

Town of Hartland

Subdivision By-Law

By-Law No. B-47



**SUBDIVISION BY-LAW
Town of Hartland
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**TOWN OF HARTLAND
BY-LAW NO. B-47**

A SUBDIVISION BY-LAW

The Council of the Town of Hartland, under authority vested in it by Section 42 of the *Community Planning Act*, enacts as follows:

1.0 Title

- (1) This By-Law may be cited as the Subdivision By-Law for the Town of Hartland.

2.0 Scope

- (1) This By-law provides for regulation of the subdivision of land in the Town of Hartland.

3.0 Interpretation

- (1) In this By-Law:

“abut” means in the case of lots or properties, lands that are adjacent to each other and which share a common boundary.

“active transportation” means any form of human powered transportation including walking, running, cycling, skateboarding, in-line skating, etc.

“Council” means the council of the Town of Hartland.

“developer” means the owner of the lands being subdivided.

“Development Officer” means the development officer as defined in the *Community Planning Act*.

“drainage ditch” means a shallow sloped channel connected to the storm sewer system used for the conveyance of surface water runoff that is the result of natural precipitation.

“engineer” means a registered member of the Association of Professional Engineers and Geoscientists of New Brunswick

“engineering design drawings” means plans stamped and signed by an engineer showing the design and layout of water, sanitary sewers, storm sewers, streets and surface drainage

“land for public purposes” means land other than streets for the recreational or other use for the enjoyment of the general public such as:

- (a) an access to a lake, river, stream, sea, or other body of water;
- (b) a beach or scenic area along the shore of a lake, river, stream, sea, or other body of water;
- (c) a conservation area;
- (d) land adjoining a school for joint recreational purposes;
- (e) land for a community hall, public library, recreational use or other similar community facility;

- (f) open space to provide air and light to afford a view to or from a development, or to a lake, river, stream, sea, or other body of water, or for other purposes;
- (g) a park, greenbelt, or buffer area dividing developments, parts of highway, or development and a highway;
- (h) a pedestrian way to a school, shopping centre, recreational area, or other facility;
- (i) a protection area for a water course, stream, marsh, water supply, lake, or other body of water;
- (j) a public park, playground, or other recreational use;
- (k) a visual feature; or
- (l) a wooded area, slope area, or a site giving view to a scenic area to provide diversity.

“lot” means a parcel of land or two or more adjoining parcels held by the same owner and used or intended to be used as the site for a building or structure or an appurtenance thereto;

“on site sewage disposal system” means a septic tank with a subsurface disposal field and all other private sewage disposal systems that are not connected to an approved municipal sewage system

“pedestrian walkway” means a right of way or a defined portion of land for public purposes that is intended for the exclusive use of pedestrian movements.

“Planning Advisory Committee” means the Planning Advisory Committee established by Council.

“street, arterial” means a street designed primarily for through traffic usually on a continuous route with or without intersections at grade giving direct access to abutting property and on which geometric design and traffic control measures may be used to expedite the safe movement of through traffic.

“street, collector” means a street designed to provide access to abutting properties which also serves to collect and distribute traffic between arterial and local streets

“street, local” means a street designed primarily for access to a residence, business, industry or other abutting property

“subdivide” means to divide a parcel of land into two or more parcels.

“subdivider” means the owner(s) of the property seeking to subdivide the land into two or more parcels.

“subdivision” means a plan which divides a parcel of land into two or more parcels.

“Subdivision Agreement” means a written contract between a Developer and the Town dealing with the responsibilities of each party with respect to the subdividing and development of land outlined in this By-law.

“utility” means any underground surface or overhead facility that is maintained by a utility agency to deliver electricity natural gas telephone or cable television

“width” means, in relation to a lot,

- (a) where the side lot lines are parallel, the distance measured across the lot at right angles to such lines; or
- (b) where the side lot lines are not parallel, the distance measured across the lot along a line parallel to a line joining the points at which the side lot lines intersect the limits of the abutting street, such parallel line being drawn through the point at which the line of minimum set-back (required by By-Law or regulation) intersects a line from the mid-point of and perpendicular to the line to which it is parallel.

4.0 Application

- (1) Subject to subsection (2), this By-Law applies exclusive to the Town of Hartland.
- (2) This By-Law applies throughout the Town to any proposed subdivision.
- (3) This By-Law does not apply to,
 - (a) the severance of one residential lot into two residential lots; or
 - (b) the consolidation of two or more residential lots,

if the new lots conform to all other By-Laws of the Town of Hartland and the creation of new streets and the setting aside of lands for public purposes are not required.

5.0 Streets

- (1) In a subdivision, unless otherwise stipulated by Council:
 - (a) All streets shown within a subdivision shall have the following minimum right-of-way widths:
 - (i) an arterial street: 30 m (98.4 ft)
 - (ii) a collector street: 20 m (65.6 ft) to 25 m (82 ft)
 - (iii) a local street: 18 m (59.1 ft);
 - (b) A cul-de-sac shall not exceed 150 m (492.1 ft) in length unless pedestrian connectivity with adjacent streets is maintained through trails and/or active transportation infrastructure. At no point shall a cul-de-sac exceed 183 m (600.4 ft);
 - (c) A cul-de-sac shall terminate with circular area having a radius of 18 m (59.1 ft); and
 - (d) No street may have a gradient in excess of eight percent.
- (2) Where entry will be gained to a subdivision by means of an existing street or other access, by whomever owned, the person seeking approval of the plan of such subdivision shall make provision to bring the existing access to the same standard as is required for streets within the proposed subdivision.
- (3) Reserve strips abutting a street in a subdivision are prohibited, except where such strips are vested in the municipality.
- (4) In arriving at a decision regarding a recommendation with respect to the location of streets in a proposed subdivision, the Planning Advisory Committee shall give consideration to the relationship between such location and:
 - (a) the topography of the land;
 - (b) the provision of lots suitable for the intended use;
 - (c) street intersections and interceptions being as nearly as possible at right angles;
 - (d) convenient access to the proposed subdivision and to lots within it; and
 - (e) the convenient further subdividing of the land or adjoining land.
- (5) Names of streets in a subdivision are subject to the approval of the Council.
- (6) Unless stipulated otherwise in this by-law or agreed to by the Town, horizontal and vertical alignments and other design elements of streets must conform to the standards set out in the Transportation Association of Canada (TAC) Geometric Design Guide for Canadian Roads and applicable Provincial Guidelines and Standards.

- (7) Street intersections must be designed in compliance with Transportation Association of Canada (TAC) guidelines and New Brunswick Department of Transportation guidelines unless otherwise specified.

6.0 Lots, Blocks and other Parcels

- (1) Every lot, block and other parcel of land in a subdivision shall abut
 - (a) a street owned by the Crown or the Municipality; or
 - (b) such other access as may be approved by the Planning Advisory Committee as being advisable for the development of land.
- (2) The dimensions and lot area of properties in a subdivision are subject to the requirements of the Zoning By-Law.
- (3) Subject to Subsection (4), a block in a subdivision,
 - (a) shall be at least 125 m (410.1 ft) and not more than 175 m (574.1 ft) long; and
 - (b) shall be designed with a depth to permit two lots between streets.
- (4) Where a proposed subdivision contains a series of crescents and cul-de-sacs, a block may exceed 175 m (574.1 ft) in length if pedestrian walkways are provided for access or circulation to schools, libraries, playgrounds or other such facilities.

7.0 Land for Public Purposes

- (1) Subject to this Section, as a condition of approval of a subdivision plan, land in the amount of eight percent (8%) of the area of the proposed subdivision, exclusive of streets intended to be publicly-owned, at such location as may be recommended by the Planning Advisory Committee or otherwise approved by Council is to be set aside as Land for Public Purposes and so indicated on the plan.
- (2) Subsection (1) does not apply to the part of a subdivision plan that,
 - (a) involves the assembly of land for future subdivision;
 - (b) creates a parcel of land solely for the purposes of being added to a lot on which is located a useable main building, provided such building existed prior to this by-law coming into force; and
 - (c) creates a lot on which is located a useable main building, provided such building existed prior to this by-law coming into force;
 - (d) creates a lot which abuts a publicly owned street that on the coming into force of this By-Law was paved and had water and sewer facilities installed therein;
 - (e) involves land to be re-subdivided for the purpose of correcting or rearranging boundaries or land previously included in an area subject to the requirements of this section or to a corresponding section under a previous Act; or
 - (f) involves the division of lands owned by the Town of Hartland, or its agencies, at the time of subdivision.
- (3) Council may require, in lieu of land set aside under Subsection (1), a sum of money be paid to the Municipality in the amount of eight percent (8%) of the market value of the land in the proposed subdivision at the time of submission for approval of the subdivision plan, exclusive of land indicated as streets intended to be publicly-owned.

- (4) Where, as a condition of approval of a subdivision plan, land has been set aside under Subsection (1) or the provisions of Subsection (3), have been satisfied, no further setting aside of land for public purposes or payment of additional sums shall be required as a condition of approval of any further or other subdividing of land with respect to which the land has been set aside or a sum paid.
- (5) Nothing in this section shall affect the ability of the applicant and the Town of Hartland to enter into an agreement providing for the setting aside of part land and part cash-in lieu, provided that the aggregate value to the Town shall not be less than that provided in subsections (1) or (3).

8.0 Municipal Facilities

- (1) Where a person proposes to subdivide land in such manner that pursuant to Section 6, a street is required to be provided or in such a location that municipal water or sewer facilities or both are required to be provided, the Development Officer shall not approve a subdivision plan unless, in the opinion of the Council,
 - (a) Council will be able, in the foreseeable future, to provide a street, and where required, water and sewer lines or both, to the boundaries of the subdivision, or such person has made satisfactory arrangements for providing such facilities; and
 - (b) Such person has deposited a sum of money or a performance bond with the municipality or has entered into an agreement with Council that is binding on his heirs, successors and assigns to pay the cost of facilities required within the subdivision.

9.0 Responsibilities of the Subdivider

- (1) The subdivider shall submit a tentative subdivision plan to the Development Officer who will process it, and if it is approved, will instruct the subdivider to submit a final subdivision plan, prepared by a New Brunswick Land Surveyor.
- (2) In any subdivision where services are required, the person proposing to subdivide land shall provide within that subdivision such services as deemed required by the Town, and the development officer shall not approve the plan unless the person proposing the subdivision enters into an agreement with the Town that is binding upon their heirs, successors and assigns to construct and pay the cost of services required within the subdivision, and deposit a sum of money or an irrevocable letter of credit with the City, sufficient to guarantee the faithful performance of said agreement.
- (3) The construction of streets shall comply with the New Brunswick Guide to the *Minimum Standards for Construction of Subdivision Roads and Streets* as issued by the Department of Transportation, Municipal Engineering Division.
- (3) Street design shall be approved by the Town's Consulting Engineers. Storm sewers and catch basins shall be installed pursuant to all structure locations as approved by the Town's Consulting Engineers. Water and sewer services shall be installed to the property line for each lot within the subdivision.
- (4) If there are new streets, water lines, sanitary sewers, curbing or storm sewers involved, plans and profiles of these facilities must be delivered to the Town's Consulting Engineers for their perusal and comments and finally their approval, and as-built plans must be delivered to the Town Works Department when work has been completed.

- (5) Pursuant to Section 56 of the *Community Planning Act*, Council shall not approve a subdivision plan until the following steps have been taken:
 - (a) that the Planning Advisory Committee has first given approval in principal to the proposed subdivision;
 - (b) that the Town's Consulting Engineers have approved the plans and profiles for the installation of streets and services and has also approved the materials and types of appurtenances to be installed within the subdivision;
 - (c) that pursuant to Regulation 82-126 under the *Clean Environment Act*, the Department of the Environment has approved the plans and profiles for the installation of water lines, gate valves, hydrants, storm sewers, lift stations, manholes sanitary sewers, etc.; and
 - (d) that the subdivider has deposited with the Town Clerk, sufficient money, bonds or securities to cover 50 percent (%) of the cost for the installation and construction of all services within the subdivision and has given a performance bond to guarantee the labour and materials within the subdivision for a period of twelve months after the date of final inspection and acceptance by the Town of these services.
- (6) The Council reserves the right to ask for a videotape inspection of any part of the underground system if deemed necessary by the Town's Consulting Engineers.
- (7) The subdivider is responsible for the supply of electrical power to all lots within their subdivision.

10.0 Conditions Precluding Approval of a Subdivision Plan

- (1) The Development Officer shall not approve a subdivision plan if in his opinion and in the opinion of the Planning Advisory Committee,
 - (a) the land is not suited to the purpose for which it is intended or may not reasonably be expected to be used for that purpose within a reasonable time after the plan is approved; or
 - (b) the proposed manner of subdividing will prejudice the possibility of further subdividing the land or the convenient subdividing of adjoining land.
- (2) No work shall be commenced on any subdivision until such time as the Developer and the Town have entered into a final Developer's Agreement.

11.0 Repeal and Transition

- (1) By-Law B-12 the Subdivision By-Law, enacted on November 21, 1983 and all amendments, are hereby repealed.
- (2) The repeal of By-Law B-12 the Town of Hartland Subdivision By-Law shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing or pending at the time of repeal.

READ FIRST TIME: February 2, 2009

READ SECOND TIME: February 2, 2009

READ THIRD TIME AND ENACTED March 9, 2009

Mayor

Town Clerk