



**STAFF REPORT**

**TO:** Municipal Council

**FROM:** Erin Hartley, Deputy CAO

**APPROVED BY:** Warren MacLeod, CAO

**DATE:** October 26, 2022

**SUBJECT:** **Municipal Planning Strategy Amendment**

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**ORIGIN**

Mandatory municipal planning requirements – Municipal Government Act (MGA)

**RECOMMENDATION**

Be it resolved that the Council of the Municipality of the District of Shelburne approve the attached Municipal Planning Strategy as amended.

**DISCUSSION**

- The province proclaimed Minimum Mandatory Planning Requirements in 2019, under the MGA.
- When the Regulations were enacted, the Minister of Municipal Affairs asked that all municipalities meet the mandatory requirements by the end of 2022. That was before Covid, and because of setbacks caused by Covid the Minister allowed municipalities to write to the department and request an extension.
- In July of 2022, the CAO at the time requested an extension for the submission of a Municipal Planning Strategy and Land Use Bylaw that meets the mandatory municipal planning requirements.
- In August of 2022, the Minister granted extension and will allow the Municipality until the end of 2024 to complete the minimum planning requirements, recognizing that Covid has played a role in delaying on-going commitments. The Tri-county planning initiative will help to inform land use planning, and this was also taken into consideration when granting the extension.
- Although the Department is giving extensions to municipalities that are unable to meet the 2022 submission date, the Minister is asking that before the end of this year, despite the extension,

all municipalities amend their existing planning strategy to include a new policy that addresses consultation with adjacent municipalities, in accordance with Section 204A of the MGA:

**Engagement program 204A (1)** *A council shall adopt, by policy, an engagement program for engaging with abutting municipalities when the council is adopting or amending a municipal planning strategy.*

- It is recognized that this amendment addresses ONLY the consultation with adjacent municipalities clause. The requirement to do a complete review of the Land Use by Law and Municipal Planning Strategy by the end of 2024 is of great importance to staff and Council.
- The proposed updates are noted in red on page 13 of the attached document.

## **ATTACHMENTS**

Draft Municipal Planning Strategy



# Municipality of the District of Shelburne

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Municipal Planning Strategy  
September 2015

# 1 Introduction

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The Municipality of the District of Shelburne has adopted two high level planning documents which provide the framework for the policies and intent of this Municipal Planning Strategy . The Integrated Community Sustainability Plan (ICSP), adopted by Council in February 2010, establishes long term sustainability goals and strategies, with an Action Plan renewed every five years . The goals and strategies in the ICSP are categorized in 13 solution areas and implementation of this plan is broad based and incorporates all aspects of the Municipality's role in the community. The Municipal Climate Change Action Plan (MCCAP), adopted by Council in December 2013, deals specifically with planning issues related to the anticipated impacts of climate change, and again is broad-based in terms of implementation. Both the ICSP and the MCCAP have goals and strategies related to land use, and this Municipal Planning Strategy aims to express statements of intent and establish policies for land use and development in order to implement the strategies in these higher level documents. The policies defined in this Municipal Planning Strategy are based on the research and consultation results defined by the Wind Energy Development Plan (2011) and the Coastal Management Strategy (2012).

This Municipal Planning Strategy also integrates two existing single-issue Municipal Planning Strategies previously adopted by Council, which dealt specifically with land use and development in the Rodney Lake Watershed Area, and with the development of wind turbines. As such, this Municipal Planning Strategy will replace both the Rodney Lake Watershed Area Municipal Planning Strategy, adopted by Council in January 2002, and the Municipal Planning Strategy, adopted by Council in May 2011.

Specifically stated, and as enabled through the Municipal Government Act, the purpose of this Municipal Planning Strategy and the accompanying Land Use Bylaw is:

- **to establish a planning policy and regulatory framework in support of the development and management of wind energy resources within the District of Shelburne;**
- **to establish a planning policy and regulatory framework for the protection of drinking water resources, specifically municipal drinking water supplies, in the District of Shelburne; and**
- **to establish a planning policy which identifies which coastal areas are potentially vulnerable to the effects of extreme weather and climate change, as well as those where development and human activities may have the most influence on habitat and natural processes.**

To this end, the goals of this Strategy are:

- **to promote wind energy development in the District of Shelburne, with a particular focus on enabling community and small scale wind energy, while mitigating potential negative impacts of wind turbines by minimizing risks to public health and safety and the natural environment;**
- **to protect the quality of the Rodney Lake and Hayden Lake water resources through control of development within the watershed areas; and**
- **to educate and engage residents and developers in understanding the potential impacts of coastal events (such as sea level rise and storm surge) on development, and the potential impacts of development on coastal habitat and natural processes, now and in the future.**

This strategy was developed by the Planning Advisory Committee, which included members of Municipal Council as well as residents. Working with municipal staff, the Committee reviewed the existing strategies as well as the ICSP, the MCCAP and the Coastal Management Strategy (developed in 2012) in order to define the policies in this document. Public input was obtained through the representatives of the Planning Advisory Committee, as well as through a series of public consultation meetings held in April 2015 and through the formal public hearing process.

## **2 Context and Planning Area**

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The Planning Area for this Strategy includes all the land within the District of Shelburne, as shown on Map 1, the Generalized Future Land Use Map. General information on demographics, economy and environment within the District of Shelburne can be found in the ICSP.

Demographic and economic trends indicate low to moderate development pressures in the area, with some potential for wind energy development. Recent investment in servicing and marketing the industrial park area should act to focus industrial development in that area, particularly in marine and related industries, which are an important part of the District's economy. There is some potential for wind energy development in several areas of the District (refer to the Wind Energy Development Plan, 2011, for more information) but despite some investigation work by developers in 2012, there are no projects under consideration in the area at this time, with the exception of two relatively small Community Feed-In Tariff projects.

Coastal areas are subject to the greatest development pressures, primarily from residential and seasonal dwellings. The watershed areas (described in detail below) are subject to very little development pressure, regular activity or land use, with the exception of seasonal hunting.

## **2.1 RODNEY LAKE WATERSHED**

The Rodney Lake Watershed is located on the Sandy Point peninsula and generally flanked by the communities of Shelburne, Sandy Point and Jordan Bay/Jordan Ferry. The Rodney Lake Watershed Area contains approximately 1344 hectares (3321 acres) of land, including the lake surface area of approximately 85 hectares (210 acres). A significant amount of the watershed area is swamp and permanently wet.

Most of the lands located below the 45 foot contour, especially the area south of the Lake Rodney Road, are wet and/or are subject to flooding at different times of the year. The watershed area is generally wooded and species present are consistent with the topography and wet nature of the area.

The lake and adjacent wetlands are fed by precipitation and are characterized by poorly drained soils, a high groundwater level and a relatively flat topography. Water entering into the watershed area is cleansed by environmental processes as it passes through the wetlands and drainage systems. As a result, the lake is extremely susceptible to siltation and reduced chemical and biological water quality arising from soil erosion and vegetation disturbance. The poor drainage characteristics of the soils, the area topography and the direct surface water supply all contribute to the very real challenge of maintaining the quality of the raw water within the watershed.

## **2.2 HAYDEN LAKE WATERSHED**

The Hayden Lake Watershed contains 15870 acres of which 14205 acres are owned by the Provincial Crown. The soil within the watershed area is composed of the Mersey Series. This series consists of light brown, sandy loam over yellowish brown, sandy loam and is very stony. The topography is mainly undulating to drumloid relief. Due to the nature of this soil, it is well drained with moderately rapid internal drainage.

The Goldenville Formation consists mainly of greywacke with small amounts of conglomerate, slate and argillite. The most common rock type is a light to medium grey, medium grained, biotite greywacke. Characteristically, this rock is well bedded with beds ranging in thickness from a fraction of an inch to 20 feet.

At present, the land within the watershed boundaries is chiefly forested. Pine, spruce, maple, birch and some oak grow on these soils. Upon examination of air photos covering Hayden Lake, it is evident that there are no cottages along the lakeshore and minimal forestry operations have been conducted. With the exception of an area north of the lake, between the dirt road and Ogdens Creek, the land around the lake is heavily wooded. The open area consists of bog, exposed bedrock and scrub-type vegetation. Only one narrow, dirt road leads to the lakeshore (sandy beach) near the inlet.

Extreme stoniness of the soil in this area has prevented agricultural development. During the 1950's, exploration for beryllium was undertaken at Jordan Falls (20P 14A). All of the occurrences were small and only a few showed any continuity. Forested Mersey soils should remain so, as forest production is the most efficient use for these soils.

### **3 Provisions for Land Use & Development Control**

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This portion of the Municipal Planning Strategy details the policies of Council, which will contribute to the purpose and goals outlined above and also defines specific geographic zones to which some policies apply. Policies applicable to the General Development Zone are defined first, primarily with respect to wind energy development, and then follow the policies that define the physical location of and land use strategies for the Special Areas Zone, the Watershed Zone and the Coastal Impact Area Zone.

#### **3.1 GENERAL DEVELOPMENT ZONE**

The intent of the General Development Designation and the General Development (GD) Zone, to be set out in the District of Shelburne Land Use Bylaw, is to permit the development of all types of land uses, including wind turbines. None of the permitted uses will be subject to planning or development control regulations and no development permit will be required in the General Development Zone, except for in the development of wind turbines.

The development of wind turbines shall be subject to planning and development control regulations and a requirement for development permit, as identified in this Municipal Planning Strategy policy framework and further defined in the Land Use Bylaw.

##### **Policy -1**

It is the policy of Council to recognize the need for a wide range of housing options for residents and as such, all types of housing developments are permitted in the General Development Zone.

#### **3.2 WIND ENERGY DEVELOPMENT**

Under the General Development Designation, there will be four scales for wind turbine development; mini scale, small scale, community scale and utility scale. Each of these types of turbines has a different permitting approach based on the scale of the wind turbine. It is the intent of Council to establish within the General Development Designation the General Development (GD) Zone, which will permit mini, small and community scale turbines as-of-right with a requirement for development permit, subject to meeting specific setback requirements. This planning approach allows and encourages wind turbine development, while still establishing minimum requirements that developers will have to meet. Setbacks are used to help mitigate the noise, visual and environmental impacts of wind turbines on neighbouring properties; however, these setbacks may be waived if all neighbouring properties within the required setback provide written consent.

It is the intention of Council to permit utility scale turbines as-of-right, subject to conditions. It is important to note in addition to this, utility scale development will also be subject to receiving provincial environmental assessment (EA) approval to proceed. Wind turbines with a rated capacity of 2 MW and up are required under the Nova Scotia Environment Act and the Environmental Assessment Regulations to receive EA

approval. An EA ensures that environmental, human health, socio-economic, cultural, historic and archaeological concerns are identified and addressed by all stakeholders to avoid or minimize impacts caused by wind energy development. The EA process provides the opportunity for government agencies, non-government organizations, First Nations, local residents and the general public to provide input and information that will be considered by the Minister of Environment when making a decision (Nova Scotia Environment, 2009).

The EA process requires the developer or proponent to develop an EA registration document identifying project description, public involvement, location, physical components, construction, operation and maintenance activities, decommissioning, valued environmental components (VECs), effects of the undertaking on the environment and the effects of the environment on the undertaking. Valued Environmental Components (VECs) are environmental, socio-economic, public health, land use and cultural and historic features that may be positively or negatively impacted by the proposed development. VEC information includes existing environmental conditions, predicted environmental effects, proposed mitigation and proposed monitoring (Nova Scotia Environment, 2009). The Minister of Environment decides whether or not the wind energy development can proceed in an environmentally sustainable manner based on environmental issues and concerns identified in the EA registration document (Nova Scotia Environment, 2009).

## **Policy-2**

It is the policy of Council to designate all lands within the Planning Area as "General Development" on the Future Land Use Map (Map 1).

## **Policy -3**

It is the policy of Council to establish a General Development (GD) Zone in the Land Use Bylaw, in which all uses shall be permitted, including wind turbines.

## **Policy -4**

It is the policy of Council not to require a municipal development permit for any permitted use in the General Development (GD) Zone, except for wind turbines.

## **Policy - 5**

It is the policy of Council to identify and define mini, small, community and utility scale wind turbines in the Land Use Bylaw.

## **Mini Scale**

## **Policy - 6**

It is the policy of Council to generally permit mini scale wind turbine development as-of-right, subject to development control regulations and a requirement for development permit.

## **Small Scale**

### **Policy - 7**

It is the policy of Council to generally permit small scale wind turbine development as-of-right, subject to development control regulations and requirement for a development permit.

## **Small Scale**

### **Policy - 8**

It is the policy of Council to generally permit community scale wind turbine development as-of-right, subject to development control regulations and requirement for a development permit, with conditions related to public consultation.

## **Utility Scale**

### **Policy-9**

It is the policy of Council to permit utility scale wind turbines in the General Development Designation, subject to development control regulations and requirement for a development permit, with conditions related to noise levels, public consultation, safety and visual intrusion.

### **3.2.1 Special Areas Zone**

The intent of the Special Areas Designation and the Special Areas (SA) Zone, to be set out in the District of Shelburne Land Use Bylaw, is to protect key special areas in the Municipality. In undertaking public and stakeholder consultation, the Municipality has identified a key area where the development of wind turbines may result in negative impacts to areas of important cultural value. The area includes the view extending from the waterfront of the Town of Shelburne, which is an important cultural and heritage feature of the area, and is of value in depicting the history of the region. The community wishes to preserve the original view from this area. Within this area, all types of land uses will be permitted, except for wind turbines. Mini-scale and small-scale wind turbine development will be permitted subject to a development permit, and community-scale wind turbine development will be permitted, subject to a development permit with conditions. Utility-scale wind turbine development will be prohibited in this area because of the potential for significant visual impacts at this scale.

### **Policy -10**

It is the policy of Council to identify Special Areas as areas considered by the community of special natural or cultural value where it is anticipated the development of wind turbines will result in a significant detracting or negative impact to the value of the areas.

**Policy -11**

It shall be the policy of Council to designate the view from the Town of Shelburne Historic District, as identified by the community, as a Special Area due to its' important cultural and heritage value.

**Policy -12**

It is the policy of Council to designate "Special Areas" within the Planning Area on the Future Land Use Map (Map 1).

**Policy -13**

It is the policy of Council to establish a Special Areas (SA) Zone in the Land Use Bylaw within which all uses are permitted, including small and community scale wind turbine developments, but excluding utility scale wind turbine developments .

**Policy-14**

It is the policy of Council not to require a development permit for any permitted use in the Special Areas (SA) Zone, except for wind turbines.

**Policy -15**

It is the policy of Council to permit mini scale wind turbine development in Special Areas, subject to obtaining a development permit pursuant to the SA Zone requirements .

**Policy -16**

It is the policy of Council to permit small scale wind turbine development in Special Areas, subject to obtaining a development permit pursuant to the SA Zone requirements ..

**Policy -17**

It is the policy of Council to permit community scale wind turbine development in Special Areas subject to development control regulations and a requirement for development permit with conditions related to public consultation and visual intrusion.

**Policy - 18**

It is the policy of Council to prohibit utility scale wind turbine development in areas designated and zoned Special Areas.

### **3.2.2 Intergovernmental Affairs**

#### **Policy -19**

It is the policy of Council that applications for a development permit may require consultation with additional experts and, in particular, representatives of the Province of Nova Scotia, and applicants shall seek guidance as necessary.

#### **Policy-20**

It is the policy of Council to participate and encourage public participation in the Provincial Environmental Assessment approval processes for applications occurring within the Municipality.

#### **Policy - 21**

It is the policy of Council to monitor the **Nova** Scotia Provincial Environmental Assessment Regulations and to review the Wind Energy Municipal Plan and Land Use Bylaw upon any changes to the Environmental Assessment Regulations in order to ensure consistency.

#### **Policy-22**

It is the policy of Council that the Department of National Defense, Nova Scotia Department of Environment and Nova Scotia Department of Natural Resources will be contacted once the Municipality has received an application for a wind energy development permit.

### **3.3 SOURCE WATER PROTECTION - WATERSHED ZONE**

This section of the strategy defines the Watershed Zone and the permitted uses as well as the minimum development standards applicable within this zone. This section also prohibits specific uses due to the risk of pollution and/or contamination they present. The policies herein are generally intended to limit any substantial type of development within the Watershed Zone. The lands designated as part of the Watershed Zone may either permanently, seasonally or temporarily contain or transport water, and as such generally qualify as a "watercourse". The strategy does make specific provisions for uses related to the operation of the Shelburne Water Utility in that they are exempt from all minimum development standards which apply to other permitted uses. This grants the Utility significant development flexibility, but is considered necessary and appropriate given the necessity of the location of the physical plant and infrastructure and the shared interest of Council and the Utility with respect to protection of the watershed area.

#### **Policy-23**

It is the policy of Council to protect the quality of the Rodney Lake and Hayden Lake water resources through the control of land use and development within the watershed area as set forth in this Strategy.

#### **Policy-24**

It is the policy of Council to designate all lands located within the Rodney Lake Watershed and Hayden Lake Watershed and subject to this Strategy as Watershed, shown on Map 1, Generalized Future Land Use Map.

#### **Policy-25**

It is the policy of Council to establish in the Land Use Bylaw the Watershed (W) Zone, which includes all lands located with the Rodney Lake Watershed and the Hayden Lake Watershed.

#### **Policy-26**

It is the policy of Council to establish in the Land Use Bylaw a range of permitted uses in the Watershed (W) Zone, which are not subject to damage as a result of flooding and which limit the potential for erosion and sedimentation within the Watershed Area. Permitted uses will include agricultural activities, excluding intensive livestock operations; forestry uses, excluding processing; and activities relating to the operation of a Water Utility.

#### **Policy -27**

It is the policy of Council, due to the physical and hydrologic characteristics and environmental sensitivity of lands zoned Watershed (W) Zone, to not consider any changes to the range of uses permitted as-of-right in the zone or to consider changes to minimum development standards within the Watershed (W) Zone.

#### **Policy-28**

Notwithstanding Policy 26, it is the policy of Council to prohibit the alteration of elevation of lands within the Watershed (W) Zone by means of filling or grading, with the exception of construction of access roads above the 15-metre contour line, subject to verification by topographic survey.

#### **Policy-29**

It is the policy of Council in the Watershed (W) Zone that minimum development standards shall be established which serve to protect the rural character of the area and the hydrologic processes within the Watershed Area. Minimum standards shall include, but not be restricted to:

- a. large minimum lot size;
- b. minimum set backs from watercourses ;
- c. vegetative buffers adjacent to watercourses ;
- d. restriction to one main building per lot;

- e. restriction on the maximum size of accessory buildings .

### **Policy-30**

It is the policy of Council, in addition to establishing a range of general development control provisions in the Watershed (W) Zone, to establish a minimum setback for all buildings and structures from all watercourses as a means to specifically mitigate against the potential of erosion and sedimentation.

### **Policy - 31**

It is the policy of Council that, with the exception of all uses and activities relating to the operation of the Shelburne Water Utility, all development within the Watershed (W) Zone shall abut a public road.

### **Policy - 32**

It is the policy of Council that, notwithstanding Policy - 25 (Permitted uses in the Watershed (W) Zone), certain uses by their nature pose too great a risk to the quality of the watershed area water resource and therefore shall be prohibited in any zone including: fish reduction plants; fish and food processing plants; automobile services stations; laundry and dry cleaning establishments; bulk oil and fuel storage facilities; ready mix concrete and asphalt paving plants; intensive livestock operations including fox and mink farms; auto repair shops; and scrap and salvage yards or any like use which has associated with it the use and/or storage of toxic materials or substances.

### **Policy-33**

It is the policy of Council to consider amendments to the text of the Land Use Bylaw and in considering a proposed amendment Council shall generally consider whether or not the proposed amendment conforms to the intent of this strategy, and specifically consider whether the amendment conforms to the following provisions:

- a. minimum lot size, minimum setbacks from watercourses and minimum vegetative buffers from watercourses;
- b. no negative impact or effect on any watercourse or other natural feature through erosion or sedimentation;
- c. minimal potential for detrimental affects (by way of emission of odour, dust, toxic substances, smoke or noise, or production of wastes that can contaminate soils, watercourses or water bodies).

## **3.4 COASTAL DEVELOPMENT**

Development pressure in the District of Shelburne is highest in coastal areas, and it is recognized that these areas are also potentially vulnerable to impacts from coastal events such as sea level rise and storm surge. The Coastal Management Strategy (2012) indicates that there is a need to define a coastal impact area, not for the

purposes of land use restrictions or zoning, but as a tool for education and outreach to help residents understand which areas of the District may be most vulnerable to coastal impacts and where human activities and development may have the greatest influence on habitat and natural processes. The intent of this designation is to facilitate greater study and consideration and consultation with experts before new development is considered along the coast.

### **3.4.1 Coastal Impact Area**

The Coastal Impact Area is not defined on the Generalized Future Land Use Map, but shall be recognized for the purposes of education and outreach on coastal impacts as:

***All lands within the District of Shelburne from the Ordinary High Water Mark inland until an elevation of 5 metres or a horizontal distance of 500 metres is reached, whichever is greater.***

## **4 Implementation & Administration**

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The Municipal Planning Strategy for the District of Shelburne is the policy document providing the framework by which development throughout the entire Municipality is encouraged, controlled and coordinated. The policies of the Strategy will be implemented through a variety of mechanisms, but generally through the power of Council as provided by the Municipal Government Act and other statutes that may apply .

### **Policy- 34**

It shall be the policy of Council that all the sections of this Strategy, all appendices and all maps attached constitute the Municipal Planning Strategy and that it shall be the primary policy document providing the framework for the control of wind turbine development within the District of Shelburne.

### **Policy - 35**

It shall be the policy of Council that the provisions of this Strategy shall be implemented through the Land Use Bylaw and that all sections, appendices and maps contained in the Bylaw shall constitute the Land Use Bylaw for the District of Shelburne.

### **Policy- 36**

It shall be the policy of Council to designate a Development Officer to administer the Land Use Bylaw and the Development Officer shall be responsible to issue or deny applications for wind turbine development permits in accordance with the terms of the Strategy and Bylaw.

### **Policy- 37**

It shall be the policy of Council that an amendment to this Strategy shall be reviewed where any policy is to be changed or where necessary to avoid conflict with any Statements of Provincial Interest or any other relevant Provincial statute or regulation.

### **Policy - 38**

It shall be the policy of Council that its Planning Advisory Committee assist in monitoring development and planning processes, to assess the level of development permit activity, and to regularly review the policies set out in this strategy as technology and regulations and processes at other levels of government change.

### **Consultation with Adjacent Municipalities**

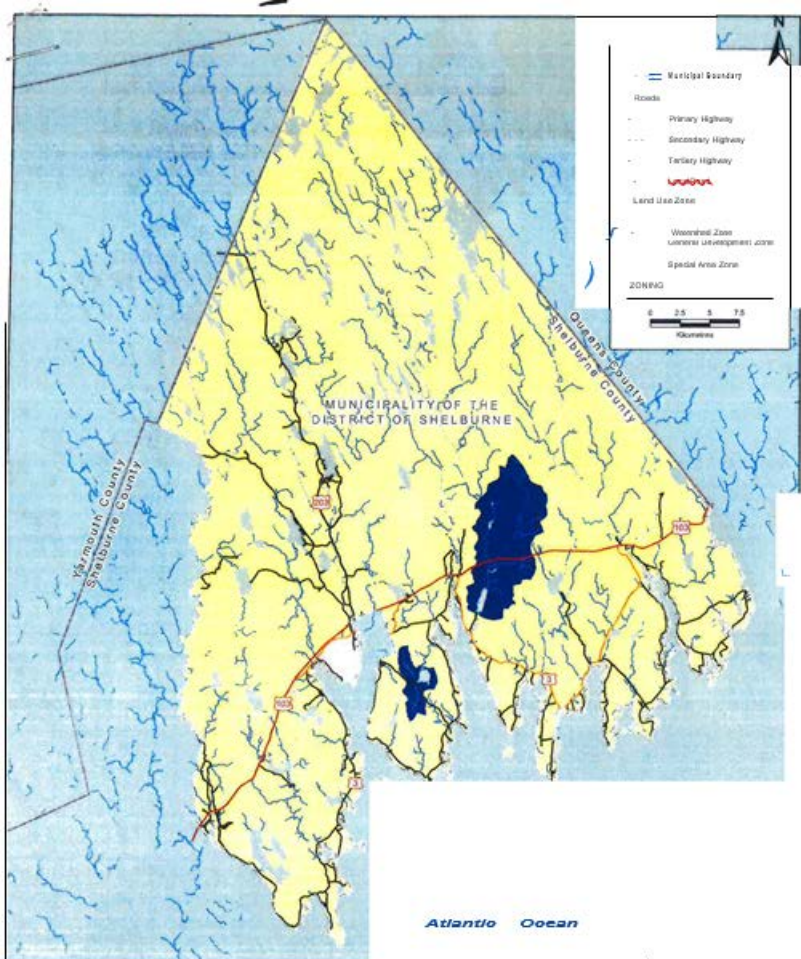
This Municipal Planning Strategy and its associated Bylaws apply only to lands within the Municipality of Shelburne. However, activities that occur within the Municipality have the potential to affect adjacent municipalities. This may be direct, such as the generation of traffic or trespass of noise or odours across borders. It may also be indirect, such as through effects on the market for various types of development in neighbouring areas.

Council believes that it is important to consider the input of adjacent municipalities when considering amendments to this Municipal Planning Strategy.

### **Policy – 39**

It shall be the policy of Council that Council shall consult with adjacent municipalities when:

- (a) adopting a new Municipal Planning Strategy to replace this one; and
- (b) when considering amendments to this Municipal Planning Strategy that would affect lands abutting an adjacent municipality or municipalities.



DATE	June 15, 2015
DRAWN BY	E. Tipton
SCALE	1:10,000

Municipality of the District of Shelburne Land Use Bylaw	
<b>Zoning Map</b>	

REVISION	Schedule A
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