

**A BY-LAW TO REGULATE THE SUBDIVISION OF LAND  
WITHIN THE TOWN OF SUSSEX**

**BY-LAW # 1006-08**

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The Town Council of the Town of Sussex, under authority vested in it by Section 42 of the Community Planning Act, R.S.N.B., 1973, c. C-12 and amendments thereto, enacts as follows:

**1.0 TITLE**

- 1.1 This by-law may be cited as A By-Law to Regulate the Subdivision of Land Within the Town of Sussex.
- 1.2 The provisions of this by-law apply to the entire area within the Town limits of the Town of Sussex.

**2.0 DEFINITIONS**

In this by-law:

- (a) *“Act”* means the Community Planning Act;
- (b) *“Council”* means the Town Council of the Town of Sussex;
- (c) *“Committee”* means the Planning Advisory Committee of the Town of Sussex;
- (d) *“Development Officer”* means the Municipal Development Officer of the Town of Sussex;
- (e) *“Developer”* means a person seeking to obtain the approval of a subdivision plan, or who enters into a subdivision agreement with the Town;

2.0 DEFINITIONS (cont'd)

- (f) ***“subdivision”*** means a planned subdivision of a parcel of land with municipally serviced lots which are permitted as a result of the Municipal Plan of the Town of Sussex;
- (g) ***“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 a site for a building or structure;
- (h) ***“width”*** means, in relation to a lot,
  - (i) where the side lot lines are parallel, the distance measured across the lot at right angles to such lines, or
  - (ii) 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 front minimum setback ( required by by-law or regulation) intersects a line from the mid-point of and perpendicular to the line to which it is parallel;
- (i) ***“gradient”*** means the degree of rise or descent of a street;
- (j) ***“arterial street”*** means a principal through traffic routes providing direct connections between different parts of the Town having priority over traffic from collector or local streets;
- (k) ***“collector street”*** means a traffic route providing for the movement of traffic between arterial and local streets;

2.0 **DEFINITIONS** (cont'd)

- (l) ***“local street”*** means a street designed primarily for access to residential, business or industrial lots or other abutting property;
- (m) ***“pedestrian access”*** means a right of way, or a defined portion of land for public purpose that is intended for the exclusive use of pedestrian movements;
- (n) ***“subdivision agreement”*** means a written contract between a Developer and the Town with the responsibilities of each party with respect to the subdividing and development of land outlined in this by-law;
- (o) ***“utility”*** means any underground service or overhead facility that is maintained by a utility agency to deliver electricity, telephone, cable television, gas, water, sanitary or storm sewer services;
- (p) ***“engineer”*** means a registered member of the Association of Professional Engineers and Geoscientists of New Brunswick;
- (q) ***“engineered plans”*** means plans stamped and signed by an N.B. Licensed Engineer showing the design and layout of water, sewer, streets and surface drainage;
- (r) ***“Zoning By-Law”*** means the Zoning By-Law of the Town of Sussex and its amendments thereto;
- (s) ***“Services”*** includes a water main, sanitary sewer and storm sewer, including all appurtenances, gravel road base, concrete curb and gutter, concrete sidewalk and asphalt pavement;
- (t) ***“Town”*** means the Town of Sussex.; and

**2.0 DEFINITIONS** (cont'd)

- (u) *“Works Officer”* means the Works Officer for the Town of Sussex.

**3.0 SCOPE**

The purpose of this by-law is to regulate the subdividing of land in the Town. Except as provided in the Act, no land within the Town is to be subdivided except in accordance with the provisions of this By-Law.

**4.0 APPLICATION**

An owner of a parcel of land seeking approval of a subdivision plan shall submit to the Development Officer a written application for approval of a tentative subdivision plan.

**5.0 TENTATIVE SUBDIVISION PLAN**

- (1) A person seeking approval of a tentative subdivision plan shall submit to the Development Officer six copies thereof, drawn to a scale of one to one thousand (1:1000) or such scale approved by the Development Officer. Tentative subdivision plans requiring consideration by the Committee and /or Council must be submitted to the Development Officer at least seven calendar days prior the meeting of the Committee and/or Council.
- (2) A tentative subdivision plan shall be marked “Tentative Plan” and shall show:
  - (a) the proposed name of the proposed subdivision;

**5.0 TENTATIVE SUBDIVISION PLAN (cont'd)**

- (2) (b) the boundaries of that part of the plan sought to be approved, marked by a black line of greater weight than all other lines on the diagram of the plan;
- (c) the locations, widths and names of existing streets on which the proposed subdivision abut and the location, width and proposed names of the proposed streets therein;
- (d) the approximate dimensions and layout of the proposed lots, blocks, land for public purposes and other parcels of land and the purpose for which they are to be used;
- (e) the nature, location and dimensions of any existing restrictive covenant, easement, or right-of-way intended to be granted in the proposed subdivision;
- (f) natural and artificial features, such as buildings, railways, highways, watercourses, drainage ditches, swamps and wooded areas, within or adjacent to, the land proposed to be subdivided;
- (g) such contours or elevations as may be necessary, to determine the grade of the streets and the drainage of the land;
- (h) the municipal services available or to be available to the land proposed to be subdivided;
- (i) where necessary, to locate the proposed subdivision, in relation to the existing streets and prominent natural features;

**5.0 TENTATIVE SUBDIVISION PLAN (cont'd)**

- (2) (j) a small key plan acceptable to the Development Officer showing such location;
- (k) any further information required by the Development Officer to assure compliance with the Subdivision By-Law; and
- (l) any further information required by the Town's Works Department to assure the suitability of the subdivision.

**6.0 STREETS AND PUBLIC RIGHTS-OF-WAY**

- (1) Streets and public right-of-ways shown on a tentative plan shall have the following minimum widths and shall conform to the Municipal Plan of the Town of Sussex:
  - (a) Arterial Streets - 20 Metres
  - (b) Collector Streets - 20 Metres
  - (c) Local Streets - 20 Metres
  - (d) Cul de Sacs - 18 Metres
  - (e) Crescents - 18 Metres
  - (f) Pedestrian Access - 6 Metres
  - (g) Sidewalks - 1.5 Metres.
- (2) Courts and cul-de-sacs shall have a maximum length of 200 metres from the entering street line and shall terminate with an area having a minimum radius of 18 metres in subdivisions.
- (3) No street may have a gradient in excess of eight (8) percent.

**6.0 STREETS AND PUBLIC RIGHTS-OF-WAY (cont'd)**

- (4) (a) Streets shall be located with due regard to topography, access, general traffic, safety requirements, development patterns, and the development of adjacent properties. Two access points shall be provided to all interior subdivisions.
- (b) Where a subdivision abuts or includes an existing or proposed arterial street or potential arterial street, the Development Officer and the Committee may require streets paralleled thereto and such arrangements of lots, streets, and screened planting as it may deem necessary to adequately protect residential properties from the effect of traffic.
- (c) Reserved strips abutting a street in a proposed subdivision are prohibited except where such strips are vested in the municipality.
- (d) Streets shall be laid out so as to intersect as nearly as possible at right angles and in no case shall one street intersect another at an angle of less than seventy-five degrees (75°).
- (e) 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.

**6.0 STREETS AND PUBLIC RIGHTS-OF-WAY (cont'd)**

- (5) In the interest of orderly development, no subdivision which extends beyond the limit of 200 metres from the entering or main access street line will be approved, unless in the opinion of the Development Officer and the Committee, the pace or pattern of development or topography indicates that it is expedient to do so.
- (6) In arriving at a decision regarding a recommendation with respect to the location of streets in a proposed subdivision, the Committee shall give consideration to the relationship between such location, taking into consideration:
  - (a) the topography of the land;
  - (b) the provision of lots suitable for the intended use;
  - (c) convenient access to the proposed subdivision and to lots within it;
  - (d) the convenient further subdividing of the land or adjoining land; and
  - (e) street names shown on the tentative or subdivision plan, which are subject to the approval of Council in consultation with the Committee.

**7.0 LOTS, BLOCKS AND OTHER PARCELS**

- (1) Every lot, block and other parcel of land in a proposed subdivision shall abut:
  - (a) a street owned by the Municipality or the Crown; or



**7.0 LOTS, BLOCKS AND OTHER PARCELS (cont'd)**

- (1) (b) such access other than a street mentioned in (a) as may be approved by the Committee as being advisable for the development of land.
- (2) The dimensions and areas of lots in a subdivision are subject to the requirements of the Zoning By-Law and such variances as are permitted by the Committee.
- (3) The Development Officer shall require that a tentative subdivision plan or subdivision plan show street and building lines that are established by any deferred widening or Zoning By-Law.
- (4) Street blocks shall not exceed 315 metres or be less than 90 metres in length and shall have a depth of two lots.
- (5) Where a proposed subdivision contains a series of crescents and cul-de-sacs, a block may exceed 315 metres in length if pedestrian walkways are provided for access or circulation to schools, libraries, playgrounds or other such facilities.

**8.0 LAND FOR PUBLIC PURPOSES**

- (1) Subject to this section, as a condition of approval of a subdivision plan, land in the amount of eight (8) percent of the area of the proposed subdivision; exclusive of streets and pedestrian walkways intended to be publicly owned; at such location as may be recommended by the Committee or otherwise approved by Council is to be set aside as land for public purposes and so indicated on the plan.

**8.0 LAND FOR PUBLIC PURPOSES (cont'd)**

- (2) Subsection (1) does not apply to that part of a subdivision plan which would create a lot of land:
  - (a)
    - (i) solely for the purpose of being assembled with another parcel of land for the purpose of enlarging or creating a lot,
    - (ii) being added to a lot on which is located or which is intended as the location of other than a multiple dwelling as defined by the Zoning By-Law; and
  - (b)
    - (i) on which is located or which is intended as the location of other than a multiple dwelling as defined by the Zoning By-Law, and
    - (ii) 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.
- (3) In lieu of requiring land to be set aside as provided by subsection (1), the Council may require that 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 subdivision at the time of submission for approval of the subdivision plan, exclusive of streets and pedestrian walkways intended to be publicly owned.
- (4) Where land has been set aside or a sum of money paid pursuant to this Section, no further setting aside of land for public purposes or payment of additional money may be required as a condition of any further or other subdivision of the land with respect to which land has been set aside or money has been paid.

**9.0 SUBDIVISION PLANS**

- (1) Subdivision plans may be submitted to the Development Officer for approval after a tentative subdivision plan has been approved or exempted by such Officer.
- (2) One opaque linen drawing, one plastic transparency drawing, and seven paper prints shall be submitted.
- (3) All subdivision plans shall be drawn to a scale having a ratio of one to one thousand (1:1000), except where, in the opinion of the Development Officer, a ratio of one to five hundred (1:500), one to two thousand (1:2000), or one to five thousand (1:5000) is more practical on one of the following sizes of material, in centimetres, unless otherwise approved by the Development Officer:
  - (a) 21.5 X 35.5;
  - (b) 35.5 X 43; or
  - (c) 50 to 75 by 50 to 100.
- (4) A subdivision plan shall set out:
  - (a) in the title block
    - (i) the name of the subdivision,
    - (ii) where required by the Development Officer, the name of a street to which the subdivision has access,
    - (iii) the Municipality, County, and Province in which the land is located,
    - (iv) the scale and date of the survey,

**9.0 SUBDIVISION PLANS (cont'd)**

- (4) (a) (v) if an amending plan, the registration data of the plan being amended and the purpose of amendment;
- (b) the name of the owner of the land and the details of registration of the deed or deeds of the land;
- (c) the North point of the plan indicated by an arrow oriented other than towards the edge of the plan or extension thereof;
- (d) the distances from and the relation to existing survey monuments and markers;
- (e) the boundaries of that part of the plan sought to be approved marked by a black line of greater weight than all other lines on the diagram of the plan;
- (f) the area of land to be vested in the municipality as streets indicated by the names of the streets and, in smaller print immediately below each name, the word “public”, and if a portion only of a street shown on the plan is to be so indicated, the portion shall be so noted by a line drawn across and at right angles to the street at which terminus thereof identified by an arrow;
- (g) the areas of land to be vested in the name of the municipality as future streets indicated by the words “future street”;
- (h) the areas of land to be conveyed as lands for public purposes indicated by the words “land for public purposes”;

**9.0 SUBDIVISION PLANS (cont'd)**

- (4) (i) the areas of land with respect to easements which are to be granted, indicated by words describing the purpose thereof;
- (j) the boundaries of streets and other parcels of land by means of a solid black line;
- (k) the location, dimension, and names of streets within the subdivision;
- (l) the nature, location, and dimensions of any existing restrictive covenant, easement, or right-of-way;
- (m) such numbers and letters as are necessary to accurately identify each lot and other parcels of land, and, where available, the civic number thereof;
- (n) the location and description of legal survey monuments;
- (o) any applicable proposed street boundary or building line established by Deferred Widening By-Law;
- (p) any building line or setback affecting the subdivision;
- (q) a key plan that indicates, to the satisfaction of the Development Officer, the location of the subdivision on the diagram of the plan or the location of the proposed subdivision in relation to existing streets or prominent natural features drawn to a scale having a ratio of not less than one to twenty thousand (1:20,000);

**9.0 SUBDIVISION PLANS (cont'd)**

- (4) (r) with respect to the boundaries of streets and other parcels of land set out on a subdivision plan, the plan shall show information as required by regulation under the Surveys Act; and
- (s) all subdivision plans shall be signed.

**10.0 MUNICIPAL SERVICES**

- (1) Where a person proposes to subdivide land in such manner that a street is required to be provided or in such location that pursuant to the Zoning By-Law, municipal water or sewer services or both are required to be provided, the Development Officer shall not approve a subdivision plan unless, in the opinion of Council:
  - (a) the Council will be able in the foreseeable future to provide the proposed subdivision with streets, concrete curb and gutter on arterial, collector and local streets, and concrete sidewalks on arterial and collector streets and also water mains, storm and sanitary sewer lines, street lights, recreational areas or other facilities required by this by-law, or the person proposing the subdivision has made satisfactory arrangements for providing such facilities; and
  - (b) the person proposing the subdivision has made satisfactory arrangements to:
    - (i) enter into a development agreement with the Council that is binding on their heirs, successors and assigns to comply with a provision under paragraph (a);

**10.0 MUNICIPAL SERVICES (cont'd)**

- (1) (b) (ii) deposit with the Town a sum sufficient to cover the cost with respect to facilities required under Section 11(3); or
- (iii) deliver to the Town a guarantee of payment acceptable to the Council in an amount sufficient to cover the cost mentioned in clause (ii).

**11.0 SUBDIVISION DEVELOPMENT AGREEMENT**

- (1) Where a subdivision development agreement is required, the aforesaid agreement shall be completed and signed by the developer and the Town prior to the engineering consultant's initial start for the development of engineered plans.
- (2) Where a subdivision development agreement is required for a subdivision the agreement shall ensure that:
  - (a) (i) a watermain, sanitary and storm sewers with all appurtenances, gravel roadbase and concrete curb and gutter be installed on all streets,
  - (ii) concrete sidewalks be installed on arterial and collector streets, and
  - (iii) asphalt pavement be provided on all streets and completed prior to occupancy of buildings;
- (b) the services shall conform to the general specifications for the Town of Sussex;
- (b) the developer's engineering consultant shall be approved by the Council prior to any engineering work commencing for a subdivision;

**11.0 SUBDIVISION DEVELOPMENT AGREEMENT (cont'd)**

- (2) (d) the design of a watermain, sanitary sewer, storm sewer, gravel road base, concrete curb and gutter, concrete sidewalk and asphalt pavement be in accordance with towns specifications with the preparation of plans, specifications, and contract documents to be carried out by the developer's engineering consultant and approved by the Council, and the cost of such services shall be borne by the developer and the Town, according to the Schedule of Fees of the Association of Professional Engineers and Geoscientists of New Brunswick;
- (e) the construction and the installation of the services be:
  - (i) completed by a contractor under contract with the Town,
  - (ii) carried out under the direct supervision of the Developer's engineering consultant,
  - (iii) in accordance with the approved plans and specifications of the Town, and
  - (iv) supported by a performance bond or other guarantee of performance in a form satisfactory to the Town;
- (f) the construction of buildings be controlled to ensure a logical and orderly manner and pattern of development within the area designated in the agreement;
- (g) the developer bear the cost of providing the minimum standard for services as indicated in section k(i);



**11.0 SUBDIVISION DEVELOPMENT AGREEMENT (cont'd)**

- (2) (h) the Town bear the cost of providing minimum standard for services as indicated in section k(ii);
- (i) the Town will cost share with the developer the supply and installation of a concrete curb and gutter, concrete sidewalks and of sewerage lift station(s) for subdivisions as indicated in section k(iii);
- (j) the Town bear the differential in material cost as indicated in section k(iv) that is required for an increase in development standard for the subdivision that will benefit the Town's citizens and therefore shall be borne by the Town; and
- (k) the responsibility for the cost of services shall be as follows:
  - (i) the developer shall be responsible to pay for the installation of the following services in subdivisions:
    - 150 mm diameter watermain and appurtenances,
    - 200 mm diameter sanitary sewer and appurtenances,
    - 600 mm diameter storm sewer and appurtenances,
    - 11 m gravel road base width; and
    - tree planting,

**11.0 SUBDIVISION DEVELOPMENT AGREEMENT (cont'd)**

- (2) (k) (ii) the Town shall be responsible to pay for the following services:
- asphalt pavement,
  - traffic signs,
  - street name plates,
  - traffic signals including all related works,
  - street light fixtures,
- (iii) the developer and the Town shall cost share on an equal basis to pay for the following services:
- concrete curb and gutter,
  - concrete sidewalk,
  - sewerage lift stations, and
- (iv) the Town will assume the differential cost for materials for services beyond the minimum standard requirements for a subdivision that is required to be paid by the developer for such services.
- (3) Upon completion of the construction and installation of all required services the Developer's consultant shall supply the Town with plastic transparency drawings indicating the exact location, invert elevations and tie-ins of all municipal services installed, having a horizontal scale of one in three hundred (1:300) and a vertical scale of one in fifty (1:50)

**12.0 GENERAL**

- (1) No subdivision plan shall be given approval, unless in the opinion of the Committee or the Development Officer:

**12.0 GENERAL**

- (1) (a) the land is suited for the purposes for which the subdivision is intended and may reasonably be expected to be used for that purpose within a reasonable time after the subdivision is approved; or
  - (b) the proposed manner of subdividing will not prejudice the possibility of further subdividing the land or the convenient subdividing of adjoining land.
- (2) The Development Officer may exempt a parcel of land from the provisions of this by-law or the Act under the following circumstances:
  - (a) where such plan is in general conformity with an approved tentative subdivision plan; and
  - (b) where such plan is in conformity with an approved development or municipal plan.
- (3) The Development Officer, Works Officer and/or a person authorized by the Council, has the right to enter at all reasonable times upon any property within the Town of Sussex for the purpose of making any inspection that is necessary for the administration or enforcement of this by-law or any provision of the act relating to subdivisions.

### **13.0 PENALTIES**

- (1) (a) Every person who violates or fails to comply with any provision of this by-law is guilty of an offence punishable under Part II of the Provincial Offences Procedure Act as a category B offense to a fine not less than and not more than permitted under category B of Part II of the Provincial Offense Procedure Act and amendments thereto.
- (b) When a person is convicted of doing without a license and/or permit, anything for which a license, and/or permit is required by this by-law, the magistrate shall, unless such person has already paid the required license and/or permit fee, adjudge payment thereof in addition to the fine.

### **14.0 PLURAL OR FEMININE TERMS**

Plural or feminine terms may apply whenever the singular, masculine or feminine is used in this by-law. It shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires.

### **15.0. VALIDITY**

The invalidity of any Section, clause, sentence or provision of this By-law shall not affect the validity of any other part of this by-law which can be given effect without such invalid part or parts.

**16.0 REPEAL**

- (1) A by-law entitled "By-Law #1006-00, A By-Law to Regulate the Subdivision of Land Within the Town of Sussex" enacted May 15, 2000, and amendments thereto, is hereby repealed.
- (2) A repeal of the by-law designated in subsection (1) thereof 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 BY TITLE	<u>APRIL 21, 2008</u>
READ SECOND TIME BY TITLE	<u>APRIL 21, 2008</u>
READ IN ENTIRETY	<u>JUNE 23, 2008</u>
THIRD READING BY TITLE AND ENACTED	<u>JUNE 23, 2008</u>

PAUL I. MAGUIRE  
TOWN CLERK

RALPH A. CARR  
MAYOR