

Municipality of Cumberland By-Law 02-01

Nappan Water By-Law

TITLE

1. This By-Law is entitled the “Nappan Water By-Law”.

DEFINITIONS

2. In this By-Law:
 - (1) “dwelling” means a structure intended for use as human living quarters;
 - (2) “dwelling unit” means living quarters that:
 - (i) are accessible from a private entrance, either outside the building or in a common area within the building,
 - (ii) are occupied or, if unoccupied, are reasonably fit for occupancy,
 - (iii) contain kitchen facilities within the unit, and
 - (iv) have toilet facilities that are not shared with the occupants of other dwelling units;
 - (3) “individual capital charge” means a charge imposed pursuant to section 81 of the Municipal Government Act and section 6 this By-Law, in an amount to be determined, and intended to recover a portion of the municipal portion of the Capital Cost of installing the Nappan Water System;
 - (4) “indoor water supply” means a water supply piped to the interior of a structure, whether intended for human consumption or not;

- (5) **“Municipality” means the Municipality of the County of Cumberland;**
- (6) **“Nappan Water Service Area” and “Service Area” mean all of that area within 100 meters of the centreline of those portions of the roadways, as identified in Schedule “A” to this By-Law, where the Municipality installed a water main in October, November and December, 2001;**
- (7) **“Nappan Water System” and “System” mean the water main installed by the Municipality in the Nappan and Upper Nappan areas of the Municipality in October, November and December, 2001 as identified in Schedule “A” to this By-Law;**
- (8) **“property owner” and “owner” include:**
- (i) **a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,**
 - (ii) **in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building, and**
 - (iii) **in the absence of proof to the contrary, the person assessed for the property;**
- (9) **“structure” means anything that is erected, built or constructed of parts joined together and includes a building and a dwelling;**
- (10) **“uniform capital charge” means a charge in the amount of \$3,500.00 imposed pursuant to section 81 of the Municipal Government Act and section 3 of this By-Law intended to recover a portion of the Municipal portion of the Capital cost of**

installing the Nappan Water System.

UNIFORM CAPITAL CHARGE

3. (1) A water system uniform capital charge in the amount of \$3,500.00 shall be and is hereby imposed on each property in the Nappan Water Service Area which contains a chargeable structure as defined in subsection 2 of this section. Where a property contains more than one chargeable structure, an additional capital charge in the amount of \$3,500.00 shall be and is hereby imposed on the property for each such additional structure.
- (2) For the purpose of this section, a “chargeable structure” is:
- (i) every structure existing on December 31, 2001 within the Service Area with an indoor water supply;
 - (ii) every structure under construction or being installed on December 31, 2001 within the Service Area which is intended to have an indoor water supply; and
 - (iii) every dwelling constructed or installed on or after January 1, 2002 within the Service Area containing not more than two dwelling units.

CONNECTION REQUIRED

4. (1) Every structure in the Nappan Water Service Area in existence, under construction, or being installed, as of December 31, 2001 which has or is intended to have an indoor water supply, shall be connected to the Nappan Water System within thirty days of water from the system becoming available, or as soon thereafter as practicable.
- (2) Every dwelling constructed or installed in the Nappan Water Service Area on or after

January 1, 2002 containing not more than two dwelling units shall, prior to occupancy, be connected to the Nappan Water System.

5. Every structure required pursuant to section 4 of this By-Law to connect to the Nappan Water System shall, prior to being connected to the System, be permanently disconnected from any and all other water supplies or distribution systems, including private wells or surface water supplies and any other type of water supply system. If any such structure is or remains connected to any water supply or system other than the Nappan Water System when the time for connection to the Nappan Water System as set out in section 4 of this By-Law has expired, the Municipality shall cause the other connection to be removed, at the expense of the owner, and may enter upon the subject lands and other private lands in order to do so. The Municipality shall not be liable for any direct or indirect damages caused by disconnection from another water supply.

PERMISSION TO CONNECT OR OBTAIN WATER REQUIRED

6. (1) This section does not apply to structures required to be connected to the Nappan Water System pursuant to section 4 of this By-Law.
- (2) No connection shall be made to, and no water shall be obtained from, the Nappan Water System without written permission from the Municipality granted pursuant to this By-Law.
- (3) No connection shall be made to, and no water shall be obtained from, the Nappan Water System in contravention of any conditions specified by the Municipality in any permission granted pursuant to this By-Law.
- (4) Any person who contravenes or allows the contravention of subsections (2) or (3) of this section; or who is the owner of lands where a connection has been made to, or water has been obtained from, the Nappan Water System in contravention of subsections (2) or (3)

of this section, is guilty of an offence, punishable on summary conviction, and upon conviction shall be subject to a penalty of not less than \$100.00 and not more than \$2,000.00. Each day the contravention exists or continues is a separate offence.

- (5) A statement made in writing or viva voce by the Chief Administrative Officer, Deputy Chief Administrative Officer, Clerk or Deputy Clerk of the Municipality that no permission has been given, or that permission with specified conditions was given, by the Municipality pursuant to this By-Law with regard to a particular property, structure, use of land, connection to the System or the obtaining of water from the System shall be prima facie evidence of those matters in a prosecution pursuant to subsection (4).
- (6) In the event a connection to the System is made, or water from the System is obtained, in contravention of subsections (2) or (3) of this section, in addition to prosecution as provided in subsection (4), the Municipality:
 - (i) may remove, or cause the removal of, the connection, at the expense of the owner of the lands in question, and may enter upon private lands without notice to do so; and
 - (ii) may apply to a Court of competent jurisdiction for an Order requiring the owner of the land in question to disconnect from the System and to stop obtaining water from the System.
- (7) Any person proposing or applying to construct or install a structure, or to commence a use of land in the Municipality, which is intended to be connected to or obtain water from the Nappan Water System shall, prior to commencing the construction or installation or commencing the use of the land, apply to the Municipality for permission to connect to, or obtain water from the System.
- (8) An application for permission to connect to or obtain water from the Nappan Water

System shall include the following information:

- (i) the name, address and telephone number of the owner of the lands where the connection or obtaining of water is proposed, and, if different, the name, address and telephone number of the applicant;
 - (ii) the location, Assessment (Tax) Account Number (AAN), and Nova Scotia Property Records Database Property Identification Number (PID) of all relevant lands;
 - (iii) the location of existing or proposed structures, or of uses of land, with existing or proposed water supplies, in relation to the boundaries of the properties on which they are, or are proposed to be, located;
 - (iv) plans or a description of the proposed structure or use of land sufficient to determine its size, dimensions and construction characteristics;
 - (v) a detailed description of the intended use of the proposed structure or intended use of land; and
 - (vi) a detailed explanation of the expected water supply requirements for the proposed structure or use of land including peak and average demand and the basis upon which they have been calculated.
- (9) The Municipality may deny an application made pursuant to this section if it believes the connection to or the obtaining of water from the System would be detrimental to the integrity or function of the System or to current or intended future users of the System, or if the owner of the lands does not accept the individual capital charge and conditions specified by the Municipality as provided herein.
- (10) For all applications to connect to or to obtain water from the Nappan Water System which are not denied pursuant to subsection (9) of this section, the Municipality shall set an individual capital charge for the connection or obtaining of water proposed in an application, which shall not be less than \$3,500.00 and which shall not be more than an

amount proportional to the uniform capital charge imposed with regard to a single family residence in the service area, based on the expected average water consumption of both. The Municipality may consult or negotiate with the owner or applicant when setting an individual capital charge, but shall not be obliged to do so.

- (11) A decision of the Municipality regarding the amount of an individual capital charge shall be final and shall not be subject to any appeal.
- (12) The Municipality shall set an individual capital charge within sixty days of receipt of a complete application, or shall be deemed to have denied the application.
- (13) Any decision regarding the amount of an individual capital charge shall be sent to a land owner or applicant in writing, including the basis upon which the charge was calculated, and any conditions which the Municipality intends to put on its permission for the proposed connection or the obtaining of water from the System.
- (14) The land owner shall be requested to confirm in writing whether they accept the conditions and the amount of the individual capital charge set. Upon receipt of confirmation the land owner accepts the conditions and individual capital charge set, in a form acceptable to the Municipality, the Municipality shall issue to the land owner and applicant written permission to connect to or use water from the System subject to the conditions specified and the imposition of the individual capital charge, and the individual capital charge shall be imposed and shall be collectable at the time and in the manner prescribed in this By-Law.

PAYMENT AND COLLECTION

7. (1) Uniform capital charges and individual capital charges imposed pursuant to this By-Law:
 - (i) are first liens on the real property on which the structure connected to the

System is located, or if there is no connected structure, the real property where water is obtained from the system, effective the day the connection is made or water is obtained from the System;

- (ii) are collectable in the same manner as taxes and, at the option of the treasurer, are collectable at the same time and by the same proceedings, as taxes; and
- (iii) become due and payable on the same day as the general tax levy imposed by the Municipality for its fiscal year immediately following the fiscal year in which the connection is made to, or water is obtained from, the System.

(2) Interest is payable annually in the entire amount of any uniform capital charge or individual capital charge outstanding and unpaid, whether or not the owner has elected to pay by installments, at the rate of six percent per annum, with such interest beginning to be calculated on the date the charge becomes due and payable as fixed by section 7(1)(iii) of this By-Law.

(3) At the option of the owner of the property, a uniform capital charge or an individual capital charge may be paid in twenty equal annual installments of blended interest and principle; however, upon default of payment of any such installment, the entire balance shall become due and payable, forthwith. The first such annual payment shall become due and payable on the same date as the charge becomes payable pursuant to section 7(1)(iii), and for clarity, if paid on or prior to that date, will not include any interest.

(4) A uniform capital charge or an individual capital charge which is being paid by way of annual installments may be paid in full at any time without penalty by the payment of the balance outstanding plus interest calculated to the day payment in full is made.

8. (1) An owner of property containing a dwelling with not more than two dwelling units, which is to be connected to the System, may apply to the Municipality to have the

costs of their building service connection paid by the Municipality and added to the individual or uniform capital charge being imposed on the property, with the total amount to be paid in twenty equal annual installments of blended interest and principal on the same terms and conditions as set out in section 7 of this By-Law.

- (2) An application to the Municipality pursuant to this section shall be in writing and shall provide the following information:
 - (i) the name, address and telephone number of the property owner;
 - (ii) the location and Assessment Account Number or Property identification Number of the property; and
 - (iii) a detailed invoice or firm quotation from the person supplying the connection, for the cost of the connection, describing the work done or to be done, the materials, and the location.

- (3) An application pursuant to this section may be accepted by the Chief Administrative Officer of the Municipality, or may be referred to Municipal Council for acceptance or refusal. In either case, the decision shall be at the sole discretion of the Municipality and shall not be subject to appeal or review.

9. This By-Law shall come into force when notice of its passage has been published as required by the Municipality Government Act.

Clerk's Annotation For Official By-Law Book

Date of first reading: December

5, 2001

Date of advertisement of Notice of Intent to Consider: December 28,

2001

Date of second reading: January 9,

2002

*Date of advertisement of Passage of By-Law: _____

Date of mailing to Minister a certified copy of By-Law: _____

I certify that this NAPPAN WATER BY-LAW was adopted by Council and published as indicated above.

Rennie Bugley, Clerk

Date

*Effective Date of the By-Law unless otherwise specified in the text of the By-Law