

BY-LAW NO. 194
SUBDIVISION BY-LAW

Part 1: Title and Definition

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

1.1 Definitions

In this By-law, unless otherwise specified in the definitions as set out in the Town of Sackville Zoning By-law, the following definitions shall apply:

Active Recreational Development means a recreational area that is intended to be used for active purposes such as, but not limited to, sports fields or playgrounds.

Agreement means a written contract between the developer and the Town which describes the responsibilities of each party with respect to the subdivision road and servicing of land as outlined in this subdivision by-law.

Commission or Planning Commission means the Tantramar Planning District Commission.

Council means the Council for the Town of Sackville.

Developer shall mean the owner or owners of land to be subdivided and includes anyone acting with written consent of the owner(s).

Development Officer means the Development Officer of the Tantramar Planning District Commission.

Engineer means the Director of Engineering and Public Works for the Town of Sackville.

Land for public purposes means land, other than streets, for the recreational or other use or enjoyment of the general public conveyed to the Municipality by the developer.

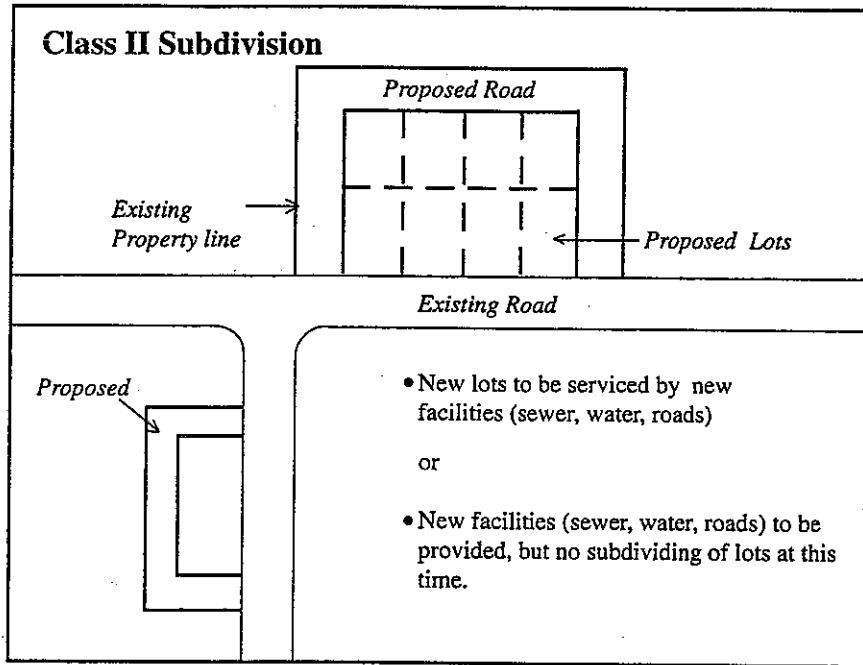
Street /road, public means any street or road owned and fully maintained by the Town of Sackville or the Province of New Brunswick.

Street/road, private means any street or road which is not owned by the Town or Province of New Brunswick and which meets the requirements of this By-law.

Subdivide means to divide a parcel of land into two or more parcels; or the creation of a parcel of land by joining two or more adjoining parcels.

3.2 Class II Subdivision

A Class II Subdivision is a subdivision which requires the construction of new roads, water and sewer, or have on-site water and sewer.



3.3 Land for Public Purposes

- a) All Class II Subdivisions shall:
- i) as a condition of approval of a Class II Subdivision, an amount of 10% of the areas of the subdivision, exclusive of the land to be vested as public streets, is to be set aside as land for public purposes at such location as may be approved pursuant to Section 56 of the Community Planning Act; or
 - ii) Council may require that, in lieu of setting aside land for public purposes under paragraph (i), a sum of money to be paid to the Municipality in the amount of 8% of the market value of the land in the subdivision at the time of submission for approval of the subdivision plan, exclusive of land indicated as streets intended to be publicly-owned.
- b) All lands set a side for public purposes in the Town shall:
- i) consist of a parcel having an area of not less than 2023.475 square meters (1/2 an acre):
 - ii) have an average slope less than 15% if intended for active recreational development;
 - iii) not be subject to flooding unless intended for water based activities;

- c) As part of the tentative plan application, engineered plans and profiles of the services must be delivered to the Development Officer, who will submit them to the Town Engineer for comments and for approval. After the developer receives a certificate of approval from the Department of Environment, the developer must provide and deliver "As-Built" Plans to the Town of Sackville when the work has been completed.
- d) The cost of these facilities and services are to be borne by the developer.
- e) The construction and the installation of the services shall be:
 - i) carried out under the supervision of the developer's engineer;
 - ii) in accordance with the general specifications of the Town as prescribed in the latest approved edition of the "Town of Sackville Development and Servicing Standards";
 - iii) supported by a performance bond or other guarantee of performance in a form satisfactory to Council.

3.5 Streets

- a) Every street, except private roads, shall have a minimum width of 20 meters (66 feet).
- b) Every private road shall have a minimum width of 7.6 meters (25 feet) subject to approval by the Planning Commission, and subject to an agreement covering service corridors, landscaping and road maintenance.
- c) 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 60 degrees.
- d) In the interest of orderly development, no subdivision which extends beyond the limit of 180 meters (600 feet) from the entering or main access street line will be approved, unless in the opinion of the Development Officer and the Commission, the pace or pattern of development or topography indicates that it is expedient to do so.

3.6 Extending Existing Streets

Where entry will be gained to a proposed subdivision by means of an existing street or other access, the developer shall bring the existing access to the same standard as is required for streets, with the full costs to be borne by the developer unless otherwise agreed to by Council.

3.7 Street Names

The names of streets in a subdivision are subject to approval of the Planning Commission.

Part 5: Procedures and Fees

5.1 Procedure

A person submitting a subdivision plan for approval shall:

- a) submit all plans according to procedures prescribed in the Community Planning Act and the latest version of the "Town of Sackville Development and Servicing Standards";
- b) submit a written application for approval; and
- c) the developer shall submit the application fee in the amount set by Council for subdivision applications with a signed application to the Development Officer.

5.2 Requirements of a Tentative Plan

- a) A developer seeking approval of a tentative plan shall submit to the Development Officer a completed application form and a minimum of 6 copies of the tentative plan.
- b) A tentative plan is required for initial review by the Development Officer, the Planning Commission, Council and relevant provincial departments. Subject to paragraph 44(1)(c) of the Community Planning Act, the tentative plan shall be marked "Tentative Plan" and shall show:
 - i) the proposed name of the proposed subdivision;
 - ii) 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;
 - iii) the locations, widths and names of existing streets on which the proposed subdivision abuts, and the locations, widths and proposed names of the proposed streets therein;
 - iv) the approximate dimensions and layouts of the proposed lots, blocks, land for public purposes and other parcels of land, and the purposes for which they are to be used;
 - v) the nature, location and dimensions of any existing restrictive covenant, easement or right-of-way affecting the land proposed to be subdivided, and of any easement intended to be granted within the proposed subdivision;
 - vi) natural and artificial features such as buildings, railways, highways, water courses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;
 - vii) the availability and nature of domestic water supplies;

- v) the developer proposing the subdivision has made satisfactory arrangements to:
 - a) enter into an agreement with the Council that is binding on the heirs, successors and assigns to pay the cost of new services required to service the proposed subdivision, or
 - b) deposit with the Town Clerk the required performance bond or other guarantee of payment as described under section 3.8 (b) of this by-law.
- vi) Council has given assent to the subdivision.

5.3 Rejection of a Tentative Plan

The Development Officer shall not approve a subdivision plan if in his opinion and in the opinion of the Planning Commission:

- 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. This includes marshlands and floodplains; or
- b) the proposed manner of subdividing will prejudice the possibility of further subdividing the land or the convenient subdividing of adjoining land; or
- c) if Class II Subdivision, the provisions for all required services and facilities have not been given assent by the Council;
- d) the subdivision contravenes the Community Planning Act, other Provincial legislation or Municipal By-laws or regulations.

5.4 Approval of Final Plan

The Development Officer shall not approve the Final Plan until the following has been completed:

- a) a final plan has been provided to the Development Officer in accordance with Section 52 of the Community Planning Act and includes all streets and lands to be conveyed to the Municipality;
- b) a final subdivision plan has been submitted and contains the following:
 - i) in the title block,
 - a) the name of the subdivision.
 - b) where required by the Development Officer, the name of a street to which the subdivision has access,

- xvi) except in the case of a subdivision plan of land in a municipality that indicates, to the satisfaction of the Development Officer, the location of the subdivision on the diagram of the plan, the location of the proposed subdivision in relation to existing streets or prominent natural features on a small key plan drawn to a scale having a ratio of not less than one to twenty thousand.
- c) if Class II Subdivision, arrangements have been made for the provision of services as follows:
 - i) all required services have been constructed by the developer, in accordance to the engineering plans approved by the Town Engineer, and accepted by the Town;
 - ii) a video tape inspection of the underground system has been completed and is acceptable to the Town Engineer.
 - iii) that the Planning Commission has first recommended to the Council the location of the streets, or the land for public purposes, or both as the case may be, within the proposed subdivision;
 - iv) that the Town Engineer has 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.

Part 6: By-laws Repealed & Enacted

6.1 Repealed

By-law No. 186 Subdivision By-law under the Community Planning Act is repealed.

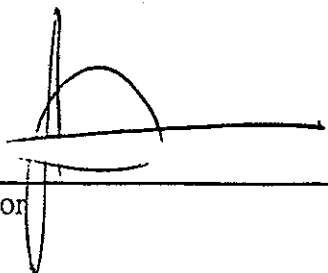
6.2 Enactment

This By-law comes into effect on the date of the final reading by title and the enacting thereof.

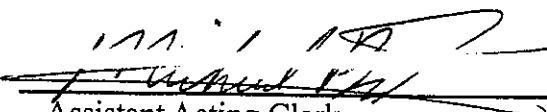
Read a first time this 10th day of May, 2005.

Read a second time this 13th day of June, 2005.

Read a third time and done and passed Council this 9th day of August, 2005.



 Mayor



 Assistant Acting Clerk

SOLEMN DECLARATION

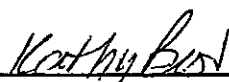
I, **MICHAEL BEAL**, of the Town of Sackville, in the County of Westmorland and Province of New Brunswick, Assistant Acting Clerk, **DO SOLEMNLY DECLARE;**

1. **THAT** I am the **ASSISTANT ACTING CLERK** of the Town of Sackville, a Municipal Corporation, and have personal knowledge of the facts herein declared;
2. **THAT** the requirements of Section 42, 66 and 68 of the **COMMUNITY PLANNING ACT** have been complied with in respect of By-law No. 194, Subdivision By-law, which was passed by the Council of the Town of Sackville on August 9th, 2005.

AND, I make this solemn declaration conscientiously believing it to be true, and knowing that is of the same force and effect as if made under oath and by virtue of the Evidence Act.

DECLARED before me at the)
Town of Sackville, County of)
Westmorland, and the Province)
of New Brunswick, this 30th)
day of August, A.D., 2005.)


Assistant Acting Clerk


Commissioner of Oaths
KATHY BEST
Commissioner of Oaths for N.B.
My Commission Expires Dec. 31, 2007

AFFIDAVIT

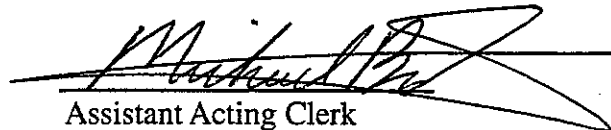
PROVINCE OF NEW BRUNSWICK

COUNTY OF WESTMORLAND


I, MICHAEL BEAL, of the Town of Sackville, in the County of Westmorland and Province of New Brunswick, MAKE OATH AND SAY:

1. THAT I am the Assistant Acting Clerk of the Town of Sackville and JAMIE SMITH is the Mayor of the said Town.
2. THAT as Assistant Acting Clerk of the Town of Sackville, I have custody of the common seal of the Town of Sackville and am duly authorized to affix the seal to any By-law made by the Town of Sackville.
3. THAT the seal affixed to the foregoing By-law is the common and corporate seal of the Town of Sackville and such seal was by me affixed thereto by order to the Town of Sackville and for the purpose therein set forth.
4. THAT the signature "JAMIE SMITH" to the said By-law subscribed as Mayor, is in the true and proper handwriting of him, and said Jamie Smith and was signed by him in my presence; and the signature "MICHAEL BEAL" to the foregoing By-law, subscribed as Assistant Acting Clerk, is in my true and proper handwriting.

SWORN TO the Town of Sackville in the County of Westmorland and Province of New Brunswick, this 30th day of August, A.D., 2005.


Assistant Acting Clerk

Before me:


Commissioner of Oaths
KATHY BEST
Commissioner of Oaths for N.B.
My Commission Expires Dec. 31, 2007