

**VALLEY WATERS**  
**Subdivision By-law # 24-12-02**

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**VALLEY WATERS  
BY-LAW NO. 24-12-02**

**An Amendment to By-Law 24-12-01  
A BY-LAW REGARDING THE SUBDIVISION OF LAND IN VALLEY WATERS**

The Council of the Village of Valley Waters, under the authority vested in it by Section 74 of the *Community Planning Act* of New Brunswick, enacts as follows:

**1. TITLE AND SCOPE**

- A. This By-law may be cited as the Village of Valley Waters Subdivision By-law.
- B. This By-law provides regulations for the subdivision of land in the Village of Valley Waters ("Valley Waters").
- C. This By-law hereby repeals and replaces the former Valley Waters Subdivision By-law 24-12-01.
- D. Unless otherwise exempted pursuant to the provisions of this By-law or the *Community Planning Act*, any person who subdivides land in Valley Waters shall comply with the requirements set out in this By-law.
- E. Where there is a conflict between the provisions of this By-law and those of the Village of Norton Rural Plan, the provisions of the latter shall take precedence for properties in the former Village of Norton until these provisions are reviewed by the Council of Valley Waters and amended/ repealed/ or approved by Council for parts, or all, of Valley Waters.
- F. Approval of a requested variance to the Subdivision By-law shall only be granted in accordance with Section 78 of the *Act*.

**2. DEFINITIONS**

A. In this By-law:

- i. **"Abut"** includes having access thereto directly;
- ii. **"Act"** means the *Community Planning Act* of New Brunswick;
- iii. **"Council"** means the Council of the Village of Valley Waters;
- iv. **"Developer"** means a person or corporation seeking approval for a subdivision, and who enters into agreement with the Village of Valley Waters;

- v. **“Development”** means:
- a. the erecting, placing, relocating, removing, demolishing, altering, repairing or replacing of a building or structure other than utility poles and wires, traffic control devices and pipelines defined in the *Pipeline Act, 2005* except for buildings and structures remote from a pipeline used for management and administration or housing or storing of moveable equipment or statutory notices;
  - b. if the purpose for which land, buildings and structures are used is set out in a Rural Plan, a change in the purpose for which the land, building or structure is used;
  - c. any excavation of sand, gravel, clay, shale, limestone or other deposits for a development mentioned in paragraph (a) or for purposes of the sale or other commercial use of the material excavated; or
  - d. the making of land by cutting or filling to a depth in excess of one metre, except in the case of laying pipelines defined in the *Pipeline Act, 2005*.
- vi. **“Development Officer”** means the planning director as defined in the *Regional Service Delivery Act*.
- vii. **“Future Street”** means land to be vested to Valley Waters as a future public street.
- viii. **“Land for public purposes”** means land, other than streets, for the recreational or other use or enjoyment of the general public.
- ix. **“Land registration office”** facilitates land-based transactions and maintains records to New Brunswickers’ rights, restrictions and obligations in land.
- x. **“Land surveyor”** means a professional surveyor licensed to practice in the Province of New Brunswick.
- xi. **“Lot”** means a parcel of land or two or more adjoining parcels of land held by the same owner and used or intended to be used as the site for a building or structure or an appurtenance thereto.
- xiii. **“Permanent/Year-round land use”** means any land occupied and used on a year-round, permanent basis for human habitation or business operations.
- xiv. **“Planning Review and Adjustment Committee”** means the Planning Review and Advisory Committee appointed by the Kings Regional Service Commission (RSC 8);
- xv. **“Private access”** means an access serving no more than five (5) lots occupied by recreational land uses.

- xvi. **“Private road”** means any road:
- a. serving two (2) or more lots occupied by permanent/ year-round land use OR serving five (5) or more lots occupied by recreational land uses;
  - b. which is not a public street/road; and
  - c. is shown as a separate lot parcel on a plan of subdivision approved by the Development Officer and filed in the Registry of Deeds pursuant to this By-law.
- xvii. **“Professional Engineer”** means a Professional Engineer who is licensed to practice in the Province of New Brunswick and a member of the Association of Professional Engineers and Geoscientists of New Brunswick;
- xviii. **“Public street or road”** means:
- a. any street or road owned by the Village of Valley Waters and maintained by the Norton Works Department; or
  - b. any street or road owned by the Province and maintained by the Province’s Department of Transportation and Infrastructure.
- xix. **“Recreational land use”** means a cottage, hunting/fishing camp or a similar non-permanent use for amusement on a temporary basis and not for year-round or permanent human habitation or business operations.
- xx. **“Regional Service Commission”** means the Kings Regional Service Commission (RSC 8) established under the *Regional Service Delivery Act*.
- xxi. **“Right-of-way”** means the portion of land constructed, maintained and reserved for a street or road.
- xxii. **“Services”** means streets, curbing, sidewalks, walkways, street lights, water and sewer lines, trunk sewer lines, water mains, storm water retention facilities, lift stations, pumping stations, fire hydrants, culverts, drainage ditches, and any other service or infrastructure deemed necessary by the Village of Valley Waters to serve lots within the subdivision.
- xxiii. **“Subdivision”** means the division of any lot parcel(s) into two or more lot parcels resulting in new additional lot parcels, and includes a consolidation of two or more lot parcels under separate ownership resulting in a lesser number of lot parcels, or a lot parcel boundary adjustment that results in the same number of lot parcels.
- xxiv. **“Traffic Authority”** means the Norton Public Works Department where responsibility to maintain the public street/road is the Village of Valley Waters and the New Brunswick Department of Transportation and Infrastructure when

the responsibility to maintain the public street/road is the Province of New Brunswick.

- xxv. **“Type 1 subdivision”** means a subdivision of land that is not a Type 2 subdivision.
- xxvi. **“Type 2 subdivision”** means
  - a. a subdivision of land that requires the development of: a. one or more streets, or
  - b. a form of access other than a street approved by the Planning Review and Advisory Committee as being advisable for the development of the land.
- xxvii. **“Watercourse”** means the full width and length, including the bed, banks, sides and shoreline, or any part, of a river, creek, stream, spring, brook, lake, pond, reservoir, canal, ditch or other natural or artificial channel open to the atmosphere, the primary function of which is the conveyance or containment of water whether the flow be continuous or not.
- xxviii. **“Width”** means, in relation to a lot, where:
  - 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 setback, required by by-law or regulation, intersects a line from the midpoint of and perpendicular to the line to which it is parallel.

### 3. TENTATIVE PLAN

- A. Any person who seeks to subdivide land within Valley Waters shall submit a written application for approval of a Tentative Subdivision Plan in accordance with the *Act*, and any additional supporting documentation deemed necessary by the development officer. The Tentative Plan shall be drawn to a scale and size approved by the development officer, and as many copies as required by the development officer shall be submitted.
- B. A tentative plan shall be marked “Tentative Plan” and show the information outlined in Section 81(2) of the *Act* and **Schedule 1** of this By-law, where applicable, as well as delineate any existing watercourses within or abutting the tentative subdivision plan in accordance with the requirements of the New Brunswick Department of Environment and Local Government.
- C. Prior to preparing a recommendation regarding the plan, the development officer shall circulate the plan to relevant government agencies (e.g.: Traffic Authority, New

Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, Emergency Services, NB 9-1-1 Bureau, etc.) and obtain confirmation that the plan satisfies their requirements, respectively.

- D. Prior to preparing a recommendation regarding the plan, the development officer shall conduct a review to ensure the plan conforms with the *Act*, as well as the Rural Plan, if applicable.
- E. The development officer shall not recommend approval of a plan if, in their opinion, the opinion of a relevant government agency, and the opinion of the Planning Review and Adjustment Committee:
  - i. 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 subdivision plan is approved;
  - ii. the proposed manner of subdividing will prejudice the possibility of further subdividing the land or the convenient subdividing of adjoining land; or
  - iii. the subdivision contravenes the *Act*, other provincial legislation, or municipal by-laws.
- F. In the case of a Type 2 Subdivision Tentative Plan application:
  - i. The development officer shall not authorize a Type 2 Subdivision Tentative Plan without Council approval.
  - ii. Council shall not approve the Tentative Plan without a recommendation from the Planning Review and Adjustment Committee and the development officer. When making a recommendation regarding roads to Council, the Planning Review and Adjustment Committee shall consider:
    - a. the topography of the land proposed for the subdivision;
    - b. the creation of lots suitable for the intended use thereof;
    - c. ensuring that road intersections are at a right angle (or as nearly as possible);
    - d. the provision of convenient access to the proposed subdivision and lots within; and
    - e. the provision of convenient further subdivision of land within the subdivision or adjoining land.
  - iii. The development officer shall not recommend approval of a Tentative Plan unless, in the opinion of Council:
    - a. The Developer has made satisfactory arrangements for providing streets and services deemed as required by Valley Waters or others having jurisdiction; and



- ii. includes a deposit for Valley Waters with a sum sufficient to cover the cost of required services or deliver to Valley Waters a performance bond acceptable to the Council of Valley Waters sufficient to cover the cost of required services; and
  - iii. shall not become effective until certified copies of the agreement are filed in the land registration office.
- E. Approval of a subdivision plan by the development officer shall be signified on the face of the plan by a stamp or certificate of approval, dated and signed by the development officer.
- F. A subdivision plan approved by a development officer is valid when filed in the land registration office in accordance with this Act.

## **5. STANDARDS FOR LOTS, BLOCKS AND OTHER PARCELS**

- A. Every lot, block and other parcel of land in a proposed subdivision shall abut:
- i. a public street/road; or
  - ii. such other access as may be approved by the PRAC (Planning Review and Adjustment Committee) as being advisable for the development of land.
- B. Where a proposed subdivision is located within the Norton Rural Plan area, the lot size, width and depth provisions set out in Norton Rural Plan shall apply.
- C. Where a proposed subdivision is located outside of the Norton Rural Plan area and is not serviced by a public sewer or water system, every lot or other parcel of land therein shall have and contain:
- i. a width of at least 54 metres;
  - ii. a depth of at least 38 metres; and
  - iii. an area of at least 4,000 square metres.
- D. Where a proposed subdivision is located outside of the Norton Rural Plan area and serviced by a public sewer system with no public water service, every lot or other parcel of land therein shall have and contain:
- i. a width of at least 23 metres;
  - ii. a depth of at least 30 metres; and
  - iii. an area of at least 690 square metres.
- E. Where a proposed subdivision is located outside of the Norton Rural Plan area and serviced by a public sewer and water system, every lot or other parcel of land therein shall have and contain:
- i. a width of at least 18 metres;
  - ii. a depth of at least 30 metres; and
  - iii. an area of at least 540 square metres.



- F. Subject to Subsection 5(G) a block in a subdivision shall be at least one hundred twenty (120) metres and not more than two hundred and forty (240) metres in length and shall be no less than two (2) lots in depth.
- G. Where a proposed subdivision contains a series of crescents and/or courts, a block may exceed two hundred and forty (240) metres in length if active transportation pathways are provided in the number and location deemed necessary by the Planning Advisory Committee, providing access and connections to adjacent active transportation systems, public transit stops, commercial services and amenities, subdivisions, schools, public libraries, parks, playgrounds and recreation facilities, etc.
- H. The subdivision shall not result in a remnant parcel which does not meet the minimum lot size required in the specific zone, as set by the Zoning By-law, nor shall the remnant be rendered landlocked by the subdivision.
- I. Lots and blocks in any proposed subdivision are to be of such standards including width and depths so as not to prejudice existing subdivisions in the immediate area.
- J. Easements shall be provided for utilities when necessary, and shall be of a width deemed necessary by the applicable Public Utility.

## **6. STANDARDS FOR A PRIVATE ROAD**

- A. Any private road shall be designed and constructed in accordance with the following standards. Construction of the private road shall be the responsibility of the Developer.
  - i. Wastes from the clearing and grubbing activities such as roots, stumps, sod, moss, and all other organic material shall not be placed in the private road.
  - ii. Private roads shall be surfaced with either gravel or asphalt paving.
  - iii. The maximum grade of the private road shall not exceed 12%, unless indicated otherwise by the Traffic Authority having jurisdiction over an intersecting public street/road.
  - iv. Provision shall be made for drainage of the private road in accordance with the Department of Transportation Minimum Standards for the Construction of Subdivision Roads and Streets.
  - v. Certification by a Professional Engineer retained by the Developer at their own expense shall be submitted in support of the Tentative Subdivision Plan for all

private road and drainage design and construction.

- vi. For adequate provision of access to future subdivision development phases or to avoid prejudicing development on adjacent properties and to ensure adequate emergency service access, no plan of subdivision shall result in a private road exceeding 90 metres in length without cul-du-sac turnaround facilities. No private road shall exceed 365 metres in length without intersecting another road (public or private), unless indicated otherwise by the Traffic Authority having jurisdiction over an intersecting public street/road.
  - vii. Cul-du-sacs shall be designed and constructed in accordance with the Department of Transportation Minimum Standards for the Construction of Subdivision Roads and Streets.
  - viii. All street intersections shall be designed to comply with the stopping and turning sign distance criteria set out in the Department of Transportation Minimum Standards for the Construction of Subdivision Roads and Streets, unless indicated otherwise by the Traffic Authority having jurisdiction over an intersecting public street/road.
  - ix. The minimum width of the right-of-way of the private road shall be 24 meters (80 feet), unless indicated otherwise by a relevant government agency (e.g.: Traffic Authority).
  - x. Proposed private roads, in a plan of subdivision shall, if reasonably feasible, be designed in prolongation of any existing public street/road abutting any boundary of the plan of subdivision, subject to compliance with this By-law and Traffic Authority approval.
- B.** The intersection of a private road with a public street/road shall be approved by the Traffic Authority having jurisdiction for that public street/road.
- C.** A private road lot parcel shall not be included in the calculation of lot parcel area for the purposes of meeting the lot area requirements of this By-law.
- D.** Private road maintenance, including snow removal, grading, vegetation removal, pothole filling, culvert repair, improvements, etc. shall be the joint responsibility of all existing owners of lots accessed by way of the private road.
- E.** Any private road approved on a plan of subdivision shall not be conveyed to a Traffic Authority unless the private road in question has been redesigned and reconstructed in compliance with the Traffic Authority requirements and accepted by the Traffic Authority.
- F.** 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/road. The

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 by the Developer which will be binding for all purchasers and subsequent owners of residential lots in the Subdivision.

## **7. STANDARDS FOR A PUBLIC STREET/ ROAD**

- A.** If a subdivision plan provides for a public street/ road where roads are under the control of the New Brunswick Department of Transportation and Infrastructure, a recommendation for approval of the plan by the development officer shall not be given until the plan has been assented to by the Minister of Transportation and Infrastructure. Assent will not be given until the requirements outlined in Section 87(2) of the *Act* are satisfied.
- B.** If a subdivision plan provides for a public street/ road where roads are under the control of Valley Waters, a recommendation for approval of the plan by the development officer shall not be given until the plan has been approved by the Village of Valley Waters.

## **8. STANDARDS FOR PRIVATE ACCESSES**

- A.** Private accesses shall be located to comply with the minimum stopping and turning sign distance criteria set out in the Department of Transportation Minimum Standards for the Construction of Subdivision Roads and Streets, unless indicated otherwise by the Traffic Authority having jurisdiction over public street/road intersecting the private access.
- B.** The intersection of a private access with a public street/road shall be approved by the Traffic Authority having jurisdiction for that public street/road.
- C.** For adequate provision of access to future subdivision development phases or to avoid prejudicing development on adjacent properties and to ensure adequate emergency service access, no plan of subdivision shall result in a private access exceeding 90 metres in length without cul-du-sac turnaround facilities.
- D.** Private access construction and maintenance, including snow removal, grading, vegetation removal, pothole filling, culvert repair, and other improvements shall be the sole responsibility of the owners of lots who require the private access for current or future use.
- E.** Private accesses shall not receive public services, including school bus, garbage pick-up or snow plowing services, until and unless the access satisfies either Section 6 (Standards for a Private Road) or Section 7 (Standards for a Public Street/ Road) of this By-law and receives Council approval with a recommendation from the Planning Review and Adjustment Committee.

## **9. STANDARDS FOR SUBDIVISION SERVICES**

- A.** The Developer shall design, construct and install services within the subdivision to the satisfaction of relevant government agencies (e.g.: Traffic Authority, New Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, NB 9-1-1 Bureau, Emergency Services, etc.).
- B.** The Developer shall retain, at their own expense, a Professional Engineer licensed to practice in New Brunswick, who shall design subdivision services, and supply stamped drawings in support of the design for approval by relevant government agencies (e.g.: Traffic Authority, New Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, NB 9-1-1 Bureau, Emergency Services, etc.).
- C.** The Professional Engineer retained by the Developer shall inspect the construction and installation of services approved by relevant government agencies (e.g.: Traffic Authority, New Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, NB 9-1-1 Bureau, Emergency Services, etc.), as well as provide a detailed report in support of the inspection in a form and manner acceptable to relevant government agencies (e.g.: Traffic Authority, New Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, NB 9-1-1 Bureau, Emergency Services, etc.). The retained Professional Engineer shall deliver stamped as-built drawings to Valley Waters and the Regional Service Commission when work has been completed to the satisfaction of relevant government agencies (e.g.: Traffic Authority, New Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, NB 9-1-1 Bureau, Emergency Services, etc.).
- D.** Valley Waters shall not issue a building permit for the construction of any dwelling or structure on a lot in the subdivision until such time as all services have been constructed and installed to the satisfaction of relevant government agencies (e.g.: Traffic Authority, New Brunswick Department of Justice and Public Safety, New Brunswick Department of Environment and Local Government, NB 9-1-1 Bureau, Emergency Services, etc.).

## **10. LAND FOR PUBLIC PURPOSES – TYPE 2 SUBDIVISION**

- A.** As a condition of approval of a Type 2 subdivision plan, land in the amount of ten percent (10%) of the area of the proposed subdivision, exclusive of streets intended to be publicly owned, is to be set aside as land for public purposes with the location indicated on the plan. The Planning Review and Adjustment Committee is to advise Council on the suitability of the land to be vested in Valley Waters for public purposes.

- B.** In lieu of land set aside under 8(A), Council may permit a sum of money to be paid to the Valley Waters 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 Type 2 subdivision plan, exclusive of land indicated as streets intended to be publicly owned.

## **11. FEES**

- A.** A person who applies to a development officer for approval of a tentative plan shall pay the non-refundable processing fee set out in the Valley Waters Fee Schedule By-law.

READ FIRST TIME:

\_\_\_\_\_

READ SECOND TIME:

\_\_\_\_\_

READ THIRD TIME AND ENACTED:

\_\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

## **Schedule 1 - Tentative Plan Detailed Requirements**

Pursuant to Section 81 of the *Community Planning Act*, a Tentative Plan shall be marked "Tentative Plan" and show the following, where applicable:

1. the proposed name of the proposed subdivision;
2. the boundaries of that part of the plan to be approved, marked by a black line of greater weight than all other lines on the diagram of the plan;
3. 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 in the subdivision;
4. 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;
5. the nature, location and dimensions of any existing restrictive covenant, easement or right-of-way affecting the land proposed to be subdivided and of an easement intended to be granted within the proposed subdivision;
6. any natural and artificial features, including buildings, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;
7. the availability and nature of domestic water supplies;
8. the nature and porosity of the soil;
9. any contours or elevations necessary to determine the grade of the streets and the drainage of the land;
10. the services that are or will be provided by the local government to the land proposed to be subdivided;
11. if 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 the location;
12. any plans for landscaping and tree planting;
13. the proposed location of every building; and
14. any further information required by the development officer to assure compliance with the subdivision by-law.

**Schedule 2 - Subdivision Plan Detailed Requirements** Pursuant to Section 4 of the  
*Community Planning Act*:

1. A subdivision plan shall be drawn:
  - i. to a scale having a ratio of one to 1,000, except if, in the opinion of the development officer, a ratio of one to 500, one to 2,000 or one to 5,000 is more practical;
  - ii. on one of the following sizes of material:
    - a. 21.5 cm × 35.5 cm,
    - b. 35.5 cm × 43 cm, or
    - c. 50 to 75 cm × 50 cm to 100 cm, and
  - iii. in a manner that the space left on the face of the plan for the approval of the development officer, an assent of the Minister of Transportation and Infrastructure or a council and the particulars of filing in the land registration office is acceptable to the development officer with respect to adequacy and location.
2. A subdivision plan shall set out the following:
  - i) in the title block,
    - a. the name of the subdivision;
    - b. if required by the development officer, the name of a street to which the subdivision has access,
    - c. the local government or parish, and the 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 of the plan; iv. the distances from, and the relation to, existing survey monuments and markers;
  - v. the boundaries of that part of the plan 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 local government 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 the street shown on the plan is to be so indicated, the portion is to 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 local government 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 of the easement;
- x. the boundaries of streets and other parcels of land by means of solid black lines, as well as azimuths and distances and the radii, central angles and arcs of the boundaries for circular curves;
- xi. the location, dimensions and names of streets abutting the subdivision;
- xii. the nature, location and dimensions of an existing restrictive covenant, easement or right-of-way;
- xiii. any numbers and letters necessary to accurately identify each lot or other parcel of land and, if available, the civic number of the lot or parcel;
- xiv. the location and description of legal survey monuments;
- xv. any applicable proposed street boundary and/or building line;
- xvi. a building line or set-back affecting the subdivision; and
- xvii. 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 20,000.