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# HANWELL RURAL COMMUNITY

## BY-LAW NO. 08-2015 SUBDIVISION BY-LAW

I certify that this instrument  
is registered or filed in the

York  
County Registry Office,  
New Brunswick

J'atteste que cet instrument est  
enregistré ou déposé au bureau  
de l'enregistrement du comté de

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Oct 20, 2015 15:12 35359810  
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Alana Scott  
01 Registrar-Conservateur

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The Council of the Hanwell Rural Community, 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 “*Hanwell Rural Community Subdivision By-Law 08-2015*”.

**SECTION 2: SCOPE and POLICY**

2. (1) This By-law provides for regulation of the subdividing of land in the Hanwell Rural Community. 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. In this By-Law:

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

“Council” means the Mayor and Councillors of the Hanwell Rural Community;

“developer” means an individual or corporation seeking to obtain the approval of a subdivision plan, or who enters into a subdivision agreement with the Rural Community

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

“gradient” means the degree of rise or descent of a street;

“local street” means a street designed primarily for access to residential lots or other abutting property;

“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 thereof;

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

“Rural Community” means the Hanwell Rural Community;

“subdivider” means an individual or corporation seeking to obtain the approval of a subdivision plan, or who enters into a subdivision agreement with the Rural Community;

“Subdivision Type 1” means a subdivision which is not defined as a Subdivision Type 2;

“Subdivision Type 2” means a subdivision that requires:

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

“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:

- (i) where the side lot lines are parallel, the distance measured across the lot at right angles to such lines, or
- (ii) 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 this 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.
- (2) All numerical measurements in this By-law are provided in metric units.
- (3) 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 Rural Community in force from time to time, or the obligation to obtain any license, permit, authority of approval required under any By-law of the Rural Community 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) Unless exempted by the Development Officer in accordance with the provisions of section 44(1) of the *Community Planning Act*, a person seeking approval of a subdivision plan shall submit to the Development Officer a written application for approval of a tentative plan on the appropriate form, and as many copies of the tentative plan as such officer requires, drawn to the scale and size required for a subdivision plan.

(2) A tentative subdivision plan shall be clearly marked “TENTATIVE PLAN” and in accordance with Section 49(2) of the *Community Planning Act* shall show:

- a) the proposed name of the proposed subdivision;

- b)** the boundaries of that part of the plan sought to be approved marked by a black line of greater line weight than all other lines on the diagram of the plan;
- c)** 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;
- d)** the approximate dimensions and layouts of the proposed lots, blocks, lands for public purposes and other parcels of land, and the purpose for which they are to be used;
- e)** 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;
- f)** the location of existing natural and artificial features such as buildings, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided;
- g)** the availability and nature of domestic water supplies;
- h)** the nature and porosity of the soil;
- i)** such contours or elevations as may be necessary to determine the grade of the streets and the drainage of the land and how stormwater will be managed;
- j)** the municipal services available or to be available to the land proposed to be subdivided;
- k)** 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;
- l)** plans for landscaping and tree planting;
- m)** the proposed location of every building;
- n)** the approximate location of any stormwater management detention/retention basins;
- o)** proposed roadway grades;
- p)** any further information required by the development officer to assure compliance with the subdivision by-law; and,

**(3)** The Development Officer may waive some or all of the requirements of a tentative plan where the Development Officer feels they are not required for the review and analysis of the subdivision.

## **SECTION 6: PUBLIC STREETS**

- (1)** Any future or existing public streets are to continue to be vested with the Minister of Transportation and Infrastructure.
- (2)** 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*.
- (3)** Names of streets in a subdivision are subject to the approval of the Department of Public Safety and of the Council.
- (4)** 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.

## **SECTION 7: PRIVATE STREETS**

- 7. (1)** Private streets shall be laid out so as to intersect as nearly as possible at right angles.
- (2)** Reserve strips abutting a private street in a proposed subdivision are prohibited, except where such strips are vested in the Crown, a municipality or a rural community.
- (3)** Names of private streets in a subdivision are subject to the approval of the Department of Public Safety and the Council.
- (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.
- (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.

## **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
  - (b)** such other access as may be approved by the advisory committee as being advisable for the development of the land.
- (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.
- (3)** Where a proposed subdivision is to be serviced by a sewer system for public use but not by a water 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.
- (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.
- (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.
- (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.
- (7)** Where a building used for residential purposes is located on a lot meeting the requirements of

subsection (2), (3) or (4), the lot may be subdivided along any party wall of the building.

## **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 up to 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 Advisory Committee or otherwise approved by Council, is to be set aside as land for public purposes and so indicated on the plan.
- (2)** Subsection (1) does not apply to that part of a subdivision plan that:
- (a)** involves the assembly of land for future subdivision;
  - (b)** creates a parcel of land solely for the purposes of being added to a lot;
  - (c)** creates a lot on which is located a useable main building, provided such building existed prior to this By-Law coming into force;
  - (d)** creates a lot which abuts a publicly owned street that on the coming into force of this By-Law was paved;
  - (e)** involves land to be re-subdivided for the purpose of correcting or rearranging boundaries or land previously included in an area subject to the requirements of this section or to a corresponding section under a previous Act; or
  - (f)** involves the division of lands owned by the Hanwell Rural Community, or its agencies, at the time of subdivision.
- (3)** Council may require, in lieu of land set aside under subsection (1), a sum of money be paid to the Rural Community in the amount of up to 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.
- (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.
- (5)** Nothing in this section shall affect the ability of the applicant and the Rural Community 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 Rural Community shall not be less than that provided in subsections (1) or (3).



## **SECTION 10 – WELL WATER SUPPLIES**

### **10. (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 11 - CONDITIONS PRECLUDING APPROVAL OF A SUBDIVISION PLAN**

### **11. (1) Subject to subsection (2), the Development Officer may approve a subdivision plan.**

**(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.

**(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)** Reapplication to Planning Review and Adjustment Committee - \$100.00;
- (d)** Parcel being added - \$200.00;
- (e)** Documents (inspection and stamping of deeds, leases, exemptions, easements, mortgages) - \$100.00;
- (f)** Variances – review and processing of applications to vary requirements of the subdivision by-law - \$250.00; and
- (g)** Special Planning Review and Adjustment Committee meeting - \$1,000.00

**(4)** 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);
  - (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.
- (5) Every application shall be submitted to and processed by the Regional Service Commission 11 – Planning and Development Division.

**SECTION 12 – ENFORCEMENT**

12. (1) The Development Officer, or any person authorised by Council, has the right to enter at all reasonable times upon any property within his or her jurisdiction for the purpose of making an inspection for the administration or enforcement of a by-law or regulation related to the *Community Planning Act*.

**SECTION 13-VARIANCES**

13. (1) A person who seeks a variance from the By-law shall address a written signed application in a form acceptable to the Development Officer of the Regional Service Commission along with applicable fees. Before granting or rejecting a variance, the Regional Service Commission may carry out such investigations and consultations, as it deems necessary. Approval of a variance may be subject to terms and conditions imposed by the Regional Service Commission and/or the Hanwell Rural Community Council in accordance with Section 46(1) of the *Community Planning Act*.

This is to certify that By-Law No. 08-2015 “Subdivision By-Law” has been enacted by the Rural Community Council of the Hanwell Rural Community and that the said by-law was:

First Reading: Sept 9<sup>th</sup>, 2015  
 by title  
 Second Reading: Sept 9<sup>th</sup>, 2015  
 by title  
 Third Reading: Oct 14<sup>th</sup>, 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 Hanwell Rural Community this 14 day of October, A. D. 2015.

S Cassidy  
 Susan Cassidy, Mayor

Melanie Frost  
 Melanie Frost, Hanwell Rural Community Clerk

