

TOWN OF FORT NELSON

***THE RESIDENTIAL, COMMERCIAL AND INDUSTRIAL
SUBDIVISION AND DEVELOPMENT CONTROL
BYLAW NO. 531, 1997***

April, 1997

EXPLANATORY NOTES

Users of this Bylaw are advised that it does not contain a complete code of all the regulations governing subdivisions in the Town of Fort Nelson.

The primary purpose of the Bylaw is to establish standards for works and services which must be installed to serve subdivisions approved under the Land Title Act of British Columbia and the Bare Land Strata Regulation under the Condominium Act of British Columbia and building projects which are required to be serviced.

This bylaw is enacted under Section 989 and Section 991 of the Municipal Act of British Columbia. At the time of adoption of the Bylaw, other enactments regulating subdivision included:

- 1. Division 7, Part 29 of the Municipal Act, governing excess or extended services and latecomer payments, provision of park land, changes to bylaws following an application for subdivision, highway provision and widening, and relative residence subdivisions.**
- 2. Part 7 of the Land Title Act, governing subdivision plan requirements, access requirements, appointment and powers of the approving officer, subdivision of land subject to flooding, review of subdivision plans, appeals and registration.**
- 3. The Condominium Act, R.S.B.C. 1979, c.61, which regulates strata subdivision, including building strata plans, conversion of existing buildings, bare land strata plans and phasing of strata plans. The Bare Land Strata Regulations (B.C. Regulation 75/78, as amended) establish servicing requirements.**
- 4. Numerous other enactments governing special topics relating to subdivision, particular types of subdivision, or subdivision in special areas. These include, amongst others, the Agricultural Land Commission Act, R.S.B.C. 1979, c.9 (subdivision in the agricultural land reserve), Part 9 of the Land Title Act (air space parcels), the Real Estate Act, R.S.B.C. 1979, c.356 (prospectus requirements), Part 8 of the Land Title Act (interior boundary cancellations), and the Land Survey Act, R.S.B.C. 1979, c.216.**

This Bylaw is to be read in conjunction with all Town of Fort Nelson land use bylaws.

A bylaw of the Town of Fort Nelson to regulate the subdivision and development of residential, commercial and industrial lands and to establish the standard of services to be provided.

WHEREAS Section 989 of the Municipal Act, R.S.B.C. 1979, c.290, as amended, authorizes a local government, by bylaw, to regulate and require the provision of works and services in respect of the subdivision of land;

NOW THEREFORE the Council of the Town of Fort Nelson, in open meeting assembled, enacts as follows:

PART I - SCOPE OF BYLAW

Title

- 1.1 This Bylaw may be cited as "The Residential, Commercial and Industrial Subdivision and Development Control Bylaw No. 531, 1997".***

Purpose

- 1.2 The purpose of this Bylaw is to guide municipal growth for the ultimate benefit of the community as a whole by ensuring that land is subdivided, developed and serviced in an orderly way to produce a safe, efficient, convenient and healthful environment and to preserve and enhance the natural amenities of land.***

Approving Officer

- 1.3 Nothing in this Bylaw shall be deemed to limit the discretionary powers and authority of the Approving Officer conferred on him by statute.***

Schedules

- 1.4 All schedules referred to in this Bylaw and attached to this Bylaw, including drawings appended to the schedules, form a part of this Bylaw.***

Measurements

- 1.5 All measurements used in this Bylaw are metric.***

Application

- 1.6 ***This Bylaw applies to the whole of the territorial area of the Town of Fort Nelson.***

Severability

- 1.7 ***The provisions of this Bylaw are severable. If any part of this Bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Bylaw.***

Repeals

- 1.8 ***"The Subdivision Development and Servicing Bylaw No. 457, 1994" is herewith repealed in its entirety.***

PART 2 - INTERPRETATION

In this Bylaw, the following terms have the following meanings:

"accept" or "acceptance" means the final acceptance of the Works and Services by the Town;

"Approving Officer" means the Administrator or such other person appointed by the Council to be the approving officer for subdivisions;

"Board of Variance" means the board established by the Municipality pursuant to Section 961 of the Municipal Act;

"Council" means the Council of the Town of Fort Nelson;

"Director of Operations" means the person appointed by Council as head of the Public Works Department or his designate;

"final approval" means the signing by the Approving Officer of his signature on a plan of subdivision;

"highway" includes a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right of way on private property;

"Municipality" means the Town of Fort Nelson or the area within the municipal boundaries, as the context may require;

"Official Community Plan" means the plan adopted by Council pursuant to Section 944 of the Municipal Act;

"owner" in respect of real property means the registered owner of an estate in fee simple, and includes

- (a) the tenant for life under a registered life estate;**
- (b) the registered holder of the last registered agreement for sale;**
- (c) the holder or occupier of land held in the manner mentioned in Sections 409 and 410 of the Municipal Act;**
- (d) an Indian who is an owner under the letters patent of a municipality, incorporated under Section 10 of the Municipal Act;**

"panhandle" means a parcel which has a frontage of less than 10 percent and incorporates a strip of land which provides the principle vehicular access between the balance of the parcel and a street;

"parcel" means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway;

"preliminary review" means the conditional review by the Approving Officer of a proposed subdivision plan and which outlines the requirements which must be fulfilled to obtain final approval;

"professional engineer" means a person who is registered or duly licensed as such, under the provisions of the Engineers and Geoscientists Act of British Columbia;

"sidewalks" means an improved area adjacent to a roadway for the use of pedestrian traffic;

"subdivision" means the division of land into two or more parcels, whether by plan, apt descriptive words or otherwise;

"subdivision servicing agreement" means an agreement between an owner and the Municipality pursuant to Section 991 of the Municipal Act;

"surveyor" means a land surveyor licensed and registered as a land surveyor in the Province of British Columbia;

"Works and Services" means all services, facilities and utilities required by this Bylaw;

Unless otherwise defined in this Bylaw, words and expressions used in this Bylaw shall have the same meaning assigned to them in the Municipal Act, the Interpretation Act, and the Land Title Act.

PART 3 - ADMINISTRATION

Record of Applications

3.1 The Clerk of the Municipality shall maintain a record of all subdivision applications submitted under this Bylaw.

Entry onto Land

3.2 The Director of Operations and all employees of the Municipality who are supervised by the Director of Operations & who are directed to do so by the Director of Operations are hereby authorized to enter at all reasonable times upon any property or premises that is subject to the directions of this Bylaw to ascertain whether the requirements of this Bylaw are being met and whether the regulations in this Bylaw are being observed.

Offenses

3.3 No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of any authorized person upon any property, as authorized by this Bylaw.

Penalty

3.4 Any person who violates any of the provisions of this Bylaw shall on summary conviction be liable to a penalty not exceeding Five Thousand Dollars (\$5,000.00), plus the costs of prosecution. The penalties imposed under this section of the Bylaw shall supplement and shall not substitute for

3.4 any other remedy available in respect of this Bylaw.

Decisions

3.5 Any approvals and decisions which the Town is entitled to make under this Bylaw may be made on its behalf by the Director of Operations and/ or the Approving Officer.

Agricultural Land Reserve

3.6 Land within the Municipality which is designated as agricultural under the Agricultural Land Commission Act shall be subject to this Bylaw only insofar as this Bylaw is not in conflict with the Agricultural Land Commission Act or regulations made thereunder or orders of the Agricultural Land Commission.

Bylaw Variance

3.7 Council may issue development permits and development variance permits pursuant to this provisions of the Municipal Act, which permits may vary or supplement the provisions of this Bylaw.

Application of Bylaw

3.8 This Bylaw applies only to land within the Municipality that is zoned to permit residential use.

3.9 This Bylaw does not apply to:

- (a) subdivisions which are only lot line adjustments if each lot is already serviced with the Works and Services required by this Bylaw;
- (b) subdivisions which are consolidations of parcels of land, so that after subdivision there are fewer parcels than before subdivision.

3.10 No requirements of this Bylaw which are required pursuant to Subsections 989(1)(b) or (c) of the Municipal Act apply in respect of a subdivision under the Condominium Act, except for those which are required under the Bare Land Strata Regulations of the Condominium Act.

PART 4 - SUBDIVISION APPLICATION AND APPROVAL

4.1 Before applying for final approval of any subdivision, the owner shall apply for preliminary review of any proposed subdivision by delivering a written application, signed by him, to the Public Works Department and he shall provide at that time:

- (a) a statement in writing of the intended use of all the subdivided lands;**
- (b) the location, dimensions and size of all buildings which will remain after subdivision;**
- (c) a servicing concept plan;**
- (d) proof that the applicant for subdivision is the registered owner of all the land or his duly authorized agent;**
- (e) payment of the first half of the subdivision application fee, which fee is in total \$200.00 for each lot to be created by the proposed subdivision;**
- (f) a pre-calculated lot layout plan showing all lot dimensions, lot areas and panhandle lot areas (exclusive of the access strip area), the boundaries of adjacent parcels and the relationship of the proposed subdivision to street intersections, and showing highways and right of way and easement areas;**
- (g) the location of any water course within or adjacent to the land to be subdivided.**

Additional Information

4.2 If the Approving Officer so requires, the owner shall also provide any or all of the following information at the time of preliminary review of any subdivision:

- (a) profiles and plan views of every new highway, shown with topographical detail, including horizontal and vertical curvatures required to assess the engineering problems to be dealt with in opening up the highways shown on the plan;**
- (b) a dimensional sketch showing that the parcels into which the land is to be subdivided can be reasonably subdivided into further small parcels;**
- (c) a contour plan of the lands proposed for subdivision;**
- (d) a survey of existing trees on the lands proposed for subdivision;**
- (e) a preliminary storm water control plan;**
- (f) a geotechnical slope stability study;**

4.2 (g) *a traffic impact study.*

Preliminary Subdivision Review

- 4.3 (a) *Prior to requesting final approval of a subdivision, the owner may request from the Approving Officer a preliminary review in which the subdivision servicing requirements and other conditions for subdivision are set out as specifically as possible in all the circumstances.*
- (b) *Preliminary review of any proposed subdivision shall not be construed as final approval of subdivision for Land Title Office purposes.*
- (c) *Preliminary review granted by the Approving Officer shall be effective for a period of six months.*
- (d) *The first half of the subdivision application fee which is paid at the time of applying for preliminary subdivision review is not refundable even if final approval of the subdivision is never granted.*

Professional Engineer

- 4.4 *Unless a subdivision will create three lots or less, with no more than a tie-in to the Municipality's utility systems, the owner shall retain, at his own expense, a professional engineer who shall be responsible for:*
- (a) *the design, layout and certification of the Works and Services;*
- (b) *field reviews, inspection and supervision of the installation of the Works and Services;*
- (c) *communication with all contractors;*
- (d) *information about and certification of as-built drawings for the Works and Services,*

The owner shall ensure that the professional engineer inspects and supervises that Works and Services for full compliance with this Bylaw and that the professional engineer provides the Town with copies of his daily inspection reports. Prior to acceptance of the Works and Services by the Municipality, the owner shall provide the Municipality with a certification by the professional engineer that the Works and Services comply with the requirements of this Bylaw.

Engineering Administration Fees

4.5 Where an Owner constructs Works and Services on land which is proposed to be or which has been subdivided, the owner shall pay to the Municipality:

- (a) an engineering administration and inspection fee in the amount of One Hundred Dollars (\$100.00) per resulting subdivided lot, which fee is payable at the time of final approval of the subdivision.**
- (b) a maintenance deposit in the form of a certified cheque or Letter of Credit in the amount of 5% of the value of the Works and Services, to cover the costs of damage to other works or property as a direct result of the proposed subdivision construction and upon which the Town may draw to repair said damage. The maintenance deposit shall be refunded upon construction completion by the Town should no damages occur or be identified by the Director of Operations.**

Final Approval

4.6 Final approval of a subdivision may be given only when all the requirements of this Bylaw have been fulfilled. An owner wishing final approval of a subdivision shall submit the following to the Approving Officer:

- (a) a letter requesting final approval, signed by the owner;**
- (b) payment of the second half of the subdivision application fee and any other outstanding application or engineering administration fees;**
- (c) payment of any development cost charges payable to the Municipality;**
- (d) payment of all school taxes and municipal taxes, rates and charges;**
- (e) executed right of way and easement agreements, including related plans, where applicable;**
- (f) executed covenants for flood proofing, no building, fill, exterior design control, lot grading, setbacks, tree preservation or other specific purpose, as applicable;**
- (g) approvals of other government agencies, as applicable;**

- 4.6 (h) *approvals of B.C. Hydro and other utility companies;*
- (i) *the original subdivision plan, two mylar copies and five paper prints (one of which may be kept by the Municipality), all duly executed by all applicable parties;*
- (j) *plan signing fee of \$25.00;*
- (k) *if all Works and Services have not been completed, a duly executed subdivision servicing agreement;*
- (l) *reproducible as-built drawings of the Works and Services, in digital form, where available;*
- (m) *written confirmation that all integrated survey monuments have been installed to the satisfaction of the Surveyor General and are being registered as per the Land Survey Act;*
- (n) *evidence satisfactory to the Approving Officer that all the provisions of this Bylaw have been complied with, including a certificate of bylaw compliance sealed by a professional engineer; and*
- (o) *any additional documentation or information set out as a requirement in the current letter of preliminary subdivision review.*
- 4.7 *Subdivision plans submitted for final approval shall be in substantial accordance with the plans which received preliminary subdivision review, unless a change was approved in writing by the Approving Officer.*
- 4.8 *Within the time limit specified by the Land Title Act from the date on which all documentation and information required for final approval is tendered, the Approving Officer shall either approve or reject the proposed subdivision.*
- 4.9 *Final approval of a subdivision will be valid for 60 days from the date approval is granted, after which final approval shall be considered expired. Final approval may be renewed for a further 60 days if an application is delivered to the Approving Officer within 6 months from the date of original approval. If a subdivision final approval expires and is not renewed, a new application for subdivision is required.*

- 4.10 *If a subdivision is rejected by the Approving Officer, the subdivision plans tendered for approval will be returned to the owner (except for one paper copy which may be retained by the Municipality).*
- 4.11 *If required by the Approving Officer, an owner must provide the Approving Officer with the name of his lawyer or notary public to whom approved subdivision plans may be sent and the Approving Officer may send the approved subdivision plans to the lawyer or notary public on such undertakings as are appropriate in the circumstances.*

PART 5 - GENERAL REQUIREMENTS

Lawful Requirements

- 5.1 *No land in the Municipality may be subdivided unless the owner complies with the requirements of this Bylaw and the Land Title Act and all other enactments which apply.*

Other Approvals

- 5.2 *Where applicable, the owner shall be required to obtain approval of his subdivision from other governments and agencies having jurisdiction.*

Works and Services

- 5.3 *Every owner shall, at his own expense, prior to final approval of a subdivision, provide all the Works and Services required by this Bylaw, to the standards required by Schedule "A" this Bylaw on the land being subdivided.*
- 5.4 *The Works and Services required by this Bylaw are highways, sidewalks, boulevards, boulevard crossings, street signage, transit bays, street lighting, other utilities including underground wiring, water distribution system, fire hydrant system, sewage collection system, sewage disposal system, drainage collection system and drainage disposal system.*

Connection to Municipal Systems

- 5.5 *As the Municipality operates a community water system, a community sewer system, and a community water drainage system, all water, sewer and drainage Works and Services provided pursuant to this Bylaw must be connected by the owner, to the standards required by Schedule "A" of this*

5.5 Bylaw, to the appropriate Municipal system at connection points approved by the Municipality.

Development of Land and Offsite Services

- 5.6 (a) Every owner shall, prior to issuance of a building permit, provide all the Works and Services required by this Bylaw to the standards required by Schedule "A" of this Bylaw on the land being developed.**
- (b) Every owner of land being subdivided or developed shall, prior to final approval of the subdivision or issuance of the building permit, as the case may be, provide the Works and Services required by this Bylaw to the standard required by Schedule "A" of this Bylaw on that portion of any highway immediately adjacent to the land being subdivided or developed, as the case may be, to the centre line of the highway.**
- (c) An owner shall be required to provide the Works and Services required by this section 5.6 of the Bylaw only if the Works and Services are directly attributable to the subdivision or development and only to the extent that the Works and Services are not included in the calculations used to determine the amount of a development cost charge levied under the Municipal Act, unless the owner agrees to provide the Works and Services, in which case the calculation of the development cost charge will be subject to Section 983(8) of the Municipal Act.**

Subdivision Servicing Agreement

5.7 All Works and Services required by this Bylaw shall be constructed, installed and inspected to the standards required by this Bylaw prior to the Approving Officer granting final approval of the subdivision or prior to the issuance of a building permit, as the case may be, unless the owner deposits security with the Municipality in the form of cash, certified cheque or unconditional irrevocable letter of credit and in the amount of 125% of the estimated cost of the Works and Services and unless the owner enters into a servicing agreement with the Municipality, as provided for by Section 991 of the Municipal Act. The estimated cost or value of the Works and Services shall be as mutually agreed upon by the Engineer for the developer and by the Approving Officer.

Easements and Rights of Way

- 5.8 *All utilities shall be located within existing or proposed highway rights of way. An owner may locate a utility on other land only if those locations are necessary for technical reasons.*
- 5.9 *In the event that all services to be provided cannot be contained within the highway right of way, the owner shall either dedicate as highway such additional land as may be required or the owner shall obtain or grant in favour of the Municipality such easements and rights of way as may be necessary to permit the services, in a form of agreement acceptable to the Municipality.*
- 5.10 *Where a subdivision is traversed by a watercourse, drainage way or stream, a right of way for it shall be granted to the Municipality of a width deemed necessary by the Approving Officer for construction, maintenance, conservation or beautification purposes.*

Existing Services

- 5.11 *Where land proposed to be subdivided or developed already contains Works and Services, those Works and Services shall be upgraded to the standards required by this Bylaw.*

Excess or Extended Services

- 5.12 *If an owner provides excess or extended services, as that term is defined in Section 990 of the Municipal Act, the provisions of Section 990 of the Municipal Act will apply.*

PART 6 - LOT STANDARDS

General

- 6.1 *All lots created by subdivision must comply with the regulations and provisions with respect to the area, shape, dimensions and other regulations for the zone in which the subdivision is located, as set out in the Municipality's zoning bylaw in force at the time.*

PART 7 - PARKLAND DEDICATION

- 7.1 Pursuant to Section 992 of the Municipal Act, an Owner of land being subdivided into three or more residential lots shall provide to the Town, without compensation and at the discretion of the Council, park land equalling 5% of the area being subdivided, or money in place of the land dedication in the amount that equals the market value of the land, or a combination of both.

PART 8 - HIGHWAYS

Highway Dedication

- 8.1 The Approving Officer may require the provision of highways, out of the land being subdivided, as authorized by Section 995 of the Municipal Act and the Land Title Act.
- 8.2 All subdivisions must meet the access requirements established by the Land Title Act.
- 8.3 All highways to be provided must be dedicated in the manner provided for in the Land Title Act.

Highway Frontage

- 8.4 The authority of the Municipality to exempt a parcel from the statutory or bylaw minimum frontage on a highway is hereby delegated to the Approving Officer, pursuant to Section 994(3) of the Municipal Act.

Walkways

- 8.5 The Approving Officer may require walkway access in any instance, including between streets and to access shopping areas, parks, schools or other public facilities.

PART 9 - ACCEPTANCE OF THE WORKS AND SERVICES

9.1 The Works and Services shall not be tied in and connected to the Municipality's works, services or utilities, such that the Works and Services are used for their intended purpose, and the Municipality will not accept the Works and Services until:

- (a) a professional engineer certifies that the Works and Services have been designed and constructed in compliance with this Bylaw;**
- (b) the owner has provided to the Municipality "as-built" drawings, acceptable to the Municipality, and the as-built plans shall either be updated original drawings or good quality transparencies. As-built drawings and Operating Manuals, if applicable, shall be submitted to the Director of Operations within 30 days of completing construction. The Owner's Engineer shall also submit computer files in micro floppy disk format to the Town if as-built plans and drawings are produced by a CAD system.**
- (c) the owner has provided to the Municipality service location cards;**
- (d) the Municipality has inspected the Works and Services and all apparent construction deficiencies have been remedied;**
- (e) the owner has assigned to the municipality all warranties and guarantees relating to the Works and Services; and**
- (f) the owner has entered into an agreement with the Municipality in which he covenants and agrees to:**
 - (i) maintain all of the Works and Services in complete repair for one year**
 - (ii) remedy any defects which develop in the Works and Services during the one-year maintenance period and pay to the Municipality any costs resulting from damage to other works or property therefrom;**

READ A FIRST TIME this 28th day of April, 1997.

READ A SECOND TIME this 28th day of April, 1997.

READ A THIRD TIME this 28th day of April, 1997.

RECONSIDERED, FINALLY PASSED AND ADOPTED this 5th day of May, 1997.

CERTIFIED a true & correct copy of "The Residential, Commercial and Industrial Subdivision and Development Control Bylaw No. 531, 1997" as adopted by the Council of the Town of Fort Nelson.

***Patricia A. Bailey
Town Clerk***

THE CORPORATE SEAL of the Town of Fort Nelson was hereto affixed in the presence of:

***Don Edwards
Mayor***

***Patricia A. Bailey
Town Clerk***