



PUBLIC HEARING
COUNCIL CHAMBERS & FACEBOOK LIVE
MONDAY, JANUARY 15, 2024
6:30 P.M.

Agenda

1. Meeting Opening – Mayor Atkinson
2. Subdivision Bylaw
 - a. Presentation of Subdivision Bylaw – Dawn Sutherland, Planner
 - b. Public Input
 - c. Written Submissions Received – CAO Crocker
3. Adjournment



SUBDIVISION BYLAW

Table of Contents

TITLE..... 2

INTERPRETATION AND ADMINISTRATION 2

2. INTERPRETATION..... 2

3. ADMINISTRATION 2

DEFINITIONS 2

GENERAL PROVISIONS..... 4

4. APPLICATION REQUIREMENTS..... 4

5. LOT REQUIREMENTS..... 5

MUNICIPAL STREETS AND SERVICES 6

6. SERVICING AGREEMENT..... 6

7. CONSTRUCTION OF SERVICES 6

8. MAINTENANCE AND OBLIGATIONS 7

PUBLIC OPEN SPACE 8

9. PARKLAND DEDICATION REQUIREMENTS..... 8

TENTATIVE PLANS OF SUBDIVISION 9

10. TENTATIVE PLAN REQUIREMENTS..... 9

11. PROCEDURES 10

FINAL PLANS OF SUBDIVISION 10

12. FINAL PLAN REQUIREMENTS..... 10

13. REQUIREMENTS..... 11

REPEAL OF SUBDIVISION 12

REPEAL OF PREVIOUS BYLAWS 13

TITLE

1. This Bylaw may be cited as the Town of Middleton Subdivision Bylaw and shall apply to the subdivision of all land within the Town of Middleton, hereinafter referred to as the "Town".

INTERPRETATION AND ADMINISTRATION

2. INTERPRETATION

In this bylaw, 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 plural number shall include the singular. All other words shall carry their customary meaning except those defined hereinafter.

3. ADMINISTRATION

This Bylaw shall be administered by the Municipal Development Officer of the Town, appointed under the authority of the **Municipal Government Act**.

In the absence or incapacity of the Development Officer, the acting Development Officer appointed by Council shall act in the Development Officer's stead.

DEFINITIONS

Act means the **Municipal Government Act**, Chapter 18 of the Acts of 1998, and amendments thereto.

Area of Land means any existing lot or parcel as described by its boundaries.

Council means the Council for the Town of Middleton.

Department of Environment and Climate Change means the Nova Scotia Department of Environment and Climate Change.

Department of Public Works means the Nova Scotia Department of Public Works.

Development Officer means that person appointed by Council pursuant to the Municipal Government Act and having the power and duty to administer this Bylaw.

Drainage Plan means a detailed plan of storm water runoff and the courses and channels of it, including floodplains, for one or more parts of an area of drainage for all lands tributary to, or carrying drainage from, land that is proposed to be subdivided.

Engineer means the Engineer of the Town and includes a person acting under the supervision and direction of the Engineer.

Equivalent Value means cash or facilities, services or other value in kind related to parks, playgrounds, and similar public purposes or any combination thereof, determined by the Town to be equal to the value, as determined by an assessor, of the land required to be transferred to the Town for parkland purposes.

Frontage means the lot frontage and shall be measured the same as required in the Land Use Bylaw.

Land Use Bylaw means the Town of Middleton Land Use Bylaw.

Lot means any parcel of land to be created by the filing of a plan of subdivision.

Main Building means a building which is not an accessory building to another building on the lot.

Municipal Planning Strategy means the Town of Middleton Municipal Planning Strategy.

Municipal Specifications means the *Town of Middleton Municipal Standards and Specifications* and the current issue of the Nova Scotia Road Builders Association, Consulting Engineers of Nova Scotia Joint Committee on Contract Documents' *Standard Specifications for Municipal Services*.

Professional Engineer means a registered member, in good standing, of the Association of Professional Engineers of Nova Scotia who holds appropriate professional liability insurance.

Proposed Lot means any lot being proposed to be created by a plan, including a remainder lot.

Province means His Majesty the King in right of the Province of Nova Scotia.

Public Street means any street or road owned and maintained by the Town.

Remainder Lot means a lot for which subdivision approval is not requested or granted by which results from the approval of lots shown on a plan of subdivision.

Registry of Deeds means the Land Registration Office, or Office of the Registrar of Deeds for Annapolis County.

Sanitary Sewer System means an assembly of pipes, conduits and appurtenances (including manhole and lift stations) owned by the Town of Middleton which carries sanitary sewer to a treatment plant.

Servicing Agreement means a contract between the subdivider and the Town which describes the responsibilities of each party with respect to the subdivision and servicing of land.

Storm Water System means the courses and channels, including floodplains, which receive, carry and regulate flows in response to rain and snow including overland flows, sub-surface flows, groundwater flows and snow melt.

Subdivider means the owner of the area proposed to be subdivided and includes anyone acting with the owner's written consent.

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.

Surveyor means a registered member, in good standing, of the Association of Nova Scotia Land Surveyors.

Town means the Town of Middleton.

Useable Land means land meeting the following criteria:

- substantial lot frontage on a Public Street;
- minimum contiguous area of 1000 square metres, not including portions of land with dimensions less than 6 metres in any direction;
- maximum slope of 5%;
- is not subject to any known environmental contamination;
- is not required as part of a stormwater treatment pond;
- land must be free of wet or swampy areas or areas covered by water, or;
- has unique economic, environmental, heritage, connectivity or cultural significance as determined by Council.

Water Distribution System means an assembly of pipes, conduits and appurtenances which is designed to carry and distribute potable water for consumption and fire protection and is owned by the Town of Middleton.

GENERAL PROVISIONS

4. APPLICATION REQUIREMENTS

- 4.1. Application for approval of a plan of subdivision shall be made to the Development Officer.
- 4.2. The subdivider shall pay the following fees at time of application:
 - a. for review and approval of a final plan of subdivision a processing fee in accordance with the Town's Building and Planning Fees Policy No. G.2.1; and
 - b. the fees contained in the Nova Scotia Costs and Fees Act and its regulation for filing the approved final plan of subdivision, certifying a copy of the plan, and registering a notice of approval of the plan.

- 4.3. 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 affect the addition or consolidation;
 - b. the fees for registering the deeds;
 - c. the affidavit of value including particulars of any exemption, if any, pursuant to part V of the Act;
 - d. where applicable, the deed transfer tax; and
 - e. all completed forms required under the Land Registration Act to record documents at the Registry of Deeds.

5. LOT REQUIREMENTS

- 5.1. All lots to be approved on a plan of subdivision shall abut a public street.
 - a. Notwithstanding 5.1, the Town may accept lot frontage on a private laneway where cluster housing or other forms make this arrangement practical, subject to the approval of the Town Engineer and requirements of the Land Use Bylaw. A servicing agreement may be applicable to ensure the private access is documented.
- 5.2. All lots for which approval is requested and the remainder lot, if any, for which no approval is requested, shall meet the applicable requirements contained in the Land Use Bylaw.
- 5.3. Section 5.4, 5.5, 5.6 and 5.7 do not apply unless the Land Use Bylaw 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.
- 5.4. Notwithstanding the lot area and frontage requirements of section 5.2, the Development Officer may approve a maximum of two lots, shown on a plan of subdivision, in accordance with Section 279 of the Municipal Government Act, provided all other requirements of the Bylaw are met.
- 5.5. Notwithstanding Section 5.1 and the lot area and frontage requirements of Section 5.2, the Development Officer may approve a subdivision altering the boundaries of two or more areas of land where:
 - a. no additional lots are created; and
 - b. each resulting lot:
 - meets the minimum dimensions for lot frontage of the Land Use Bylaw, or has not had its frontage, if any, reduced; and
 - meets the minimum requirements for lot area of the Land Use Bylaw, or has not had its area reduced.
- 5.6. Notwithstanding the lot area and frontage requirements of Section 5.2, where a development component of a permanent nature such as a structure or driveway 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.

- 5.7. For the purpose of Section 5.6, “main building” is a building which is not an accessory building to another building on the area of land.

Notwithstanding the lot area requirements of Section 5.2 and lot area and frontage requirements of Section 5.2, where a lot contains more than one main building built or placed on the land prior to DATE, 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 or meets the requirements of the Nova Scotia Environment for on-site sewage disposal.

- 5.8. Lots shall not be subdivided to create a width or depth of less than 6 metres.

MUNICIPAL STREETS AND SERVICES

6. SERVICING AGREEMENT

- 6.1. 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 agreement with the Town which shall contain provisions for the complete construction and acceptance for streets, water systems, sewer systems and storm drainage systems, satisfactory to the Town with respect to any or all of the following:
- the time within which any construction of streets and services shall be commenced and completed;
 - the phasing of any construction of streets and services;
 - the acceptance of any streets and services by the Town;
 - the provision and acceptance of easements and rights-of-way; and
 - any other matter related to the requirements of this Bylaw and Municipal Planning Strategy and Land Use Bylaw or Development Agreement relative to the subdivision and servicing of land.

7. CONSTRUCTION OF SERVICES

- 7.1. When an area of land being subdivided includes land that contains a new street(s), the general layout of the new street(s) shall conform to the Future Transportation Map of the Municipal Planning Strategy. The location of such new street(s) is not required to be an exact match of the Future Transportation Map, but must allow for, in the opinion of the Development Officer, the future continuation and completion of any new collector or arterial street.
- 7.2. There shall not be more than four public street approaches in an intersection.
- 7.3. All proposed Town public streets shall be:
- shown on a final plan of subdivision or plan of survey to the satisfaction of the Development Officer; and

- designed (including but not limited to water and sewer systems; curb and gutter; sidewalks and crosswalks), constructed and paved in accordance with municipal specifications, acceptable engineering practices and approved by the Town Engineer prior to approval of the final plan of subdivision by the Development Officer.
- 7.4. A proposed lot which abuts a public street shall have any access approved by the authority having jurisdiction for the public street which will be accessed, based on adequate stopping sight distance, as determined by the authority have jurisdiction.
- 7.5. Prior to approval of the final plan of subdivision by the Development Officer, the subdivider shall provide a certificate from a professional engineer which certifies that the public street has been constructed in compliance with the design and construction requirements of the Servicing Agreement.
- 7.6. The subdivider shall be responsible for the following:
- a. arranging for complete testing of the installation of a street at various stages as required; and
 - b. giving reasonable notice to the Town Engineer of the proposed test date, site, and time; and
 - c. allowing the Town Engineer to inspect the installation at any stage or to verify or confirm any required test.

8. MAINTENANCE AND OBLIGATIONS

- 8.1. Following completion of any required Municipal service system or public road and before acceptance of same by the Town the subdivider shall:
- a. post a maintenance bond in the amount of 10% of the cost of construction of the service system or road to ensure the proper operation of such system or road for a period of twelve (12) months following the date the Town granted final subdivision approval. At the end of the twelve (12) month bond period, the Town Engineer shall determine whether deficiencies exist with respect to any streets or services constructed or installed by the subdivider and shall notify the subdivider of the determination in writing. If deficiencies exist and are not remedied by the subdivider the Town shall keep the maintenance bond, or a part thereof, to remedy the deficiencies. The determination of the Town Engineer 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 engineering design drawings of the street including plan and profile of streets drawing to the required scale and certified by a professional engineer;
 - d. provide all operating and maintenance manuals for each service system;
 - e. provide the results of all tests required by the Town to show proof that the service system or road has been constructed and is operating in accordance with municipal specifications;
 - f. provide all easements and land required for service systems; and
 - g. convey each service system and road free from all encumbrances.

PUBLIC OPEN SPACE

9. PARKLAND DEDICATION REQUIREMENTS

- 9.1. Prior to approval of the final plan of subdivision, the subdivider shall either:
- a. transfer to the Town, free of encumbrances, for parks, playgrounds, and similar public purposes, an area of useable land within the area being subdivided equal to five 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; or
 - b. provide to the Town a sum of money equivalent to five 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 the residue of the land of the subdivider; or
 - c. where Council agrees, provide to the Town equivalent value, in any combination as determined by the Town; or
 - d. where the Council agrees, transfer to the Town, free of encumbrances an area of useable land of equal value outside the area being subdivided but within the boundaries of the Town, in lieu of the land in the subdivision required to be transferred under Subsection 9.1.a.
- 9.2. Section 9.1 shall not apply to the following:
- a. where requirements for parkland dedication are detailed in a Development Agreement; or
 - b. the consolidation or re-subdivision of land where no additional lots are created; or
 - c. the subdivision of a semi-detached dwelling; or
 - d. the subdivision of land owned by the Town; or
 - e. where lots created contain existing main buildings; or
 - f. remainder lots; or
 - g. the subdivision of land zoned commercial, industrial, institutional, recreation and open space, or environmental sensitive areas in the Land Use Bylaw.

TENTATIVE PLANS OF SUBDIVISION

10. TENTATIVE PLAN REQUIREMENTS

- 10.1. A person proposing to subdivide an area of land shall submit to the Development Officer an application form, together with six (6) printed copies and one (1) digital copy of the tentative plan of subdivision drawn 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;
 - m. the width, location, and nature of any easements on or affecting the area of land proposed to be 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 revision;
 - r. any other information necessary to determine if the subdivision meets with the municipal specifications and accepted engineering practice as determined by the Development Officer.
- 10.2. Where a subdivision divides land where no additional roads, water or sewer services are required to be constructed, the Development Officer may waive the requirement that tentative plans be submitted.
- 10.3. In addition to meeting the requirements of section 10.1 of this Bylaw the tentative plan of subdivision shall be accompanied by six (6) paper copies and a digital copy of each of the following:
- a. existing and proposed central sewer and water systems, proposed connections thereto and other system details;

- b. drainage design plans and details in accordance with the requirements as detailed in the Stormwater Management Design Guidelines.

11. PROCEDURES

- 11.1. Application for a tentative plan shall be made to the Development Officer in the form specified by the Town.
- 11.2. The Development Officer shall comply with the notification and approval provisions of the Municipal Government Act.
- 11.3. The Development Officer shall contact any department of the Town to determine if the proposed subdivision satisfies the various bylaws and regulations of the Town.
- 11.4. 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 if the Tentative Plan”;***
 - b. the date of the approval; and
 - c. ***“This Tentative Plan shall not be filed in the Registry of Deeds as no subdivision takes effect until a final plan of subdivision is approved by the Development Officer”.***
- 11.5. Upon approval of the tentative plan of subdivision, the Development Officer shall forward a copy of the approved tentative plan to the Subdivider and notify any other agency of the Province or Town that the Development Officer requested review the plan, of the Development Officer’s decision to approve the tentative plan.
- 11.6. Where the Development Officer refuses to approve a tentative plan of Subdivision, the Development Officer shall notify the Subdivider of the reasons for the refusal in writing pursuant to the Municipal Government Act, advising the Subdivider of the appeal provisions under the Act.

FINAL PLANS OF SUBDIVISION

12. FINAL PLAN REQUIREMENTS

- 12.1. A subdivider proposing to subdivide an area of land shall submit to the Development Officer for approval a completed application form together with six (6) printed copies and one (1) digital copy of the final plan 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 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;
 - f. the shape, dimensions and area of the proposed lots;
 - 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, existing private roads or lanes or right-of-ways;
 - l. the width and location of railroads and railroad right-of ways;
 - m. the location of any watercourse, wetlands or prominent rock formation;
 - 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.
- 12.2. A final plan of subdivision submitted for approval shall be accompanied by any security or bonds required to be posted under this Bylaw.

13. REQUIREMENTS

- 13.1. The Development Officer shall comply with the notification and approval provisions of the Act.
- 13.2. 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.
- 13.3. 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 Environment and Climate Change, the Department of Public Works or of 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 made pursuant to law of the Province, including the Town's Municipal Planning Strategy.
- 13.4. 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, and;
 - b. the fees for filing the notice of subdivision.
- 13.5. Before approving a final plan of subdivision that adds or consolidates parcels or areas of land in different ownerships, 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, pursuant to Part V of the Municipal Government Act including the fees payable.
- 13.6. 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 appeal provisions of Section 284 of the Municipal Government Act.
- 13.7. The following information shall be stamped or written and completed by the Development Officer on any final plan of subdivision which is approved:
***"This final plan of subdivision is approved for Lots _____ on _____
(street name) within the Town of Middleton."***

REPEAL OF SUBDIVISION

14. 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.
15. The notification and approval provision of the Municipal Government Act that apply to the approval of a plan shall also apply to the repeal.
16. When the Development Officer is satisfied that an application for repeal is complete, the Development Officer may forward a copy to any agency which provided an assessment or recommendations on the original plan of subdivision.
17. 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 could cause these buildings to be in violation of any building code regulations or Land Use Bylaw 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.
18. The Development Office shall forward to the Registry of Deeds the repeal in the form specified.
19. The Development Officer shall forward a copy of the repeal to:
 - a. the subdivider, and;
 - b. any agency that provided an assessment or recommendations on the original plan of subdivision.



20. 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.

REPEAL OF PREVIOUS BYLAWS

21. Any previous Subdivision Bylaws and amendments are repealed upon coming into force of this Bylaw.

I, Krista Greer, Town Clerk of the Town of Middleton, do hereby certify that the Bylaw, of which the foregoing is a true copy, was duly passed at a duly called meeting of the Town Council of the Town of Middleton held on the day of , 2024.

Krista Greer
Town Clerk

Bylaw Adoption	
Date of First Reading:	
Publication of Notice of Public Hearing:	
Date of Public Hearing	
Date of 2 nd Reading & Passing:	
Date of Publication of Notice of Passing:	
Description: Passing of Original Bylaw	