

MUNICIPALITY OF THE DISTRICT OF LUNENBURG
A By-law Respecting
STREET IMPROVEMENT BY-LAW

DEFINITIONS

1.0 In this By-law unless the context otherwise indicates:

- (a) **"COST"** means the amount of money paid or payable in respect of the street "improvement".
- (b) **"DEFINED AREA"** means the area as shown in the plan attached to Form "A" [amended Nov. 18, 2008, June 18, 2014]
- (c) **"FRONTAGE"** means the full length of the property that is abutting the street within the defined area.
- (d) **"IMPROVEMENT"** means the upgrading, laying out, opening and construction of "streets". [amended Nov. 18, 2008]
- (e) **"MUNICIPALITY"** means the Municipality of the District of Lunenburg. [amended Nov. 18, 2008]
- (f) **"OWNER"** includes part owner, joint owner, tenant-in common, or joint tenant of the whole or part of any real property fronting on a street or situate in a Defined Area and also includes any trustee, executor, guardian, agent or other person having the care or control of such real property in the case of absence or disability of the person having title thereto. [amended Nov. 18, 2008]
- (g) **"SPECIAL TAX"** means a tax in respect to the street improvement based on a per lot basis, as the case may be and as requested in the Petition. [amended Nov. 18, 2008]
- (h) **"STREET"** means any street, roadway, highway or traveled way, or portion thereof, situate in the Municipality owned by the Municipality or the Province of Nova Scotia. [amended Oct. 9, 2007, Nov. 18, 2008]

PETITION

- 2.0 (1) Municipal Council is not obliged to accept any petition for street improvement.
- (2) The request to petition for street improvement shall be received by the Municipality by August 15 to be considered for the following summer construction season. [amended June 18, 2014, May 20, 2015]
- (3) Where two-thirds (66 2/3%) of the owners of land in a Defined Area, petition in person or by agent the Municipality for an improvement to a street, the Municipality may make such improvement and shall be entitled to recover all of the cost of such improvement by levying a special tax upon the owners of real property fronting on the said street or situate in the said Defined Area as herein provided by this By-law and such tax shall be recoverable from each owner by the Municipality by a per lot basis, as the case may be and as requested in the Petition in Form "A". The process by which the by-law will be administered is as follows: [amended Nov 18, 2008, June 18, 2014]

- (a) An Owner is entitled to one vote for each individual property parcel he/she owns within the Defined Area. In the case where an individual property has more than one Owner, all Owners must agree on the single response. If all Owners are not in agreement, it will be deemed that the Owner's response is negative. [amended Nov. 18, 2008]
- (b) The Municipality will prepare a petition pursuant to this By-law for distribution to affected property owners, subject to a minimum of 25% of the property owners in the Defined Area requesting such a petition and two thirds (66 2/3%) of the parcels contained in the Defined Area possess a valid building permit, issued by the Municipality for a residential occupancy (Group C) or a main building, including any occupancy classifications, Group A, B, C, D, E and F, but excluding sub-group F-3 where the building is an accessory building unintended for human occupancy. [amended Nov. 18, 2008, June 18, 2014]
- (c) The Municipality shall provide notice, through registered mail to each individual Owner regarding the intention to petition, and request a positive or negative response to the petition. In addition, the Municipality will advertise the intention to petition in the local paper and provide for 30 days for the petition to be returned to the Clerk. If a response has not been received from an individual Owner, in the 30 days, it will be deemed that the Owner's response is negative. [amended June 18, 2014]
- (d) In the situation where the Municipality owns a parcel of land along the Street, as described in the petition, the Municipality will not have a vote in the petition. The Municipality is not obligated to pay the special Tax levied on its property for such improvements.
- (e) From February 11, 2014 forward, a petition shall be conducted no more than once every two (2) years in a Defined Area or apart thereof without Council approval. [amended June 18, 2014]
- (d) [amended Nov. 18, 2008, deleted June 18, 2014]

Petition Requirement

- (4) Every petition for a street improvement shall be in Form "A" or similar thereto, and shall clearly state the Defined Area for which the improvement is requested together with a plan showing the streets outlined in red for the requested improvements and the length and width of the streets certified correct by a person approved by the Municipality. The street improvement shall be on an uninterrupted length of the street. [amended Nov. 18, 2008, June 18, 2014]

Dispute as to Measurement

- (5) In the event of a dispute between a property owner and the Municipality 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 to his measurements and submit them to the Municipality. [amended Nov. 18, 2008]

ADMINISTRATION CHARGE

- 3.0 (1) The total amount of the special tax levied by the Municipality shall not exceed the cost of the street improvements to the Municipality and an administration charge of ten percent.

LIEN ON PROPERTY

4.0 (1) (a) The special tax is a lien on the whole of the property of each owner with the same effect as rates and taxes under the *Assessment Act* and is collectable in the same manner as rates and taxes there under.

Calculation of Tax

(b) Each property owner shall be liable for a portion of the total cost of the street improvement and administration charge equal to the ratio that each property bears to the total number of such properties on the streets within the Defined Area being improved. [amended Nov. 18, 2008, June 18, 2014]

EFFECTIVE DATE OF LIEN

5.0 (1) The lien provided for in this By-law shall become effective on the date on which the person appointed by the Council of the Municipality files with the Municipal Clerk a certificate stating the total cost of the improvement. [amended Nov. 18, 2008]

MUNICIPAL ACCOUNTS for TAX

6.0 (1) The clerk of the Municipality shall keep a separate account of all monies due for the improvement of streets which shall contain:

(a) The names of the owners of property liable for the special tax and the name of the improvement with respect to which the tax arose.

(b) The number of properties involved in the petition. [amended Nov. 18, 2008]

(c) The amount of special tax levied on each owner with particulars of the amounts due or owing.

NOTICE of TAX

7.0 (1) The clerk of the Municipality shall notify the owner of each property upon the filing of the certificate referred to in section 5 and such notice shall state:

(a) the basis of the special tax;

(b) the tax payable by the owner in respect of the special tax.

TAX PAYABLE in INSTALLMENTS

8.0 (1) The amount payable in respect to the special tax by each owner shall be paid in equal annual installments together with interest over a period not exceeding ten years.

Due Dates of Tax

(2) The first installment and each succeeding installment in respect of the tax imposed by this By-law shall be due on the last business day of June of each year and in the event of default of payment of any installment, the whole balance with interest becomes due and payable. [amended Nov. 18, 2008]

Interest

(3) The tax imposed by this By-law shall bear interest at the rate of ten per centum (10%) per annum on any outstanding balance owing, but no due, and at the rate of ten per centum (10%)

per annum on any installment that is due and owing.

Lump Sum

- (4) The amount payable in respect of the tax by each owner of real property within the Defined Area may, at the option of the owner, be paid in one lump sum on or before the 31st day of December of the year in which the cost has been incurred. **[amended Nov. 18, 2008]**

FORM "A"
PETITION FOR STREET IMPROVEMENTS

To the Council of the Municipality of the District of Lunenburg.

The Undersigned, being two-thirds of the owners:

- (i) owning two-thirds of the real property situate in the Defined Area in the Municipal District of Lunenburg hereinafter described.

do petition the Municipal Council to make improvements to the street(s) more particularly described:

- (i) as the road(s) or portion thereof known as
- (ii) in the area situated at

as shown on the attached plan.

Also, each of the owners, whose signature appears below, respectively propose that the Municipal Council accept this as a petition in compliance with section 3 of the Street Improvement By-law.

Each of the owners, whose signature appears below, agrees that they be levied for a portion of the tax in respect of the street improvement on a per lot basis.

Names and Signatures of Property Owners

Name

Signature

[amended Nov. 18, 2008, June 18, 2014]

Annotation for Official By-law Book	Date of Adoption March 24, 1988
Date of First Reading: Date of Advertisement – Notice of Intent to Consider:	<u>April 14, 2015</u> <u>April 22, 2015 and April 23, 2015</u>
Date of Second Reading: Date of Advertisement of Passage of Amendments to By-law*:	<u>May 12, 2015</u> <u>May 20, 2015</u>
Date of mailing to Minister a certified copy of By-law:	<u>May 20, 2015</u>
I certify that the amendments to this the “ Street Improvement By-law ” was adopted by Council and published as indicated above. <div style="display: flex; justify-content: space-between;"> <div data-bbox="175 760 639 802"> _____ Sherry Conrad, Municipal Clerk </div> <div data-bbox="841 760 1192 802"> _____ Date </div> </div>	
*Effective Date of the By-law unless otherwise specified in the By-law	