



## **Town of Mahone Bay**

Staff Report

RE: Local Improvement By-law

December 8<sup>th</sup>, 2020

### **General Overview:**

This report is intended to provide Council with a recommendation for the development of a Local Improvement By-law.

### **Background:**

The Town has seen considerable development in recent years including extension of municipal services (water, wastewater, electrical, etc.). Currently the Town has numerous major infrastructure projects on its 10-year capital investment plan including a number of service extension initiatives. Recently expressed asset management goals for the Town include extension of services to support future development and improve the economics of our utilities. Numerous residents have also approached the Town indicating a desire for service extensions, and – at least in some cases – a willingness to share in the associated costs. Historically – going back as far as the 1920's - the Town has utilized cost-sharing with residents and businesses to finance expansion of services.

### **Analysis:**

To facilitate extension of Town services – at the initiative of Council or at the request of residents – the Town could implement a Local Improvement By-law under Section 81 of the NS Municipal Government Act, as other larger municipalities have done. A proposed draft by-law is attached as Appendix A.

As per Town policy the first step in consideration of such a By-law would be to schedule a Public Information Meeting to receive feedback on the proposed by-law. A key consideration in this case would be the percentages of adjacent landowners whose support would be required before any local improvement charge could be applied to finance extension of services (as highlighted in section 10 b) of the attached).

### **Financial Analysis:**

There are no unbudgeted costs anticipated with the by-law development process. The implementation of a Local Improvement By-law would have significant implications for future capital planning and would enable the Town to consider moving ahead on certain priority infrastructure projects –

such as water/wastewater extensions on Main and Edgewater streets intended to address remaining straight-pipes – in cost-sharing arrangement with residents / developers.

**Strategic Plan:**

**3.1 21<sup>st</sup> Century Infrastructure**

- Asset Management
- Optimize efficiency of Utilities

**3.3 Governance and Public Engagement**

- Develop a policy and framework to engage the public in Council activities and decision making

**Recommendation:**

It is recommended,

THAT Council direct staff to schedule a Public Information Meeting in January 2021 to receive feedback on the proposed Local Improvement By-law.

**Attached for Council Review:**

- Draft Local Improvement By-law

**Respectfully Submitted,**

A handwritten signature in blue ink, appearing to read 'Dylan Heide', with a long horizontal flourish extending to the right.

Dylan Heide  
Town of Mahone Bay CAO

### LOCAL IMPROVEMENT BY-LAW

**WHEREAS** Section 81 of the Municipal Government Act provides that a Municipality may make by-laws imposing, fixing and providing methods of enforcing payment of charges for types of local improvements;

**THEREFORE** be it enacted by the Council of the Town of Mahone Bay, as follows:

#### 1. Short Title

This By-Law shall be cited as “Local Improvement By-Law”.

#### 2. Purpose

The purpose of this By-Law is to establish the manner in which the Town of Mahone Bay shall impose, fix, and enforce payment of charges for local improvements.

#### 3. Definitions

a) “cost of local improvement” means the capital cost of service provision and shall include but is not limited to costs of study, design, construction, installation and administration, engineering, surveying, Town staff time, and other incidental expenses as well as the costs of financing including bridge financing, if any, and the cost of financing throughout the amortization period of the project whether or not the money is financed internally or externally. The cost of any particular local improvement may be reduced by its proportionate share of financial contribution for Federal, Provincial or Municipal grant dollars.

b) “Council” means the Council of the Town of Mahone Bay.

c) “Engineer” means the Town employee designated as Town Engineer pursuant to the provisions of the *Municipal Government Act*.

d) “Local Improvement” means and includes:

- i) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems
- ii) laying out, opening, constructing, repairing, improving and

maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether the cost is incurred by the Town directly or by, or pursuant to, an agreement with Her Majesty in right of the Province, the Minister of Transportation and Public Works or any person;

- iii) expenditures incurred for the wastewater management system in a wastewater district
- iv) the Town portion of the capital cost of installing a water or electrical system.
- v) charges for deposit in a special purpose tax account to provide for future expenditures for wastewater facilities, stormwater systems, water systems, electrical systems, transportation facilities or other anticipated capital requirement.

e) “owner” means the assessed owner of any property as listed on the assessment rolls prepared by the Province of Nova Scotia.

f) “street” means a public street, highway, road, lane sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith within the Town of Mahone Bay whether vested in the Town or the Province of Nova Scotia.

g) “subdivision” for the purpose of Section 9(b) of this By-Law only, means a grouping of streets and homes which is distinct from other such groupings by way of having a commonly accepted name; and/or common entrance(s) to an arterial, major arterial, or collector street.

#### **4. Charge Imposed**

Where a local improvement has been carried out by the Town of Mahone Bay 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 provisions in this By-Law or the provisions of Schedule “A”.

a) Town owned land shall be exempt from changes arising from the provisions of this By-Law unless otherwise indicated in Schedule “A”.

**5. Amount of Charge**

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 of 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 of calculating the tax; or
- g) such other method as Council deems fit.

**6. Variations in Charges**

The tax levied pursuant to this By-Law may be fixed at different rates for different classes or use of properties and may be fixed at different rates for different areas or zones as outlined in Schedule “A”.

**7. Frontage Charge**

- a) If the amount of tax contains a component calculated in whole or in part, based upon the frontage of the lot on a street, the component of the tax which is based upon frontage shall be calculated in accordance with this section or in accordance with provisions as outlined in Schedule “A” if applicable.

FC = Frontage Charge

TF = Sum of all individual frontages (IF) determined on the basis of the provisions of this by-law or Schedule “A”.

FR = Frontage reduction for a particular lot which qualifies as outlined in Section 7 (b).

IF = Total frontage of an individual lot (as may be adjusted by provisions of Sections 7(c) 7(d)).

TC = Total cost of local improvement.

MC = Town contribution toward Improvements.

PC = Provincial/Federal Contribution toward Improvements.

$FC = [(IF-FR/TF)*[TC-(MC+PC)]$

- b) Where an owner can reasonably demonstrate, and provide specific evidence such as an environmental study or written confirmation from the

Nova Scotia Department of Environment, that a parcel of land is unusable for development by reason of soil type, environmental hazard, or other natural factors that do not permit the land to be subdivided for the purpose of creating a lot, the frontage reduction (FR) used in the formula in Section 7 shall be 75% of the unusable frontage. This proof must be provided prior to the inclusion of the project in Schedule "A" of the By-Law.

c) An adjustment will be made for lots (other than corner lots) which cannot be subdivided; as follows;

- i) The maximum frontage to be charged any lot will be 120 feet.
- ii) The minimum frontage to be charged any lot is 60 feet.

d) For a corner or through lot, the component of the tax based upon frontage shall not exceed the amount that would be calculated as follows:

- i) One-half of the total usable frontage on the streets, where the total actual frontage on the two streets is 240 feet or less or over 240 feet but cannot be subdivided; or
- ii) Total usable frontage on the streets, less 120 feet, where the total frontage on both streets exceeds 240 feet and the lot is sub-dividable.

e) i) Where one of the two streets adjacent to a corner or through lot is subject to a local improvement, the frontage subject to the charge will be determined by the percentage that that side of the property is to the entire usable frontage of the two sides of the property and applied to the frontage for the lot in total, as calculated in Section 7(d).

The following formula shall be used:

$$\frac{\text{Actual Frontage on Individual Street} \times \text{Chargeable Frontage}}{\text{Total Actual Frontage on Both Streets}}$$

ii) If the land on the street paved/improved second has been subdivided or otherwise changed configuration since the time of the paving/improvement of the first street, the frontage charge for the corner lot or through lot on the second street will be calculated in accordance with Sections 7(d) and (e)i), as if no change in configuration had occurred.

## **8. Exemptions/Adjustments to Charges other than Frontage Charges**

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. 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. For greater certainty, a corner lot will be deemed to benefit from improvement on each of the streets it is on which it fronts subject to any adjustment that is available in Section 7 of this By-Law. Exemption or adjustment may also be given when a property cannot be developed or cannot be serviced because of its size, configuration, topography or ground conditions. Properties extended exemptions/adjustment under this section will be identified in Schedule "A".

## **9. Building Service Connection**

Applications for connection to a wastewater, water or electrical system after the original wastewater, water or electrical system has been installed shall be made in accordance with all applicable Town by-laws and policies and shall be accompanied by such connection fees as are required.

## **10. Administrative Guidelines**

a) Council may proceed with a Local Improvement in response to a petition from property owners or in response to a staff recommendation which shows the necessity of the project for improved public health and safety; or that the project is critical to the controlled management of residential or commercial/industrial growth and development or for other such compelling reason as determined by Council.

b) Where Council considers carrying out a local improvement on the basis of a petition (Schedule "B") presented by the taxpayers in the area to be charged, such charges would be considered only where there is support for the project from adjacent landowners. Regardless of cost allocation methodology used (from Section 5), X% of adjacent landowners deemed to benefit from the project (per Section 8) must be in favor for a petition to be considered valid.

i) If the petition relates to all streets/land area within an entire subdivision, approval must represent X% of the owners of land with frontage within the subdivision.

ii) The petition should clearly indicate the method by which costs will be allocated among taxpayers. Successful petitions are considered to be valid for a period of not less than 10 years from the date of presentation to Council. Within that time frame, the validity of the

petition is not affected by the number of times any one individual property may change hands between the time the petition is presented and when the local improvement is carried out.

c) Where a local improvement is approved by Council without a petition, Council shall, by policy, determine a suitable method for advising residents affected by decision taken under this By-Law.

## **11. Lien**

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 charge is imposed or the Engineer files with the Treasurer, a certificate that the improvement has been completed;

d) The lien provided for in this By-Law shall remain in effect until the charge plus interest has been paid in full;

e) 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 assessed value that the new lots have in relation to the total assessed value of the entire property before subdivision.

## **12. Interest**

Interest shall accrue on charges outstanding from the due date forward, at the same rate as for other outstanding taxes. The due date is the date of completion or the date that installments are due if the annual payment option is available.

## **13. Installments**

a) The amount payable may, at the option of the owner of the property, be paid in annual installments as outlined in Schedule "A", not to exceed 25 years and the whole balance becomes due and payable without notice or demand, in the event of default of payment of an installment.



b) The property owner shall have one month from the date of their initial notice of amounts owing, to notify the Treasurer, in writing, which financing option has been selected. If there is no written notification, the taxpayer shall be deemed to have selected the annual payment option as outlined in Schedule "A" for the project.

**SCHEDULE "A"**

**TEMPLATE**

**\_\_\_\_\_ Street upgrade and extension 20\_\_.**

**(a)** The project will involve the upgrade and extension of \_\_\_\_\_ Street by \_\_\_\_ feet.

**(b)** Properties with the following PID numbers shall be subject to the local improvement charge to the extent that they front on the upgrade/improvement:

49272048  
49292572  
49183861  
49281988

**(c)** The local improvement charges will be based upon the total foot frontage of the properties abutting the work completed under the project. An interim charge of \$\_\_\_\_ per foot shall be levied. Final amounts will be confirmed and billed within 90 days of project completion.

**(d)** The cost of the project shall exclude long term financing charges. The charge will be subject to an interest rate of \_\_\_\_%.

