

# **VILLAGE OF GAGETOWN**

**BY-LAW NO. 38  
SUBDIVISION BY-LAW**

## TABLE OF CONTENTS

<b>SECTION 1 - TITLE.....</b>	<b>2</b>
<b>SECTION 2 – SCOPE AND POLICY.....</b>	<b>2</b>
<b>SECTION 3- DEFINITIONS.....</b>	<b>2</b>
<b>SECTION 4- INTERPRETATION.....</b>	<b>3</b>
<b>SECTION 5- REQUIREMENTS OF A TENTATIVE PLAN.....</b>	<b>3</b>
<b>SECTION 6- PUBLIC STREETS.....</b>	<b>4</b>
<b>SECTION 7- PRIVATE STREETS.....</b>	<b>5</b>
<b>SECTION 8- LOTS BLOCKS AND OTHER PARCELS.....</b>	<b>6</b>
<b>SECTION 9- LAND FOR PUBLIC PURPOSES.....</b>	<b>7</b>
<b>SECTION 10- MUNICIPAL FACILITIES.....</b>	<b>8</b>
<b>SECTION 11- WELL WATER SUPPLIES.....</b>	<b>8</b>
<b>SECTION 12- RESPONSIBILITIES OF THE SUBDIVIDER.....</b>	<b>8</b>
<b>SECTION 13- CONDITIONS PRECLUDING APPROVAL OF A SUBDIVISION PLAN.....</b>	<b>9</b>

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

### **SECTION 1: TITLE**

1.1 This By-Law may be cited as the "Village of Gagetown Subdivision By-Law No. 38" and it hereby repeals and replaces the former "Subdivision By-Law 12" and all amendments thereto.

### **SECTION 2: SCOPE AND POLICY**

2.1 This By-law provides for regulation of the subdividing of land in the municipality and shall conform to the Village of Gagetown Rural Plan. An approval of a subdivision plan shall not constitute a warranty or representation that the land is suited or can economically be suited to the purpose for which it is intended and, without restricting the generality of the foregoing, shall not constitute a warranty or representation that the land is suitable or can economically be made suitable for any manner of on-site sewage disposal, or that a drilled water well will discover water in quantity and quality suitable for any required use on the site or lot within the subdivision.

### **SECTION 3: DEFINITIONS**

3.1 In this By-Law:

"Advisory Committee" means the Planning Review Adjustment Committee (PRAC) of Regional Service Commission 11;

"Council" means the Council of the Village of Gagetown;

"Development Officer" means the development officer as defined in the *Community Planning Act*;

"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 or other body of water;
- (b) a beach or scenic area along the shore of a lake, river, stream 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) a park, greenbelt, or buffer area dividing developments, parts of highway, or development and a highway;
- (g) a pedestrian way to a school, shopping centre, recreational area, or other facility;
- (h) a protection area for a water course, stream, marsh, water supply, lake, or other body of water;

- (i) a public park, playground, or other recreational use;

**"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;

**"Multiple-family dwelling"** means a dwelling containing four or more dwelling units;

**"Regional Service Commission"** means the Regional Service Commission 11, which was established per Regulation 2012-91 under the *Regional Service Delivery Act*;

**"Reserve Strips"** means a strip of land, smaller than a lot, and retained in ownership as a means of controlling access to land dedicated or intended to be dedicated to street or other public use;

**"Subdivision Type 1"** means a subdivision which is not defined as a Subdivision Type 2;

**"Subdivision Type 2"** means a subdivision that requires:

- (a) the development of one or more streets, or,
- (b) a form of access other than a street as may be approved by an advisory committee as being advisable for the development of land;

**"Village"** means the Village of Gagetown;

**"Water Supply Assessment Guidelines"** means *Water Supply Assessment Guidelines for Subdivisions Serviced by Individual Private Wells* adopted by the Regional Service Commission 11 – Planning and Development Division; and

**"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.

#### **SECTION 4: INTERPRETATION**

4.1 The provisions of the By-law are severable. If for, any reason, a provision is held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this By-law.

4.2 Nothing in this By-law shall relieve any person from the obligation to comply with the requirements of the Building By-law or any other By-law of the Village in force from time to time, or the obligation to obtain any license, permit, authority of approval required under any By-law of the Village or Act or Regulation of the Provincial or Federal Government. In the event of conflict between this By-law and any other Act or Regulation, the most restrictive obligation shall prevail.

## **SECTION 5: REQUIREMENTS OF A TENTATIVE PLAN**

5.1 A tentative subdivision plan shall be clearly marked "TENTATIVE PLAN" and shall show all details as described in Subsection 42(2)(a) through 42(2)(n) of the *Community Planning Act* unless such requirements are exempted in whole or in part by the Development Officer.

## **SECTION 6: PUBLIC STREETS**

6.1 All new public streets shall meet the design and construction standards set out in the provincial Department of Transportation and Infrastructure's *A Guide to Minimum Standards for the Construction of Subdivision Roads and Streets*, unless otherwise stated by the Regional Service Commission 11- Planning and Development Division or by Council.

6.2 All public streets shall have a minimum right-of-way width of 20 metres (66 feet) and shall be constructed within the right-of-way boundaries.

6.3 A cul-de-sac shall not exceed 365 metres in length and shall terminate with a circular area having a radius of 18 metres.

6.4 The maximum grade on streets shall be eight percent (8%).

6.5 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%.

6.6 Jogged intersections are to be avoided by ensuring intersections on opposite sides of a street are offset by at least 50 metres.

6.7 Reserve strips abutting a street in a proposed subdivision are prohibited, except where such strips are vested in the Village of Gagetown.

6.8 Names of streets in a subdivision are subject to the approval of the Department of Public Safety and Council.

6.9 All streets shall have a chip sealed minimum surface width of 7.3 metres. The chip sealing shall be performed to the specifications outlined in a Developer's Agreement with Council, and in this context reference is made to clause 6(1) above.

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

- (a) the topography of the land;
- (b) the provision of lots suitable (by virtue of their slopes, topography, soils, drainage) for the intended use;
- (c) the provision of convenient access to the proposed subdivision and to lots within it; and,
- (d) the convenient further subdividing of the land or adjoining land. In particular, the Advisory Committee shall ensure that access is reserved to adjacent lands so as not to prejudice and to facilitate the further integrated development of those adjacent lands.

6.11 The developer must enter into a Developer's Agreement with Council that is binding upon heirs, successors and assigns to construct and pay the cost of services required within the subdivision, and deposit a sum of money, a performance bond or an irrevocable letter of credit with the Village, sufficient to guarantee the faithful performance of said agreement.

6.12 Confirmation Prior to Final Approval – Prior to final approval, the Regional Service Commission – Planning and Development Division may require confirmation by a New Brunswick Land Surveyor (NBLs) or a qualified professional engineer, as the case may be, that the public street has been constructed in accordance with standards outlined in this By-law.

#### **SECTION 7: PRIVATE STREETS**

7.1 Private streets shall be laid out so as to intersect as nearly as possible at right angles.

7.2 Reserve strips abutting a private street in a proposed subdivision are prohibited, except where such strips are vested in the Village.

7.3 Names of private streets in a subdivision are subject to the approval of the Department of Public Safety and Council.

7.4 In arriving at a decision regarding a recommendation with respect to the location of private streets in a proposed subdivision, the Advisory Committee shall give consideration to:

- (a) the topography of the land;
- (b) the provision of lots suitable (by virtue of their slopes, topography, soils, drainage) for the intended use;
- (c) the provision of convenient access to the proposed subdivision and to lots within it; and
- (d) the convenient further subdividing of the land or adjoining land. In particular, the Advisory Committee shall ensure that access is reserved to adjacent lands so as not to prejudice and to facilitate the further integrated development of those adjacent lands.

7.5 The developer must enter into a Developer's Agreement with the Council which will be subsequently binding for the property owners on the private street. This agreement will establish all conditions for the initial development, construction and subsequent ownership, management, and maintenance of the private street by a Road Association or legal agreement. The Road Association or legal agreement must be prepared which will be binding for all purchasers and subsequent owners of residential lots in the subdivisions.

7.6 Confirmation Prior to Final Approval – Prior to final approval, the Regional Service Commission - Planning and Development Division may require confirmation by a New Brunswick Land Surveyor (NBLs) or a qualified professional engineer, as the case may be, that the private street has been constructed in accordance with standards outlined in this By-law.

#### **SECTION 8: LOTS, BLOCKS AND OTHER PARCELS**

8.1 Every lot, block and other parcel of land in a subdivision shall abut:

- (a) a street owned by the Crown or the village; or
- (b) such privately-owned street or other access as may be approved by the Advisory Committee as being advisable for the development of the land.

8.2 Where a proposed subdivision is to be serviced by both water system for public use and sewer system for public use, every lot or other parcel of land therein shall have and contain:

- (a) a width of at least 18 metres;

- (b) a depth of at least 30 metres; and
- (c) an area of at least 540 square metres.

8.3 Where a proposed subdivision is to be serviced by a sewer system for public use, every lot or other parcel of land herein shall have and contain:

- (a) a width of at least 23 metres;
- (b) a depth of at least 30 metres; and
- (c) an area of at least 690 square metres.

8.4 Where a proposed subdivision is not to be serviced by a sewer system for public use, every lot or other parcel of land therein shall have and contain:

- (a) a width of at least 54 metres;
- (b) a depth of at least 38 metres; and
- (c) an area of at least 4,000 square metres.

8.5 Subject to subsection (6) a block in a subdivision:

- (a) shall be at least 120 metres and not more than 240 metres in length; and
- (b) shall have a depth of not less than two lots.

8.6 Where a proposed subdivision contains a series of crescent and cul-de-sacs, a block may exceed 240 metres in length if pedestrian walkways are provided in the number, location and width considered necessary by the Advisory Committee to provide access or circulation to schools, libraries, playgrounds or similar facilities.

8.7 Easements shall be provided where necessary:

- (a) at least 5 metres wide for utilities; and
- (b) at least 10 metres wide for natural water courses and drainage ditches.

## **SECTION 9: LAND FOR PUBLIC PURPOSES**

9.1 Subject to this section, as a condition of approval of a subdivision plan, land in the amount of eight 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 Advisory Committee or otherwise approved by Council, is to be set aside as land for public purposes and so indicated on the plan.

9.2 Subsection (1) does not apply to that part of a subdivision plan:

- (a) That creates a parcel of land solely for the purposes of:
  - (i) being assembled with other parcels for later subdivision; or
  - (ii) being added to a lot on which is located or which is intended as the location of other than a multiple family dwelling; and

- (b) That creates a lot:
  - (i) on which is located or which is intended as the location of other than a multiple family dwelling; and
  - (ii) which abuts a publicly-owned street that on the coming into force of this By-law was paved.

9.3 Council may require, in lieu of land set aside under subsection (1), a sum of money be paid to the Village in the amount of up to eight 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.

9.4 Where, as a condition of approval of a subdivision plan, land has been set aside under subsection (1) or the provision 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 the land with respect to which the land has been set aside or a sum paid.

9.5 Nothing in this section shall affect the ability of the applicant and the Village 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 Village shall not be less than that provided in subsections (1) or (3).

#### **SECTION 10: MUNICIPAL FACILITIES**

10.1 Where a person proposes to subdivide land in such manner that pursuant to Section 8, 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 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 or a performance bond with the village or has entered into an agreement with Council that is binding on his/her heirs, successors and assigns to pay the cost of facilities required within the subdivision.

#### **SECTION 11: WELL WATER SUPPLIES**

11.1 Water Supply Assessment:

Approval of residential subdivisions will be contingent on reasonable assurances of an adequate quantity and quality of drinking water, as well as measures to protect drinking water sources. In accordance with the Regional Service Commission 11 – Planning and Development Division's *Water Supply Assessment Guidelines*, the proponent may be required to undertake a water supply assessment to confirm an adequate quantity and quality of water for the proposed development.



## **SECTION 12: RESPONSIBILITIES OF THE SUBDIVIDER**

12.1 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.

12.2 The construction of streets shall comply with the current edition of the New Brunswick Minimum Standards for Construction of Subdivision Roads and Streets as issued by the Department of Transportation and Infrastructure, Municipal Engineering Division. The subdivider is responsible for the entire cost of construction of streets and services within the subdivision.

12.3 Pursuant to Section 56 of the *Community Planning Act*, Council shall not approve a subdivision plan until the following steps have been taken:

- (a) the Advisory Committee has first given approval in principal to the subdivision,
- (b) 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, lift stations, manholes sanitary sewers, etc.

12.4 In all other respects, subdivision plans shall conform to the requirements of the *Community Planning Act*.

## **SECTION 13: CONDITIONS PRECLUDING APPROVAL OF A SUBDIVISION PLAN**

13.1 Subject to subsection (2), the Development Officer may approve a subdivision plan.

13.2 The Development Officer shall not approve a subdivision plan if, in his/her opinion and in the opinion of the Advisory Committee,

- (a) the land is not reasonably suited or cannot be economically 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.

13.3 A person who applies for approval of a tentative plan or examination of documents shall pay the following fee:

- (a) Subdivision Type 1 - review and processing of Type 1 subdivision as defined by the *Community Planning Act* - \$200.00 plus \$25.00 per lot and remnant;
- (b) Subdivision Type 2 - review and processing of Type 2 subdivision as defined by the *Community Planning Act* (road or private access) - \$500.00 plus \$50.00 per lot and remnant;
- (c) Parcel being added - \$200.00;
- (d) Documents (inspection and stamping of deeds, leases, exemptions, easements, mortgages) - \$100.00;
- (e) Variances – review and processing of applications to vary requirements of the subdivision by-law - \$250.00; and

(f) Special Advisory Committee meeting - \$1,000.00

13.4 All fees are submitted and payable as follows:

- (a) at the time of application or request, the proponent shall pay the fee as prescribed in Subsection (3) above;
- (b) payments shall be made to the Regional Service Commission 11; and
- (c) all imposed fees are payable prior to the processing of the application and issuance of the permit, approval or other documentation to which fee applies.

13.5 Every application shall be submitted to and processed by the Regional Service Commission 11 – Planning and Development Division.

#### SECTION 14: ENACTMENT

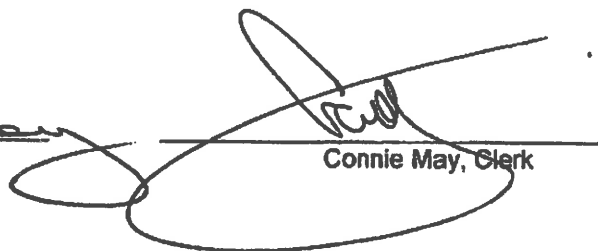
This is to certify that By-Law No. 38, "Subdivision By-Law" has been enacted by the Village Council of the Village of Gagetown and that the said by-law received:

First Reading: September 15, 2014  
Second Reading: September 15, 2014  
Third Reading: January 19, 2015

This By-Law shall come into full force and take effect and be binding on all persons as of and from the date filed at the Registry Office.

GIVEN under the hands of the Mayor and the Chief Administrative Officer and under corporate seal of the Village of Gagetown this 19 day of January, A. D. 20 15.

  
\_\_\_\_\_  
Michael Blaney, Mayor

  
\_\_\_\_\_  
Connie May, Clerk