

Municipality of Cumberland By-Law 13-01

Local Improvement By-Law

WHEREAS section 81(1) of the Municipal Government Act provides that a municipality may make by-laws imposing, fixing and providing methods of enforcing payment for charge for local improvements, and

WHEREAS it is deemed expedient that such a by-law now be enacted:

TITLE AND APPLICATION

1. The By-Law is entitled the “Local Improvement By-Law”, and shall apply to the local improvements identified in Schedule “A” of this By-Law, notwithstanding any other by-law of the Municipality that relates to local improvements.

PURPOSE

2. The Purpose of this By-Law is to establish the manner in which the Municipality shall impose, fix, and enforce payment of charges for local improvements. The local portion of capital costs associated with improvements will be funded through area rates or charges to be applied to defined properties that benefit from those improvements. The properties to be rated or charged shall be determined on a project by project basis and be included in, or added to, Schedule “A” of this By-law. The determination of the amount of the local portion of the capital costs, and the method of apportioning those costs between the properties affected, shall remain flexible to reflect the broader community interest in the projects.

DEFINITIONS

3. In this By-Law:
 - (a) “Council” means the Council of the Municipality;
 - (b) “Engineer” means the Municipal employee designated as Municipal Engineer pursuant to the Municipal Government Act;
 - (c) “Local Improvement” means and includes wastewater collection and treatment facilities, water systems, and roads and sidewalks and associated infrastructure installed, improved, constructed or extended by, or on behalf of, the Municipality;
 - (d) “Municipality” means the Municipality of the County of Cumberland

- (e) “Owner” has the same meaning as in the Municipal Government Act, except where the context requires otherwise;
- (f) “Property” means a parcel or lot of property or land;

CHARGE IMPOSED

- 4. Where a local improvement has been carried out by or on behalf of the Municipality in an area identified in Schedule “A” as amended from time to time, a tax is hereby levied upon every owner of real property situated in whole or in part within the identified area, except to the extent that any lot or the owner thereof is totally or partially exempt from tax by the provisions in this By-Law, or the provisions of Schedule “A” of this By-Law.

AMOUNT OF CHARGE

- 5. The amount of tax levied pursuant to section 4 shall be determined in accordance with the provisions of this By-Law and of Schedule “A” of this By-Law and may be calculated based on:
 - (a) a uniform amount for each lot or parcel of land in existence or subsequently created by subdivision;
 - (b) the frontage of the lot on any street;
 - (c) the use of the lot;
 - (d) the area of the lot;
 - (e) the assessed value of property;
 - (f) any combination of two or more such methods outlined above or
 - (g) such other method as Council deems fit.

VARIATIONS IN CHARGES

- 6. The tax levied pursuant to this By-Law may be fixed at different rates for different classes or uses of properties and may be fixed at different rates for different areas or zones.

EXEMPTIONS and ADJUSTMENTS to CHARGES

- 7. Any property which would otherwise be subject to a local improvement charge but which could be considered not to benefit from the local improvement may be exempt from or given an adjustment to the charge levied under this By-Law, by Council. Such situations may or may not arise when the property is already serviced or where the improvement is not directly beneficial to the property and cannot reasonably be argued to provide indirect benefit such as the ability to further subdivide and develop the property or sell the property with Municipal Servicing. Exemption or adjustment may also be made because of a lot’s size, configuration, topography or

ground conditions. Properties extended exemptions/adjustment under this Section will be identified in Schedule "A" as approved by Council.

APPROVAL OF PROJECTS

8. Council may proceed with a Local Improvement at its own discretion or in response to a petition that receives majority approval. Unless Council provides otherwise in Schedule "A" to this By-Law, majority approval means a positive response from the owners of more than 50% of the lots that would be subject to a charge pursuant to this By-Law, as identified by Municipal staff at the time the petition is being prepared.
9. Council may direct Municipal staff to initiate the petition process with or without a request from property owners that would be affected by a proposed local improvement. Municipal staff are responsible for preparing petition documents which will include a description of the Local Improvement, map of the proposed charge area, the estimated cost assigned to each property, and financing options, if any. The actual petition will be conducted by Municipal Staff who will send this information to owners representing each property by mail. The documents will include a letter explaining the process and will give owners an opportunity to vote YES or NO for the Local Improvement. The package will warn property owners that the figures provided are estimates only, and that the actual amount of the charge may vary from the figures provided. The package will also include a stamped return envelope and shall give owners at least 30 days to respond. In the event information relied upon by Council or staff when preparing or assessing a petition later proves to be wrong, the decision based on such information shall be as valid as if the information were correct.

LIEN and COLLECTION OF CHARGES

10.
 - (a) A charge imposed pursuant to this By-Law constitutes a first lien on the subject real property in the same manner and with the same effect as rates and taxes under the Assessment Act.
 - (b) A charge imposed pursuant to this By-Law is collectable in the same manner as rates and taxes and, at the option of the Treasurer, collectable at the same time and by the same proceedings, as rates and taxes.
 - (c) The liens against the real property become effective on the earliest of the date on which the interim charges are imposed or the Engineer files with the Treasurer a certificate that the cost of the improvement has been paid in full.
 - (d) Where a property subject to a lien is subdivided, the amount of the charge plus interest then unpaid shall be apportioned among the new lots according to the method set out for the relevant project in Schedule "A" to this By-Law.

INTEREST

11. Interest shall accrue on charges outstanding from the due date forward, at the same rate as for outstanding taxes.

INSTALLMENTS

12. If so provided in the relevant portion of Schedule "A" to this By-Law, the amount owing may be paid in equal annual installments, including interest, and the whole balance becomes due and payable without notice or demand in the event of default of payment of an installment.
13. The property owner shall have 30 days from the date their initial notice of amounts owing was mailed, to notify the Treasurer, in writing, whether or not an option to pay by installments has been selected. If the Treasurer does not receive written notification within the time allocated, the owner shall be deemed to have selected the annual installment payment option.

REPEAL OF PREVIOUS BY-LAWS

14. The "Street Improvement By-Law" (By-Law 84-08), the "Local Improvement By-Law (By-Law 96-01) and the "By-Law for Local Improvements Funded by Frontage Change and Area Rate" (By-Law 07-01) are hereby repealed.

EFFECTIVE DATE

15. This By-Law shall come into effect on the day of publication.

Clerk's Annotation For Official By-Law Book

Date of first reading: May 29, 2013
Date of advertisement of Notice of Intent to Consider: May 31, 2013
Date of second reading: June 19, 2013
*Date of advertisement of Passage of By-Law: June 24, 2013
Date of mailing to Minister a certified copy of By-Law: June 20, 2013

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

Municipal Clerk

Date

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

Schedule “A”

1. MACCAN WATER MAIN EXTENSION

- (a) The project will involve the design and construction of a watermain from the current terminus of the Amherst Water Utility Watermain in Nappan to, and including, the community of Maccan. The project will include portions of Highway 302 and the Mines Road, as well as Riverside Drive, Station Street, Hillside Drive and Rink Street. The “identified area”, for the purposes of section 4 of this By-law is comprised of the properties identified by the PIDs listed in subsection (j) below.
- (b) For the purpose of this project and the relevant charges created by this By-Law, “developed property” and “developed properties” mean those properties identified by Council in this Schedule, as properties which are residential, whether currently occupied or not, or which have been developed for any other purpose which does or would normally have a potable water supply, and which can reasonably be served by this project.
- (c) Upon completion of the project an equal charge per developed property shall be calculated based on the net cost of the local improvement and the number of developed properties identified in this Schedule at that time. Based on pre-design estimates and currently identified developed properties, the total charge is estimated to be \$2,332.40 per property, but the actual amount of the charge will depend upon a confirmed calculation based on the actual cost of the project and the number of developed properties at the time of completion.
- (d) Property owners shall be given the option of paying the charge, plus interest at 5%, in equal annual payments amortized over 10 years. Each annual payment shall constitute a charge and shall be collectable as provided in this By-Law. Based on pre-design estimates and currently identified developed properties, the annual charge is estimated to be \$302.06 per property for the 10 years, for a total cost of \$3,020.56, but the actual amount of the annual charge will depend upon a confirmed calculation based on the actual cost of the project and the number of developed lots at the time of completion.
- (e) Council shall, from time to time, add properties to this Schedule as developed properties to be charged, if Council determines they have become developed properties which can reasonably be served by this project. Properties added to this Schedule shall be subject to an annual charge in the same amount and on the same terms as the other properties identified in this Schedule would have been subject to if the annual payment option had been selected. This charge shall commence the taxation year following the property’s addition to this Schedule, and shall continue for the balance of the 10 year period applied to the initial properties identified in this Schedule. For example, if a property is added during the year the fourth annual payment is due, the owner must begin paying the charge the next taxation year and continue for the following four years, paying five charges in total.

- (f) If Council is satisfied a development has been destroyed or removed, and that the property cannot be redeveloped due to reasons beyond the control of the owner (such as the Land Use By-Law or Provincial regulation), the property may be removed from this Schedule. The change shall become effective for the taxation year following Council's decision.
- (g) If a property identified in this Schedule as a developed property is subdivided, Council shall determine which of the new lots shall be identified as developed lots.
- (h) All charges assessed are liens against the property regardless of whether the property is serviced by the local improvement or not.
- (i) Any costs associated with servicing properties beyond the end of the service laterals (generally considered to be where the road right of way ends) are the responsibility of the property owner, and that work must be carried out by the property owner in compliance with Amherst Water Utility Standards.
- (j) The following properties are hereby identified as developed properties for the purpose of this By-Law and Schedule and are subject to the charge created herein:

PID	Civic # and Road- for reference only
25068073	3005 Highway 302
25348202	3009 Highway 302
25348194	3011 Highway 302
25383076	3027 Highway 302
25067976	3031 Highway 302
25067968	3033 Highway 302
25067885	3069 Highway 302
25067950	3070 Highway 302
25067877	3074 Highway 302
25067844	3080 Highway 302
25067869	3083 Highway 302
25067836	3085 Highway 302
25067851	3086 Highway 302
25067828	3088 Highway 302
25067802	3095 & 3097 Highway 302
25067810	3099 Highway 302
25067794	3100 Highway 302
25064247	3106 Highway 302
25064254	3109 Highway 302
25064270	3114 Highway 302
25064288	3119 Highway 302
25064304	3120 Highway 302
25064312	3126 Highway 302
25064320	3129 Highway 302
25064684	3146 Highway 302
25064726	3152 Highway 302
25064742	3162 Highway 302

25064759	3166	Highway 302
25064775	3192	Highway 302
25064791	3194	Highway 302
25064809	3196	Highway 302
25064841	3253	Highway 302
25043043	3267	Highway 302
25064890	3304	Highway 302
25064908	3314	Highway 302
25064916	3324	Highway 302
25064924	3336	Highway 302
25064932	3341	Highway 302
25064940	3344	Highway 302
25367079	3356	Highway 302
25367061	3376	Highway 302
25376534	3389	Highway 302
25064965	3483	Highway 302
25064973	3524	Highway 302
25064981	3550	Highway 302
25065079	3583	Highway 302
25377581	3595	Highway 302
25064296	3611	Highway 302
25065152	3622	Highway 302
25065160	3656	Highway 302
25075094	3664	Highway 302
25065178	3705	Highway 302
25065178	3707	Highway 302
25384397	3713	Highway 302
25065202	3742	Highway 302
25065228	3776	Highway 302
25065210	3793	Highway 302
25065251	3822	Highway 302
25065277	3842	Highway 302
25340381	3856	Highway 302
25337627	3863	Highway 302
25065285	3866	Highway 302
25065335	3868	Highway 302
25065343	3882	Highway 302
25075136	3885	Highway 302
25065350	3902	Highway 302
25065368	3912	Highway 302
25366915	3936	Highway 302
25348244	20	Hillside Dr
25064429	28	Hillside Dr
25064411	30	Hillside Dr
25064437	33	Hillside Dr
25151002	38	Hillside Dr
25374679	44	Hillside Dr
25064361	63	Hillside Dr
25374687	64	Hillside Dr

25064346	69	Hillside Dr
25064338	75	Hillside Dr
25064395	78	Hillside Dr
25064783	81	Hillside Dr
25068099	1	Mines Branch Rd
25068107	5	Mines Branch Rd
25068115	17	Mines Branch Rd
25068123	19	Mines Branch Rd
25068131	21	Mines Branch Rd
25068016	30	Mines Branch Rd
25068149	10	Mines Rd
25477647	24	Mines Rd
25068164	54	Mines Rd
25229519	59	Mines Rd
25068180	64	Mines Rd
25068172	67	Mines Rd
25068198	77	Mines Rd
25358383	95	Mines Rd
25068222	119	Mines Rd
25343948	123	Mines Rd
25043142	133	Mines Rd
25068230	147	Mines Rd
25369828	152	Mines Rd
25067893	15	Rink St
25067901	21	Rink St
25067943	22	Rink St
25067935	30	Rink St
25064619	236	Riverside Dr
25064627	256	Riverside Dr
25064643	268	Riverside Dr
25064502	239	Station St
25064510	245	Station St
25064528	247	Station St
25064536	257	Station St
25064544	259	Station St
25064650	273	Station St
25047838	6	Trider Rd
25065087	7	Trider Rd
25065046	25	Trider Rd