

BY-LAW NO. 36

LOCAL IMPROVEMENTS

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LOCAL IMPROVEMENTS BY-LAW

TOWN OF YARMOUTH

Purpose:

1. This By-Law is intended to establish the ways and means of delivering services to existing as well as new developments abutting an existing street or a proposed street developed according to the Subdivision By-Law.

Reference:

2. This By-Law shall be known as and may be cited as the “Local Improvements By-Law”.

Definitions:

3. In this By-Law unless the content otherwise indicates:
 - a) “Act” means the Towns Act R.S.N.S. 1989, c. 472;
 - b) “Abutter” means the owner of property who shares a common property line with a street;
 - c) “Building Service Connection” means that portion of a sewer line which is located on private property and which connects the building drainage system or the building sanitary conveniences to the sewer lateral or that portion of the water line which connects a water meter to the water lateral;
 - d) “Clerk” means the Clerk of the Town of Yarmouth;

- e) “Collector Line” means that portion of the water or sewer system into which laterals empty and which extends to the point where wastes are discharged or connected with a trunk line;
- f) “Council” means the Council of the Town of Yarmouth;
- g) “Engineer” means the Town Engineer for the Town of Yarmouth;
- h) “Frontage” means for the purpose of this By-Law, the linear measurement of private property which abuts the street and forms the basis for the “foot frontage method” in this By-Law;
- i) “Lateral” means that portion of the sewer line or water line which is located on public property or on an easement, extending from a building service connection to a water or sewer collector line;
- j) “Lateral Connection” means such service connection from the primary service, sewers or waterline in the street to a property line which abuts the street;
- k) “Local Improvement” means and includes the laying out, opening, construction, repairing, improving and maintaining of streets, curbs, sidewalks, gutters, driveway ramps, bridges, culverts, retaining walls, catchbasins and extensions of the sanitary and storm sewers and water systems;
- l) “Local Service” means minimum level of service required under the Subdivision By-Law;
- m) “Local Service Extension” means an extension of the local services in a street where here-to-for there was no local services and which street right of way is under the ownership of the Town or in the process of being transferred to the Town according to the Subdivision By-Law;

- n) “Owner” shall mean an owner, part owner, joint owner, tenant in common or joint tenant, trustee, an executor, a guardian, an agent or a mortgagee of the whole or any part of any land having title thereto;
- o) “Petitioner” means the owner but in the case of multiple or joint owners only one owner per property;
- p) “Primary Services” means all excavation and backfilling and such subsurface work associated with sanitary and storm sewers and water infrastructure and the preparation of the street up to but not including the asphalt surfacing as described in the Subdivision By-Law;
- q) “Satellite Service” means a primary sanitary or storm sewer system or waterline system which runs parallel to the same services (local or trunk), which because of design difficulties (grades, elevation or system under pressure, etc.) cannot be used to provide local services, whereby the satellite service is designed to provide the local services required;
- r) “Secondary Service” means all those services which the Town may provide beyond primary services which allows for the completion of the street to the standards described in the Subdivision By-Law;
- s) “Street” means the whole and entire right-of-way of every highway, road or lane, owned and maintained as a street by the Department of Transportation or by the Town of Yarmouth. Any road allowance or right-of-way which is not maintained by either the Department of Transportation or the Town of Yarmouth shall not be considered a street or road;
 - i) “Local Street” means a street designed for local services to abutting property owners as described in the Subdivision By-Law;

- ii) “Collector Street” means a street designed to gather traffic from local streets and directs it to an arterial street as described in the Subdivision By-Law; and
- iii) “Arterial Street” means a street designed as a main thoroughfare to move traffic in and through the town as described in the Subdivision By-Law;
- t) “Town” means the Town of Yarmouth;
- u) “Trunk Line” means that portion of the water or sewage system into which collector lines empty and which extends to the point where waste water and sewer is discharged or collected and stored for treatment and subsequent discharge.
- v) “Trunk Service” means sewer(s) or waterline primary service, which for reason of design are required to be in excess of the local service as described in the Subdivision By-Law.

Levying Methods:

- 4. The standard method for levying this tax shall be by a foot frontage method measured along the streetline or by a specified unit price. For lots fronting on more than one street, the foot frontage shall be calculated according to the longest frontage rather than the combination of frontages and only this frontage shall be considered when calculating the percentage of lineal frontage. All costs shall be consistent with “Schedule ‘A’” attached.

Apportion of Cost:

- 5. General
 - a) Grants, if obtained, shall be applied to the total cost of service installations before the levying of local improvement charge;

- b) Where there is a petition to provide a service beyond the standard the Town normally provides, it will be done at the expense of the petitioning property owner for the area and will not be guaranteed to be replaced except at the normal standard customary to all other areas of the community;
- c) Where any sanitary sewer, storm sewer, water system or any other service is damaged by an abutting property owner the cost of repair, maintenance or replacement shall be at the cost of and the responsibility of the abutting property owner.

Trunk Services:

6. General

- a) Trunk services are to be provided by the Town through a planning and budgeting process;
- b) The extension of trunk services that are to serve as an individual service connection or as a local service connection shall be at the owners or developers cost as per Schedule “A” of this By-Law;
- c) Where a satellite service is required the cost shall be shared by all benefitting property owner(s) which are served as determined by design.

Local Services:

7. General

- a) Local service connections for a proposed street to an existing street shall be paid by the developer as a street opening charge;
- b) Where a right-of-way is owned by the Town and a development is proposed, the services may be installed on a cost shared basis in accordance with the provisions of this By-Law;

- c) It is intended that local service extensions within existing right-of-ways owned by the Town be cost shared 50 percent (50%) Town and 25 percent (25%) each abutting property. Where public property exists on one side of the street such cost sharing will be shared 50 percent (50%) Town and 50 percent (50%) abutting property;
- d) Local service connections to trunk services shall only be made when no other alternative for such servicing exists;
- e) Sewer lateral connections shall not be cost shared pursuant to the provisions of this By-Law;
- f) Water lateral connections may be cost shared pursuant to the provisions of this By-Law;
- g) Water lateral connections in excess of the 3/4 of an inch (3/4") diameter or more than one lateral per lot of domestic services shall not be cost shared pursuant to the provisions of this By-Law.

Secondary Services

8. General

- a) Prior approval must be obtained from the Town for any new electrical, telephone or cable services located in a street or right-of-way owned by the Town;
- b) Curb and gutter by petition or installed by the Town as a local improvement project may be cost shared 50 percent (50%) Town and 50 percent (50%) by the abutter;
- c) Sidewalks by petition or installed by the Town as a local improvement project may be cost shared 50 percent (50%) Town and 50 percent (50%) by the abutter;

- d) New asphalt paving by petition or installed by the Town as a local improvement project may be cost shared 33 1/3 percent (33.33%) by the Town. The remaining 66 2/3 percent (66.66%) may be cost shared 50/50 by the abutting property owners. Where public property exists on one side of the street such cost sharing will be shared 50 percent (50%) Town and 50 percent (50%) abutting property;
- e) Drive way ramp cuts by owners request or installed by the Town as a local improvement project may be cost shared 50 percent (50%) by the Town and 50 percent (50%) by the owner;
- f) Pavement cuts (for underground wiring and lateral installation) shall be at the abutters cost.

Administrative Guidelines

9. General

- a) Every petition for a local improvement shall be in the form of an application as outlined in Schedule "B" attached and every petition shall include a plan showing the streets to be improved, the names of any abutters, the length and width of the streets and the frontage of each abutter;
- b) No new sidewalks shall be installed without curb and gutter or otherwise be installed as a sidewalk curb combination;
- c) The Town reserves the right to refuse any petition, application or other request to cost share any local improvements pursuant to this By-Law.

Procedure Before Construction of a Local Improvement Project:

10. General

- a) When by petition Council has decided to construct a local improvement project involving two or more abutting lots, a service plan of the project shall be prepared showing the extent of the

project and foot frontage of each property affected, along with a list of property owners affected, which shall be filed with the Town Clerk;

- b) Council shall publish in one or more newspapers circulating in the area a notice of the intention to construct a local improvement project;
- c) Council may consider any petitions resulting from the above advertisement provided:
 - i) such a petition is received by the Clerk within twenty-one (21) days of the published date of the notice; and
 - ii) such a petition represents a majority of the property owners on the above list filed with the Town Clerk and which properties represent sixty-six percent (66%) of the foot frontage involved.
- d) In the event of a dispute between a property owner and the Town as to any measurement, the property owner shall retain, at his expense, a surveyor in good standing of the Association of Nova Scotia Land Surveyors who shall certify his measurements and submit them to the Clerk.
- e) Council may consider proceeding with a local improvement project upon staff recommendation which shows the necessity of the project for improved public safety, health or that the delayed delivery of services will prejudice other properties to be served by the project.

Financial Arrangements:

11. General

- a) Foot frontage charges shall be levied in accordance with the servicing plan prepared and list of property owners filed with the Clerk;

- b) Where Council has directed that a local improvement project be constructed the Clerk shall notify by ordinary mail each property owner, of the construction and the charges to be levied;
- c) Every charge imposed under the provisions of this By-Law shall constitute a lien upon the real property affected, collectible in the same manner as rates and taxes on real property collected under the Assessment Act;
- d) Such charges shall be due and payable on the day when the bill therefore is mailed by ordinary mail to the person liable and at the option of the respective persons liable may be paid either of the following ways;
 - i) by one lump sum payment in the year in which the charge is assessed; or
 - ii) by equal annual payments, each payable on the anniversary of the date on which the amount became due and payable in keeping with the following;
 - ▶ for individual services such as sidewalks, paving or curb and gutter systems the levy will be extended over the period of three (3) years with interest payable thereon annually at the rate of twelve percent (12%) on the declining balance. For any combination of sidewalk, paving and/or curb and gutters the levy will be extended over a period of five (5) years;
 - ▶ for individual services such as sanitary sewer, storm sewer or water systems the levy will be extended over the period of five (5) years with interest payable thereon annually at the rate of twelve percent (12%) on the declining balance. For any combination of sanitary sewer, storm sewer and/or water systems the levy will be extended over a period of ten (10) years;

with power, however, to prepay the whole or any part of the amount remaining, at any time, without notice, and provided that if default is made in the payment of any annual payment or interest or both when it falls due, then the whole balance immediately becomes due and payable without notice or demand.

- e) The property owner affected within one month after receiving the bill shall notify the Clerk in writing which option he/she has selected under subsection d) and in event of his/her failure to do so, shall be deemed to have selected that provided in subsection d) ii) thereof.

SCHEDULE "A"

	ITEM	FORMULA	TOWN COST	ABUTTERS OR DEVELOPERS COST	1995 COST* TOTAL COST OF IMPROVEMENT
#1	Trunk Services	Town installed in existing R.O.W. (Note: no private connections)	100%	0%	Town Estimates Cost
#2	Trunk Service - Individual Service Connections	Service connection to trunk services in other streets at owners or subdividers cost (direct connections only)	0%	100%	
#3	Trunk Service Local Service	Connection to trunk services by satellite service at owner or subdivider cost (where no alternative exists)	0%	100%	
#4	Local Service Individual Service Connections	Service Connection from new streets to existing street at developers cost (direct connections only)	0%	100%	
#5	Local Service (extensions) within existing R.O.W.	Cost shared by abutting property owners	50%	50%	S1 — \$40.00 S2 — \$50.00 W — \$40.00
#6	Sewer Laterals	Abutter or developer cost	0%	100%	
#7	Water Laterals	Cost shared by abutting property owners	50%	50%	Town estimates cost

***Costs are outlined per lineal foot unless otherwise stated.**

Legend: S1 = Sanitary Sewer; S2 = Storm Sewer; W = Water Line

SCHEDULE “A” (cont’d)

	ITEM	FORMULA	TOWN COST	ABUTTERS OR DEVELOPERS COST	1995 COST* TOTAL COST OF IMPROVEMENT
#8	New Curb and Gutter (both sides)	Owner or abutter request	50%	25% (each side)	\$60.00
#9	New Curb and Gutter (one side)	Owner or abutter request	50%	50%	\$30.00
#10	New Sidewalk (both sides)	Owner or abutter request	50%	25% (each side)	\$50.00
#11	New Sidewalk (one side)	Owner or abutter request	50%	50%	\$28.00
#12	New Asphalt Paving — local street	Owner or abutter request	33.33%	66.66% for developers or 33.33 for each abutter	\$30.00
#13	Renewed Paving — local street	Owner or abutter request	33.33%	66.66% for developers or 33.33 for each abutter	\$15.00
#14	Renewed sidewalk (one side)	Owner or abutter request	50%	50%	\$28.00
#15	New Driveway ramp cuts (one side)	Owner or abutter request	50%	50%	9 Sq. Ft.
#16	Pavement cuts	Owner or abutter request	0%	100%	
#17	Renewed curb and gutter (one side)	Owner or abutter request	50%	50%	\$30.00

***Costs are outlined per lineal foot unless otherwise stated.**

Legend: S1 = Sanitary Sewer; S2 = Storm Sewer; W = Water Line

Schedule "A" Diagram on this page

