Municipality of Cumberland By-Law 18-XX

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 FROM CHARGES

7. An owner of a property subject to a charge pursuant to Schedule "A" of this By-Law may request that Council grant an exemption from the charge on the grounds the property will not benefit from the Improvement. The only factor that Council may consider with regard to such a request is whether there are physical or legal impediments that will, now and in the future, prevent the improvement from benefitting the property in question. Even if the current owner does not intend to use the Improvement, if it can be used by a future owner, it shall be deemed to benefit the property. A request for an exemption shall be made by filing a written request with the Clerk of

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the Municipality. The request must include the reasons why the Improvement will not benefit the property. The Clerk shall inform the property owner of the date and approximate time Council will consider the request. The owner or their representative shall be given an opportunity to speak before Council decides whether to grant an exemption. The decision of Council shall be final.

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.

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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 owning 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 owning 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 "Local Improvement By-Law" adopted by Council on June 19, 2013 (By-Law 13-01) and the "By-Law to amend schedule A of the Local Improvement By-law adopted by Council on September 3, 2014 (By-law 14.01) are hereby repealed.

EFFECTIVE DATE

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

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Clerk's Annotation For Official By-Law Book

Date of first reading:
Date of advertisement of Notice of Intent to Consider:
Date of second reading:
*Date of advertisement of Passage of By-Law:
Date of mailing to Minister a certified copy of By-Law:

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, the Trider Road 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

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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:

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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

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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
25064601	200 Riverside Drive
25047838	6 Trider Road
25065087	7 Trider Road
25065046	25 Trider Road
25394008	63 Trider Road
25065020	64 Trider Road
25364704	78 Trider Road
25355017	81 Trider Road
25355025	107 Trider Road

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2. PUGWASH WATER SYSTEM PROJECT

(a) This Project relates to the design and installation of a Water System intended to serve the Village of Pugwash and some of the surrounding areas of the Municipality. The "area identified" for the purposes of section 4 of this By-Law is comprised of the developed properties that are accessed from the following highways, streets and roads, between and including the Civic Addresses indicated:

- Ash Grove Lane, entire road
- Black Street, entire road
- Blue Heron Way, entire road
- Brickyard Road Highway 6 to Civic Number 119
- Church Street, entire road
- Crowley Road, Civic Numbers 2720 to 2866
- Durham Street, Water Street to Highway 6
- Freedom Lane, entire road
- Gulf Lane, entire road
- Gulf Shore Road, Church Street to Civic Number 599
- Harbour View, entire road
- Highway 6, Civic Numbers 9711 to 11075
- Howe Street, entire road
- Irishtown Road, Highway 6 to Civic Number 36
- King Street, entire road
- Maple, entire road
- Mill Lane, entire road
- Miller Road, Civic Number 8
- Murray Road, Civic Numbers 1139 to1199, 1276,1300, 1312 ,1374 to 142
- New Pugwash Road, Civic Numbers 1 and 49
- Pleasure Cove Road, entire road
- Prince Albert Street, entire road
- Pugwash Point Road, entire road
- Pugwash River Road, Civic Numbers 1959 to 1983
- Queen Street, entire road
- Russell Street, entire road
- Shea Island Road, Civic 188
- Sunset Lane, Civic Number 140 (Sunset Home)
- Victoria Street, entire road
- Walton Street, entire road
- Water Street, entire road
- Willow Lane, entire road

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(b) In this section "Water System" means a water system consisting of the source, structures, pipes, flushing hydrants, meters, service laterals, devices, equipment or other things used, or intended, for the collection, transportation, pumping, treatment, or distribution of water.

(c) For the purposes of the Pugwash Water System Project and the relevant tax created by this By-Law, "developed property" and "developed properties" mean those properties which are residential, commercial, institutional or industrial, 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 be served by the Project. Properties that have been developed solely for agricultural or forestry purposes, and which do not have a potable water supply, are not "developed properties" for the purposes of this section of this By-Law.

(d) Upon completion of the Project, an equal tax per developed property, in the amount $4,054.00 is hereby imposed pursuant to section 4 of this By-Law. Hereinafter this tax is referred to as a "Local Improvement Charge" or "LIC".

(e) A list of developed properties to be taxed pursuant to this By-Law shall be developed and maintained by the Engineer. The Engineer will notify by regular mail the owner, or owner's representative, as identified in the current Tax Roll for the Municipality, of the imposition of the Local Improvement Charge upon completion of the Project. Lack of notification shall not invalidate any LIC imposed. Inclusion by the Engineer on the list of properties to be taxed, in the absence of an exemption or adjustment granted by Council pursuant to section 7, and subsection (f) of section 2 of Schedule "A", of this By-Law, is conclusive of the validity of the LIC.

(f) Property owners shall be given the option of paying the LIC, plus interest at 2.98% per annum, in equal annual payments amortized over 10 years. Each annual payment, including interest, shall constitute a charge and be collectable as provided in this By-Law. The annual charge shall be in the amount of $ 461.03. The principal amount of any charge outstanding at any time may be paid without penalty or the accrual of additional interest.

(g) Any property which becomes a developed property after the imposition of the initial charges pursuant to this By-Law shall be added to the list created pursuant to subsection (c) above, and a charge in the amount of $4,054 shall be, and is, hereby imposed, and shall be paid and collected in accordance with the provisions of this By-Law, *mutatis mutandis.*

(h) Any lot created by subdivision within the geographic area served by this project, and approved for any type of development that normally requires a potable water supply, shall be added to the list created pursuant to subsection (e) above, and a charge in the amount of $4,054 shall be, and is, hereby imposed, and shall be paid and collected in accordance with the provisions of this By-Law, *mutatis mutandis*.

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