

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.

Subdivision, Rural means a subdivision in the Town of Sackville which is serviced by private sewer and/or water.

Subdivision, Urban means a subdivision in the Town of Sackville which is in accordance with the Municipal Plan and determined by the Town Engineer as capable of being serviced by public sewer and water.

Watercourse is as defined under the Clean Water Act for New Brunswick.

Part 2: Administration

2.1 Scope

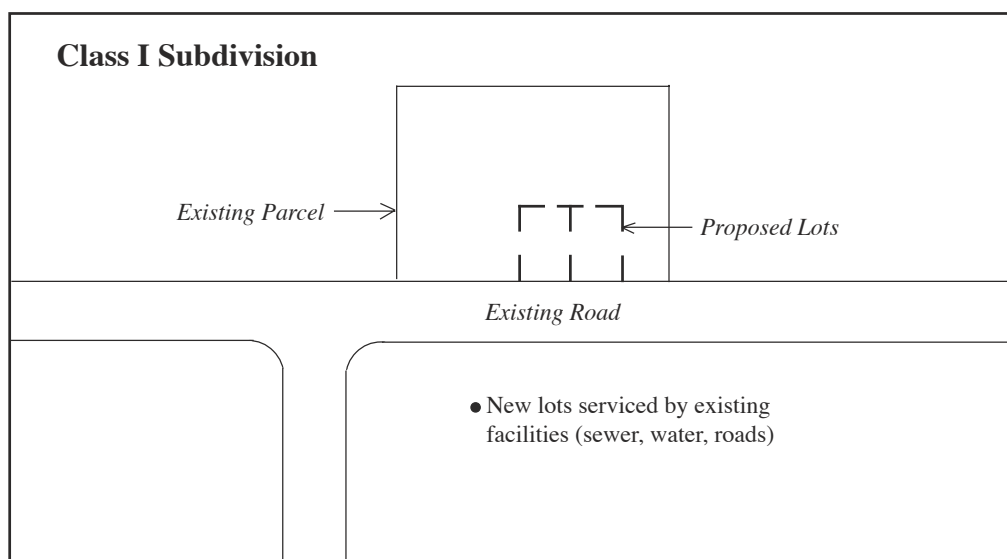
- a) The purpose of this By-law is to regulate the subdividing of land in the Town of Sackville.
- b) These provisions for subdividing land shall be the minimum requirements for the protection of public health, safety and welfare, and are intended to protect the public and provide a wholesome community environment, adequate municipal services and safe streets.

Part 3: Classes of Subdivisions

There are two major types of subdivisions in the Town of Sackville; Class I Subdivision & Class II Subdivision.

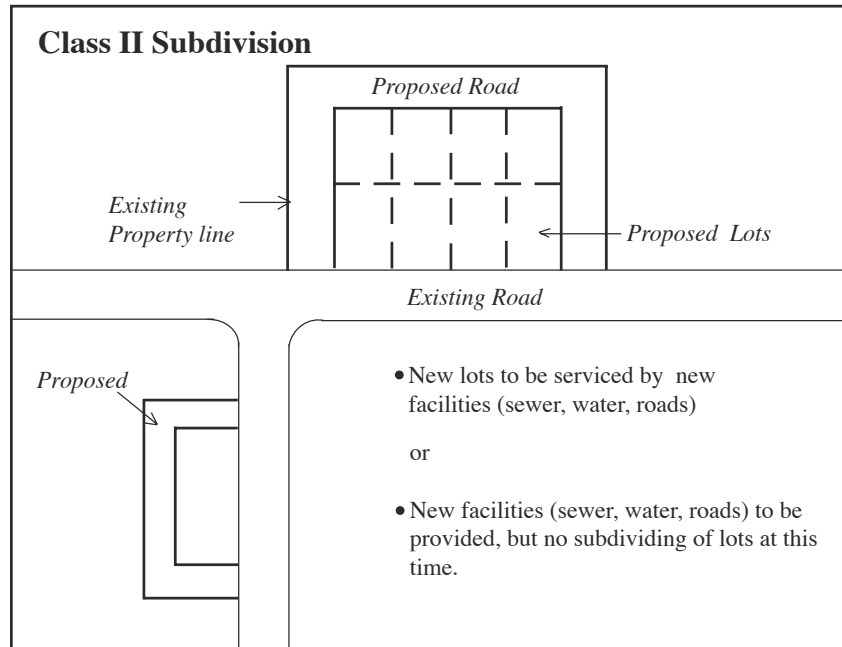
3.1 Class I Subdivision

A Class I Subdivision is when the lots being created can be serviced by existing roads, water and sewer, or have on-site water and sewer. There is no requirement for lands for public purposes in a Class I Subdivision.



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;

- iv) be capable of use for one or more of the following:
 - a) purposes such as linear walking/hiking trails, scenic vistas or passive park areas,
 - b) active purposes such as sports fields or playgrounds,
 - c) an environmentally sensitive area or as a significant natural feature;
- v) in lieu of requirements of subsection iv) above, contain such unique physical, cultural, historical, or locational characteristics from the following list which the Planning Commission may determine to provide valuable recreational opportunities:
 - a) land with an area not less than one acre suitable as an interpretive natural reserve area,
 - b) land with an area not less than 464.7 square meters (5,000 square feet), containing structures or buildings of significant historical value to the Municipality, and useable for public purposes.
- c) where the criteria set out in section b of this by-law is unable to be met, Council may on the recommendation of the Planning Commission, waive some or all of the criteria.

3.4 Municipal Services and Facilities

- a) The following municipal services and facilities must be provided by the Developer:
 - i) in urban subdivisions:

water mains, sanitary and storm sewer systems with laterals to the lot line, gravel road base, pavement, curbing, sidewalk, and street light standards will be provided and completed before final approval;
 - ii) in rural subdivisions:

gravel road base, chip sealed, storm ditches, and street light standards will be provided and completed before final approval;
- b) Where no existing storm system and/or sidewalk is present to connect to, or where Council determines that it is not feasible for the developer to do so, Council may after consultation with staff, waive the requirements for curbing, storm sewer systems and/or sidewalk for an urban subdivision.

- 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.

3.8 Subdivision Agreement

- a) Any developer of a Class II subdivision shall enter into an agreement with the Council that is binding on his heirs and successors, and shall state any work, such as servicing and road construction, which must be undertaken as a Subdivision Development.
- b) The developer must deposit with the Town Clerk sufficient performance bonds or other guarantees acceptable to Council to cover 100 percent of the full cost of any facility, including but not limited to engineering, inspection and surveying fees, mentioned in the subdivision agreement. This performance bond or other guarantee must remain in place for a period of 12 months after the date of acceptance of these services by the Town.

3.9 Planning Commission Consideration

In arriving at a decision regarding a recommendation with respect to the location of streets in a proposed subdivision, the Planning Commission shall give consideration to:

- a) the topography of the land,
- b) the provision of lots suitable for the intended use,
- c) street intersections and intersections being as nearly as possible at right angles,
- d) the provision of convenient access to the proposed subdivision and to lots within it, and
- e) the convenient further subdividing of the land or adjoining land.

Part 4: General

4.1 Lot Sizes and Widths

Unless otherwise specified in this By-law the standards of the Zoning By-law for the Town of Sackville shall apply.

4.2 Unserviced Lots

Lot sizes and widths for unserviced lots must meet the New Brunswick Public Health regulations.

4.3 Reserve Strips

Reserve strips abutting in a subdivision are prohibited except where such strips are vested in the Municipality.

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;

- viii) the nature and porosity of the soil;
 - ix) such contours or elevations as may be necessary to determine the grade of the streets and the drainage of the land;
 - x) the municipal services available or to be available to the land proposed to be subdivided;
 - xi) where necessary to locate the proposed subdivision in relation to existing streets and prominent natural features, a small key plan acceptable to the Development Officer showing such location;
 - xii) plans for landscaping and tree planting;
 - xiii) the proposed location of every building; and
 - xiv) any further information required by the Development Officer to assure compliance with the subdivision by-law.
- c) The Development Officer may waive some or all of the requirements of the tentative plan where the Development Officer feels they are not required for the review and analysis of the subdivision.
- d) If the proposed subdivision is a Class II Subdivision, the Development Officer shall not approve the tentative plan until the following conditions have been met:
- i) the Planning Commission has first reviewed the proposal and made recommendations to the Council;
 - ii) all required engineering drawings, including but not limited to the plans and profiles for the installation of all new storm water drainage patterns, and grading elevations within the subdivision, have been submitted and approved by the Town Engineer. All engineering drawings must be certified by an Engineer licensed to practice in New Brunswick;
 - iii) all other necessary governmental agencies have approved the plans and profiles for the installation of the water and sewer services and any required watercourse alterations;
 - iv) the application will not be submitted for review by the Commission and Council until the tentative plan and all engineering drawings are submitted to the Development Officer;

- 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,

- c) the municipality or parish, county and province in which the land is located,
and
- d) the scale and date of the survey,
- ii) the name of the owner of the land and the details of registration of the deed or deeds of the land,
- iii) the north point of the plan, indicated by an arrow oriented other than toward the lower edge of the plan or extension thereof,
- iv) the distances from and the relation to existing survey monuments and markers,
- v) 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,
- vi) 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 denoted by a line drawn across and at right angles to the street at each terminus thereof identified by an arrow,
- vii) the area of land to be vested in the municipality as future streets, indicated by the words "future street",
- viii) the area of land to be conveyed as land for public purposes, indicated by the words "land for public purposes",
- ix) the area of land with respect to which easements are to be granted, indicated by words describing the purpose thereof,
- x) subject to subsection 52(4)(a) of the Community Planning Act, the boundaries of streets and other parcels of land by means of solid black lines,
- xi) the location, dimensions and names of streets abutting the subdivision,
- xii) the nature, location and dimensions of any existing restrictive covenant, easement or right-of-way,
- xiii) such numbers and letters as are necessary to accurately identify each lot or other parcel of land and, where available, the civic number thereof,
- xiv) the location and description of legal survey monuments,
- xv) any applicable proposed street boundary or building line established by a deferred widening by-law,

- 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.

Jamie Smith
Mayor

Michael Beal
Assistant Acting Clerk