No additional lots are created
 - b. Each resulting lot
 - i. Meets the minimum frontage dimensions required by the Land Use Bylaw, or its frontage has not been reduced
 - ii. Meets the minimum area requirements of the Land Use Bylaw, or its area has not been reduced.
14. Despite the lot size and frontage requirements of Section 9, if a permanent structure or driveway extends into a neighbouring area of land, the Development Officer can approve a subdivision plan to the extent needed and practical to eliminate the encroachment.
15. Lots shall not be subdivided to create a width or depth less than 6 metres.

Part 4: Municipal Streets and Services

Servicing Agreement

16. Where a proposed subdivision involves the construction of new or extension of a public street or services, the subdivider shall, before endorsement of approval on the final plan is given, enter into a written Servicing Agreement with the

Town which shall contain provisions for the complete construction and acceptance for streets, water systems, wastewater systems, and storm drainage systems, satisfactory to the Town with respect to any or all of the following:

- a. The time within which any construction of streets and services shall be commenced and completed
- b. The phasing of any construction of streets and services, including the establishment of road reserves to connect new public streets to adjacent lands that have the potential to be subdivided and developed with future public streets, pursuant to the Municipal Planning Strategy
- c. The acceptance of any streets and services by the Town
- d. The provision and acceptance of easements and right-of-ways
- e. Cash for costs to be paid to the Town in advance of the Final Subdivision Approval for the construction of streets and services to be undertaken by the Town on behalf of the subdivider, or, where construction is to be undertaken by the Owner, security acceptable to the Town for 120% of the Town Engineer's estimate of the costs of construction of any streets and services that have not been fully constructed to the satisfaction of the Town Engineer by the date of Final Subdivision Approval .
- f. Any other matter related to the requirements of this Bylaw, Municipal Planning Strategy, and Land Use Bylaw or Development Agreement relative to the subdivision and servicing of land.

Provision of Municipal Services

17. In instances where municipal water, wastewater and stormwater services extend to a main lot making that lot serviceable by these municipal services the subdivider shall extend municipal services to any new resulting lots. If these services are not located within a subdivided public street parcel the subdivider is required to establish and transfer to the Town easements necessary for the Town to operate and maintain services.
18. The Town may choose to extend any water and wastewater and stormwater services to a main lot at the time of subdivision, either on request of the subdivider or otherwise. If the Town chooses to extend the services, the subdivider shall extend municipal services to any new resulting lots.
19. In instances where municipal water services do not extend to a main lot and the Town does not choose to extend them at the time of subdivision and where

two (2) or more lots are being serviced by a common water supply, the subdivider shall design, lay out and construct a central water system to service every proposed lot in conformance with the requirements of the Municipal Specifications.

20. In instances where municipal wastewater services do not extend to a main lot and the Town does not choose to extend them at the time of subdivision and where two (2) or more lots are to be served by a common sewage system, the subdivider shall design, layout and construct all central wastewater systems to service each proposed lot in conformance with the requirements of the service specifications.
21. Should a lot not have availability of municipal wastewater services, the lot shall be large enough for on-site sewage disposal as determined by a qualified person under the *Nova Scotia On-site Sewage Disposal Regulations*.

Construction of Services

22. All new infrastructure being constructed pursuant to this by-law, including streets, water, wastewater and stormwater infrastructure, shall conform to Municipal Specifications.
23. All proposed infrastructure shall be designed and constructed in accordance with acceptable engineering practices and plans will be approved by the Town Engineer prior to approval of the final plan of subdivision by the Development Officer.
24. Subdivided public streets shall be deeded to the Town for future maintenance of the street. Initial construction of the streets is the responsibility of the subdivider unless the construction of the streets is to be undertaken by the Town on behalf of the subdivider in accordance with the Servicing Agreement.
25. Subdivided public street parcels may be required to extend to the property boundary to enable the establishment of road reserves in accordance with the Servicing Agreement.
26. A proposed lot that borders a public street must have its access approved by the Traffic Authority.
27. Unless the construction of the streets is to be undertaken by the Town on behalf of the subdivider in accordance with the Servicing Agreement, before the Development Officer approves the final plan of subdivision, the subdivider shall provide a certificate from a professional engineer that certifies that the public street has been constructed in compliance with the design and construction requirements of the Servicing Agreement.
28. Unless otherwise provided for in the Servicing Agreement, the subdivider is responsible for the following:
 - a. Arranging for complete testing of the installation of a street at various stages as required

- b. Giving reasonable notice to the Town Engineer of the proposed test date, site, and time
- c. Allowing the Town Engineer to inspect the installation at any stage or to verify or confirm any required test.

Maintenance and Obligations

29. After completing any required Town central water system, central sewage system, or public street, and before the Town accepts it, the subdivider shall:
- a. Post a maintenance bond equal to 10% of the construction cost of the water or sewage system or street. The bond ensures the proper operation of the system or road for 12 months following the date when the Town granted final subdivision approval. At the end of the 12-month bond period, the Town Engineer will determine if there are any deficiencies in the street or services constructed or installed by the subdivider and will notify the subdivider in writing. If there are deficiencies and the subdivider does not fix them, the Town will keep all or part of the maintenance bond to address the deficiencies. The Town Engineer's decision is final.
 - b. Provide digital and reproducible engineering record drawings for each service system and road, stamped by a professional engineer
 - c. Provide "as built" digital and reproducible engineering design drawings of the street including plane and profile of the streets drawing to the required scale and certified by a professional engineer
 - d. Provide all operating and maintenance manuals for each system
 - e. Provide the results of all tests required by the Town to show proof that the service system or street has been constructed and is operating in accordance with Municipal Specifications
 - f. Provide all easements and land required for service systems to the Town
 - g. Convey each service system and street are free from all deficiencies or encumbrances.
 - h. Transfer to the Town title in fee simple to all plants, assets, and lands, necessary to the operation of the public Streets, central water systems and central wastewater systems together with easements sufficient for the maintenance of all services, public Streets and Public Street

drainage systems, such title and easements to be conveyed free of encumbrances and at no cost to the Town.

Part 5: Public Open Space

Recreation Space Requirements

30. Prior to final approval on the final plan of subdivision, the subdivider shall either:
- a. Transfer to the town, free from encumbrances, for recreational use or similar public purposes, an area of useable land within the area being subdivided equal to 5 percent (5%) of the area of the lots to be approved as shown on the final plan of subdivision exclusive of streets, easements, and the residue of the land of the subdivider.
 - b. Where Council agrees, an area of usable land per subsection 30a outside the area being subdivided but within Town boundaries in lieu of the land in the subdivision may be transferred to the Town.
 - c. If the 5 percent (5%) area of land per subsection 30a is not equal to or greater than the size of a developable lot, or otherwise as agreed to by Council, provide the Town a sum of money equivalent to 5 percent (5%) of the market value, as determined by an assessor of the lots to be approved as shown on the final plan of subdivision, exclusive of streets, easements, and in residue of the land of the subdivider.
 - d. Where Council agrees, provide the Town equivalent value in a manner acceptable to the Town.
31. Section 30 shall not apply to the following:
- a. Where requirements for parkland dedication are detailed in a Development Agreement
 - b. The consolidation or re-subdivision of land where no additional lots are created
 - c. The subdivision of a semi-detached dwelling
 - d. The subdivision of land owned by the Town

Part 6: Tentative Plans of Subdivision

Tentative Plan Requirements

32. Prior to the provision of a tentative plan of subdivision to the Development Officer in accordance with Section 33, a preliminary plan may be provided to the Development Officer for evaluation. The preliminary plan may be used to assist in the preparation of the tentative plan, enabling clarifications provided by the Development Officer's preliminary evaluation to inform the application and required tentative plan. The provision of a preliminary plan in advance of submitting an application as outlined in Section 33 is optional.
33. A person proposing to subdivide an area of land shall submit to the Development Officer an application in the form specified in Schedule "A", together with six (6) printed copies, folded and one (1) digital copy of the tentative plan of subdivision drawn by a Nova Scotia Land Surveyor to scale showing:
- a. The words "TENTATIVE PLAN OF SUBDIVISION" located in the title block
 - b. A clear space for stamping being a minimum of 225 square centimetres with a minimum width of 10 centimetres
 - c. The name of the owner of the area of land being subdivided
 - d. Names of all owners of all properties abutting the land being subdivided
 - e. The unique Parcel Identifier (PID) of all areas of land being subdivided
 - f. A location map, drawn to a scale not smaller than 1:50,000
 - g. The shape, dimensions and area of the proposed lots
 - h. Each proposed lot identified by a number except where a parcel is being added to or subtracted from an existing area of land, such parcel shall be identified by a letter and the new lots identified by the identifier, where available, of the existing area of land, and the letter
 - i. No duplication of lot identifiers
 - j. The location of existing and proposed streets
 - k. The location of existing buildings within 10 metres of a property line
 - l. The general location of watercourses and wetlands or other environmentally sensitive or protected areas

- m. The width, location, and nature of any easements on or affecting the nature of land proposed by the subdivided
- n. The north point
- o. The scale
- p. The location, dimensions, and area of any land to be conveyed to the Town for open space or similar public purposes
- q. The date on which the tentative plan of subdivision was drawn and the date of any revisions
- r. Any other information necessary to determine if the subdivision meets Municipal Specifications and accepted engineering practices as determined by the Development Officer.

34. A tentative plan of subdivision that shows a lot that does not have availability of municipal wastewater services and where an on-site sewage disposal is not planned shall be forwarded to the Nova Scotia Department of Environment for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system.

35. Any agency which has been forwarded a copy of a tentative plan of subdivision pursuant to Section 34 shall forward a written report of their assessments or recommendations to the Development Officer.

36. Approval of a tentative plan of subdivision may not be refused or withheld as a result of the assessment or recommendations made by the Department of Environment or the municipality unless the tentative plan of subdivision is clearly contrary to a law of the Province or regulation made pursuant to a law of the Province.

37. Where a subdivision divides land where no roads, water, wastewater or electric services are required to be constructed or expanded, the development officer may waive the requirement that tentative plans be submitted.

Procedures

38. Application for a tentative plan shall be made to the Development Officer in the form specified in Schedule A of these regulations.

39. The Development Officer shall comply with the notification provisions of the Municipal Government Act.

40. The Development Officer shall receive confirmation from the Chief Administrative Officer or a designate, that the proposed subdivision satisfies the various bylaws and regulations of the Town.

41. The following information shall be stamped or written and completed by the Development Officer on any tentative plan which is approved:
- a. *“This Tentative Plan is approved for lots _____. Such approval lapses if the lots are not shown on a final plan of subdivision approved within two (2) years of the date of the approval of the Tentative Plan.”*
 - b. The date of the approval
 - c. *“This tentative Plan shall not be filed in the Registry of Deeds as no subdivision takes effect until a final plan of subdivisions is approved by the Development Officer.”*
42. Upon approval of the tentative plan of subdivision, the Development Officer shall forward a copy of the approved plan to the subdivider and notify any other agency of the Province or Town that the Development Officer requested review of the plan and of their decision to approve the tentative plan.
43. Where the Development Officer refuses to approve a tentative plan of subdivision, they shall notify the subdivider of the reasons for the refusal in writing as required by the Municipal Government Act and advising the subdivider of the appeal provisions in the Act.

Part 7: Final Plans of Subdivision

Final Plan Requirements

44. A subdivider proposing to subdivide an area of land shall submit to the Development Officer an application for approval in the form of Schedule A of this bylaw together with six (6) printed copies, folded and one (1) digital copy of the final plan of subdivision drawn by a Nova Scotia Land Surveyor showing the following:
- a. The words “PLAN OF SUBDIVISION” located in the title block
 - b. A clear space for stamping
 - c. The name of the subdivision, if any, and the name of the owner of the area of land
 - d. The names of all owners or the lot identifiers of all properties abutting the proposed subdivision
 - e. A location map, drawn to scale not smaller than 1:50,000, preferably with the same orientation as the area of land
 - f. The shape, dimensions, and area of the proposed lot

- g. Each proposed lot identified by a number except, where a parcel is being added to or subtracted from an existing area of land, the parcel shall be identified by a letter and the new lots identified by the identifier of the existing area of land, and the letter
- h. No duplication of lot identifiers
- i. The boundaries of proposed lots shown by solid lines, and the vanishing boundaries of existing areas of land being re-subdivided, consolidated or both, shown as broken lines
- j. Approximate location of existing main buildings on the area of land proposed to be subdivided
- k. The location of existing public roads/streets, existing private roads, private lanes, or right-of-ways
- l. The width and location of trails
- m. The location of any watercourse, wetlands, prominent rock formations, and any environmentally sensitive or protected areas
- n. The width, location, and nature of any easements on or affecting the area of land proposed to be subdivided
- o. North point
- p. The date on which the final plan of subdivision was drawn and the dates of any revisions
- q. The scale to which the final plan of subdivision is drawn
- r. The unique parcel Identifier (PID) of all areas of land being subdivided
- s. Any other information the Development Officer deems necessary to determine whether the final plan of subdivision conforms to the Subdivision Bylaw

45.A Servicing Agreement, signed by both the Town and subdivider, along with proof of payment of any deposit of funds or proof of any security required by the Town shall be submitted along with the final plan of subdivision.

46.A final plan of subdivision submitted for approval shall be accompanied by any security or bonds required to be posted under this bylaw.

Procedures

47. The Development Officer shall comply with the notification and approval provisions of the Municipal Government Act.
48. The Development Officer shall contact any department of the Town necessary to determine if the proposed subdivision satisfies the various bylaws and regulations of the Town.
49. Approval of a final 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 Public Works, or any other agency of the Province or the Town unless the final plan of subdivision is clearly contrary to a law of the Province or regulation related to a law of the Province, including the Town's Municipal Planning Strategy.
50. At the time of application for approval of a final plan of subdivision, the subdivider shall submit to the Development Officer:
 - a. The fees for registering the final plan of subdivision
 - b. The fees for filing the notice of subdivision
51. Before approving a final plan of subdivision that adds or consolidates parcels or areas of land in different ownership, the Development Officer shall have received:
 - a. The executed deeds suitable for registering to effect the addition or consolidation.
 - b. The fees for registering the deeds.
 - c. The affidavit of value including particulars of any exemption per Part V of the Municipal Government Act, including the fees payable.
52. A final plan of subdivision that shows a lot that does not have availability of municipal wastewater services and where an on-site sewage disposal is not planned shall be forwarded to the Nova Scotia Department of Environment for confirmation that the Department is in agreement that the proposed lot does not require an on-site sewage disposal system.
53. The Development Officer shall forward an approved copy of the final plan of subdivision to the subdivider and the surveyor.
54. Where the Development Officer refuses to approve a final plan of subdivision, the Development Officer shall inform the subdivider of the reasons for the refusal in writing and advise the subdivider of the appeals provisions in Section 284 of the Municipal Government Act.
55. Where the Development Officer refuses to approve a final plan of subdivision, the development officer shall give notice of the refusal to all agencies which were forwarded a plan pursuant to Section 34.

56. The following information shall be stamped or written by the Development Officer on any final plan of subdivision which is approved
- a. *“The final plan of subdivision is approved for lots _____ on _____ (street name) within the Town of Mahone Bay.”*
57. Within seven days of approving the plan, the Development Officer shall forward to the registry of deeds:
- (a) two (2) approved copies of the final plan of subdivision and notice of approval; and,
 - (b) if applicable, the items required by Section 57.

Part 8: Repeal of Subdivision

58. Sections 6 to 54 inclusive of these regulations do not apply to the repeal of a plan of subdivision.
59. Any person requesting a repeal shall submit to the Development Officer an Application for Repeal as laid out in the Provincial Subdivision Regulations made under Section 270 of the Municipal Government Act.
60. The notification and approval provision of the Municipal Government Act that apply to the approval of a plan shall also apply to a repeal.
61. When the Development Officer is satisfied that an application for repeal is complete, the Development Officer may forward a copy to any agency which is provided an assessment or recommendations on the original plan of subdivision.
62. If buildings have been constructed on the land after the date of the subdivision approval that is being requested for repeal, no repeal will be granted if it would cause these buildings to violate the Land Use Bylaw, unless the violation can be corrected by approving a new subdivision plan and filing it at the Registry of Deeds on the same day as the repeal.
63. The Development Officer shall forward to the Registry of Deeds the repeal in the form specified.
64. The Development Officer shall forward a copy of the repeal to the subdivider and any agency that provided assessment or recommendations on the original plan of subdivision.
65. At the time of application for the repeal of a subdivision the subdivider shall submit to the Development Officer:
- a. The fees contained in the Costs and Fees Act and its regulations, for registering a repeal of a plan of subdivision
 - b. Where the Development Officer refuses to repeal a subdivision, the Development Officer shall give notice of refusal to all agencies that were forwarded the application for repeal per Section 64.

Part 9: Repeal of Bylaw

66. On the active date of this by-law, the Subdivision Bylaw dated April 17, 2002 is hereby repealed.