

**MUNICIPALITY OF THE DISTRICT OF LUNENBURG**  
**A By-Law Respecting**  
**Capital Cost Recovery Charges for Water Systems**

Approved December 20th, 2004  
Amended – January 25<sup>th</sup>, 2011

**Be It Enacted** by the Council of the Municipality of the District of Lunenburg under the authority vested in it by the *Municipal Government Act*, Section 172, does hereby enact as follows:

**1.0 Short Title**

This Bylaw shall be known as A By-law Respecting Capital Cost Recovery Charges for Water Systems and may be cited as “Capital Cost Recovery Bylaw for Water Systems”

**2.0 Interpretation**

- 2.1 “Act” means the Municipal Government Act, R.S.N.S, Chapter 18 of the Acts of 1998.
- 2.2 “Council” means the Council of the Municipality of the District of Lunenburg
- 2.3 “Capital Charge” means a charge imposed pursuant to Section 81 of the Municipal Government Act in an amount to be determined pursuant to this By-law, and intended to recover all, or a part, of the municipal part of the actual capital cost of installing, extending or improving a public water system.
- 2.4 “Capital Cost Recovery Charge Area” means an area to which a Capital Charge is imposed and as more fully described in Schedule A, and is hereafter referred to as “Charge Area”.
- 2.5 “Engineer” means the Municipal Engineer for the Municipality of the District of Lunenburg
- 2.7 “Owner” means:
- a) An owner, part owner, joint owner, tenants in common or joint tenant of the whole or any part or parcel of land or a building;
  - b) in the case of the absence or incapacity of a person or persons having ownership of the parcel of land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of land or building; and
  - c) in the absence of proof of the contrary, the person assessed for the taxes on the parcel of land or building
- 2.8 “Street” means the whole and entire right-of-way of every road or road allowance vested in the Municipality of the District of Lunenburg or vested in the Province of Nova Scotia.

### **3.0 Charge Imposed**

Where the Municipality installs, improves or extends a public water system in a Charge Area identified in Schedule "A", as amended from time to time, a Capital Charge is hereby levied upon every owner of real property situated in whole or part within the Charge Area, who makes or has made an application for a connection to the public water system.

### **4.0 Amount of Capital Charge**

The amount of the Capital Charge levied pursuant to Section (3) 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 at the time of application or subsequently created by subdivision;
- (b) the frontage of each lot on any street;
- (c) the existing or proposed use of each lot;
- (d) the assessment classification of each lot;
- (e) The area of each lot;
- (f) the flow capacity or diameter of individual later connections of each lot;
- (g) any combination of two or more such methods of calculating the Capital Charge;  
or
- (h) Such other method as Council deems appropriate.

### **5.0 Variations in Charges**

The Capital Charge levied pursuant to this By-law may be fixed at different rates for different assessment classes or uses of properties and may be fixed at different rates for different Charge Areas.

### **6.0 Frontage Charge**

Where the amount of the Capital Charge contains a component, calculated, in whole or in part, based upon the frontage of the lot on a street, the component of the Capital Charge which is based upon frontage shall be calculated as follows:

- (a) for the purpose of calculating frontage, the number of lineal feet of frontage shall be a horizontal projection measured along the boundary line adjacent to the street;
- (b) where a lot is situated such that the lot has frontage on two or more streets, the component of the Capital Charge based upon frontage shall be calculated based

upon the average lot frontage, calculated as the total frontage divided by the number of streets the lot has frontage on; and

- (c) notwithstanding clause 6(a) and 6(b), where a lot has frontage on a street the minimum deemed frontage shall be 75 feet.

## **7.0 Water – Connection**

In addition to the requirements of all other Municipal By-laws, where a lot is located in a Charge Area identified in Schedule A, no connection to a water system shall occur unless:

- (a) the land owner has confirmed in writing that the amount of the individual Capital Charge set and payment requirements are agreed to by the land owner; and
- (b) the Public Water Utility has notified the Municipal Treasurer of a request for a connection to a public water system.

## **8.0 Lien**

- 8.1 A Capital Charge imposed pursuant to this By-law constitutes a lien upon the real property with respects to which the Capital Charge has been made and the Capital Charge shall be collected in the same manner as taxes and shall be made payable in the same manner as taxes.
- 8.2 The lien provided for in this By-law shall become effective on the date on which the Public Water Utility has notified the clerk of a completed and valid connection to the public water system.
- 8.3 The lien provided for in this By-law shall remain in effect until the Capital Charge plus interest has been paid in full.
- 8.4 Where a property subject to a lien is subdivided:
  - a) in which the Capital Charge imposed was calculated based upon frontage or lot area, the amount of the lien plus interest then unpaid shall be apportioned among the new lots created including any residual land, such that the amount of the lien proportioned to lots created and any residual land is based upon the percentage of the original lot frontage or lot area that the new lots and residual land are comprised of;
  - b) in which the Capital Charge imposed was calculated based upon a lot charge, or use of the lot, or any other method other than as referenced in clause (a), the amount of the lien plus interest then unpaid shall be apportioned among the new lots created including any residual land in proportion that the value of each new lot including any residual land bears to the total market value of the lands subdivided including any residual land, at the time of the subdivision.

The market value of lots so created must be confirmed by a provincial assessor or an accredited appraiser. Written confirmation of the market value shall be submitted to the Treasurer; and

- c) notwithstanding Clause 8.4(a) and 8.4(b), the lien shall not be proportioned to the new lots created and any residual lands where the Capital Charge imposed was based solely upon a lateral connection.

## **9.0 Payment of Charges and Interest**

- 9.1 A Capital Charge imposed pursuant to this By-law may, at the option of the owner be paid in equal installments, together with the municipality's prevailing interest rate as prescribed, over a period not to exceed 10 years. The first installment and each succeeding installment in respects of the charge imposed by this By-law is due at the same time that taxes and rates are due in each year, and in the event of default of payment of any installment the whole balance with interest becomes due and payable.
- 9.2 The Capital Charge imposed by this By-law shall bear an interest rate on any outstanding balance owing, but not due, and on any installment that is due and owing. The interest rate shall be as prescribed by motion of Council with respect to taxes and overdue charges and shall be applied as per this same motion.

**Capital Cost Recovery Charges for Water System  
SCHEDULE A**

**A-1 Charge Area # 1  
MacCulloch Road Water Line – Charge Area**

A) The MacCulloch Road Water Line Charge Area shall be as shown on Map A-1. The capital cost recovery charge for connections to the MacCulloch Road Water Line shall be as per Section 4.0 (e) of this By-Law, with Capital Charges as follows:

- i) \$7,589 per 1 inch lateral connection
- ii) \$15,178 per 2 inch lateral connection
- iii) \$22,767 per 3 inch lateral connection

B) The following properties have an existing connection to the MacCulloch Road Waterline as of the date of the establishment of the MacCulloch Road Waterline – Charge Area:






- i) PID 60199304 (Tim Hortons)
- ii) PID 60253457 (Buck’s Home Hardware)

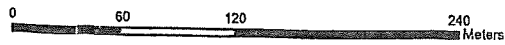
Notwithstanding clause (A), the capital charge for a lateral connection to the properties noted in subclause (b) (i) and (b) (ii) that is an enhancement of an existing condition shall be the fees as established in clause (A) less a \$1500 credit. **[Amended January 25, 2011]**

**Clause (C) [Repealed January 25, 2011]**

Annotation for Official By-law Book	Date of Adoption December 20, 2004
Date of First Reading: Date of Advertisement – Notice of Intention:	December 14, 2010 December 21 <sup>st</sup> and 28 <sup>th</sup> , 2010
Date of Second Reading:	<b>January 11<sup>th</sup> 2011</b>
<b>*Date of Advertisement of Amendments to Bylaw:</b>	<b>January 25<sup>th</sup>, 2011</b>
Date of mailing to Minister a Certified copy of By-law:	January 28 <sup>th</sup> , 2011
I certify that this <b>“BY-LAW RESPECTING <i>the Capital Cost Recovery Charges for Water Systems</i>”</b> was adopted and amended by Council and published as indicated above.	
_____	_____
Municipal Clerk	Date
* Effective Date of the By-law unless otherwise specified in the By-law	

**MACCULLOCH RD**  
**Charge Area**  
MAP A-1

-  Road Right-of-Way
-  Hydrology
-  Property
-  Bridgewater Town Line
-  Charge Area



1:4,000

Map Prepared: October, 2004

