

TOWN OF ST. STEPHEN

BY-LAW NO. L-11

**SUBDIVISION BY-LAW**

The Council of the Town of St. Stephen, under authority vested in it by the *Community Planning Act*, R.S.N.B. (2017), and amendments thereto, hereby makes the following by-law:

**1. Definitions**

**1.1 In this By-law**

"Act" means the *Community Planning Act*.

"Arterial street" means a roadway with the primary function to move large volumes of through traffic with limited direct access to adjacent development.

"Collector street" means a roadway with the functions of providing land access and traffic movement as equal importance.

"Council" means the Mayor and Councillors of the Town of St Stephen.

"Developer" means an individual or corporation seeking to obtain the approval of a subdivision plan, or who enters into a subdivision agreement with the Town.

"Planning Advisory Committee" means the Planning Advisory Committee established by Council or the Regional Service Commission.

"Development Officer" means the Development Officer of the Town of St. Stephen appointed by Council or the planning director as defined in the *Regional Services Delivery Act*.

"Gradient" means the degree of rise or descent of a street.

"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.

"Local street" means a roadway whose major function is to provide direct land access to abutting properties and is designed to carry low traffic volumes for short distances.

"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 or an appurtenance thereof.

"Municipal Plan" means the Municipal Plan of the Town of St. Stephen and its amendments thereto.

"Other access" means a private access other than a street that may be approved by the Planning Advisory Committee or the Regional Service Commission, as the case may be.

"Type 1 Subdivision" means a Subdivision of land that does not involve the construction or extension of a Street or Land for Public Purposes.

"Type 2 Subdivision" means a Subdivision of land that does involve the construction or extension of a Street (or other access), or Land for Public Purposes.

"Width" means, in relation to a lot,

- i. where the side lot lines are parallel, the distance measured across the lot right angles to such lines, or
- ii. if the side lot lines are not parallel, lot width is the horizontal distance between the side lot lines measured parallel to the front lot line at the minimum front or flankage yard setback as required by the applicable provisions of the Zoning By-Law.

"Zoning By-law" means the Zoning By-law of the Town of St. Stephen and its amendments thereto.

## **2. Purpose**

**2.1** The purpose of this By-law is to provide for regulation of the subdividing of land in the Town of St. Stephen.

### **3. Streets**

**3.1** In a subdivision, unless otherwise stipulated by Council,

- (a) arterial streets shall have a width of 20 metres;
- (b) collector streets shall have a minimum width of 20 metres;
- (c) local streets shall have a width of 20 metres;
- (d) a cul-de-sac shall not exceed 200 metres in length, and shall terminate with a circular area having a radius of 18 metres; and,
- (e) no street may have a gradient in excess of 8 percent.

**3.2** 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, with the full cost to be borne by the person seeking approval of the plan unless otherwise agreed by Council.

**3.3** Reserve strips abutting a street in a subdivision are prohibited, except where such strips are vested in the municipality.

**3.4** 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.

**3.5** Names of streets in a subdivision are subject to approval of the Council.

### **4. Lots, blocks and other parcels**

**4.1** Every lot, block and other parcel of land in a subdivision shall abut a street owned by the Crown or the municipality, or such other access as may be approved by the Planning Advisory Committee for the development of land.

**4.2** The dimensions and the area of a lot in a subdivision are subject to the requirements of the Zoning By-law.

**4.3** Subject to subsection 4.4, a block in a subdivision shall be at least 128 metres

and not more than 311 metres long, and shall have a depth of not less than two lots.

**4.4** Where a proposed subdivision contains a series of crescents and cul-de-sacs, a block may exceed 311 metres in length if pedestrian walkways are provided for access or circulation to schools, libraries, playgrounds or other such facilities.

## **5. Land for public purposes**

**5.1** 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 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 brought to street elevation, and so indicated on the plan.

**5.2** Council may require, in lieu of land set aside under section 5.1, a sum of money to be paid to the municipality in the amount of eight (8) percent of the market value of the land in the proposed subdivision at the time of submission for approval of the subdivision plan exclusive of streets intended to be publicly-owned.

**5.3** Nothing in this section shall affect the ability of the applicant and the Town of St. Stephen 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 5.1 or 5.2.

**5.4** Notwithstanding anything contained in this by-law, subsections 5.1, 5.2, and 5.3 do not apply:

- (a) in the case of a parcel of land that is being created for the purpose of being added to and forming part of an adjoining parcel;
- (b) in the case of a subdivision plan that involves the assembly of land for future subdivision;
- (c) in the case of a lot that is being created to accommodate a useable main building, provided such building existed prior to this by-law coming into force;
- (d) in the case of a lot that is being created 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) in the case of a lot that is being created for the purpose of being conveyed to the Town of St. Stephen.

**5.5** Where, as a condition of approval of a subdivision plan, land has been set aside under subsections 5.1, 5.2 or 5.3, 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 the land with respect to which the land has been set aside or sum paid.

## **6. Municipal facilities**

**6.1** Where a developer proposes to subdivide land in such manner that pursuant to section 4 a street is required to be provided, or in such 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) the Council will be able in the near future to provide the proposed subdivision with streets, water and sewer lines, light, recreational areas or other facilities required by the by-law for that subdivision, or the person proposing the subdivision has made satisfactory arrangements for providing the facilities; and,
- (b) the person proposing the subdivision has made satisfactory arrangements to enter into an agreement with the Council that is binding on his or her heirs, successors and assigns to comply with a provision under paragraph (a); and,
  - (i) deposits with the Town of St. Stephen a sum sufficient to cover the cost with respect to facilities that the by-law requires him or her to pay under subsection 7.2, or
  - (ii) deliver to the Town of St. Stephen a performance bond acceptable to the Council in an amount sufficient to cover the cost referred to in clause (i) in accordance with subsection 7.5(d).

## **7. Responsibilities of the subdivider**

**7.1** The developer shall submit a tentative subdivision plan to the Development Officer who will process it, and if it is approved, will instruct the person who is subdividing to hire a surveyor to draw up a final subdivision plan.

**7.2** The construction of streets shall be asphalt. The developer who is subdividing is responsible for the entire cost of construction of streets and services within the subdivision, and engineering inspection services when so determined by the Council.

**7.3** If there are new streets, water lines, sanitary sewers or storm sewers involved, plans and profiles of these facilities must be developed by a Professional Engineer and delivered to the Director of Operations for his or her perusal, comments and final approval, and delivery of "Record Drawings" to the Director of Operations when the sanitary sewer video inspection and waterline pressure test reports have been completed.

**7.4** Except for Type I subdivisions, new utilities such as hydro, fiberoptic, cable and telephone shall be buried in underground ducting and designed to the satisfaction of the Director of Operations.

**7.5** Pursuant to section 88 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 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;
- (b) that the Director of Operations 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;
- (c) that pursuant to Regulation 82-126 under the *Clean Environment Act*, the Department of Environment and Local Government has approved the plans and profiles for the installation of water lines, gate valves, hydrants, storm sewers, catch basins, sanitary sewers, lift stations and manholes, and a copy of the certificate of approval to construct has been delivered to the Director of Operations;
- (d) if required by an agreement under subsection 6.1(b)(ii), that the developer makes a deposit with the Clerk for sufficient money, bonds or securities to cover fifty (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 (12) months after the date of final inspection and acceptance by the Town of these services; and,
- (e) that Council reserves the right to ask for a videotape inspection of any part of the underground system if deemed necessary by the Town of St. Stephen's Public Works Department.

## **8. Conditions precluding approval of a subdivision plan**

**8.1** The Development Officer shall not approve a subdivision plan if, in his or her 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.

## **9. Enforcement**

**9.1** Where a development is undertaken in contravention of this by-law or any of the

terms and conditions imposed pursuant thereto, a person authorized by Council may order,

- (a) cessation of the development,
- (b) alteration of such development so as to remove the contravention,
- (c) the doing of anything required restoring the land, building, or structure to its condition immediately prior to the undertaking of such development, or
- (d) the payment of costs recoverable by the municipality under the terms of this by-law.

**9.2** For the purposes of enforcement, a person authorized by Council shall act in accordance with sections 134 and 135 of the *Community Planning Act*.

## **10. Fees**

**10.1** A person who applies to a development officer for approval of a tentative plan shall pay the following fee:

- (a) for a type 1 subdivision (abuts an existing street), \$200 plus \$25 for each lot in the subdivision;
- (b) for a type 2 subdivision (access off a new street or other access), \$500 plus \$50 for each lot in the subdivision; or,
- (c) for a subdivision re-application administration fee, \$100.

## **11. Repeal provision**

**11.1** By-law No. L-4, Subdivision By-law, adopted by Town Council on April 16, 2012, is hereby repealed.

**11.2** The repeal of By-law No. L-4, A 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.

**IN WITNESS WHEREOF** the Town of St. Stephen has caused the corporate seal of the said Town to be affixed to this By-law the 22<sup>nd</sup> day of June, 2020.

First Reading: March 23, 2020

Second Reading: May 25, 2020

Third and Final Reading: June 22, 2020

  
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Mayor

  
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Town Clerk